



VOLUME 1 -- AM SESSION  
SENATE IMPEACHMENT TRIAL

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**PROCEEDINGS**  
**TUESDAY, SEPTEMBER 5, 2023**  
**(8:58 a.m.)**

THE BAILIFF: All rise. The Court of Impeachment of the Texas Senate is now in session. The Honorable Lieutenant Governor and President of the Senate Dan Patrick now presiding.

PRESIDING OFFICER: Good morning, everyone.

Bailiff, will you bring in the jury.  
(Jury enters Senate chamber)

PRESIDING OFFICER: Please remain standing at your desk as you come on.

For those here in the gallery or are watching online, every day we begin a set of session with a prayer, and we will do so every day during this impeachment process.

Senator King.

Each day a different Senator will present the prayer as they wish.

SENATOR KING: Good morning. If you would just bow with me, please.

Father, we wanted to start off today putting first things first, because for all of us, this is a first. It's an incredibly solemn and important

1 occasion, and none of us have ever been a part of a  
 2 trial of this nature. And really it's only happened a  
 3 handful of times in Texas history.  
 4 So as we come to it this morning, we just  
 5 first pray that you would just give us wisdom in all the  
 6 presentation and all the deliberations and just  
 7 everything that will go on. For those of us who are  
 8 going to be making the decisions at the end, we just  
 9 pray for your wisdom and insight. And we know the truth  
 10 is always at the top of your agenda with justice, and we  
 11 pray that we would see what that is and that we would  
 12 make decisions in accordance with that.  
 13 Just want to pray for the Lieutenant  
 14 Governor. This is a new role for him as Presiding  
 15 Officer. We pray for your help for him in that task.  
 16 Just pray for all of us members of the  
 17 Senate. We've been here most of this year. We all have  
 18 a lot of responsibilities back home that are piling up,  
 19 and we just pray that you would just keep everything  
 20 moving smooth at home with our families and our  
 21 businesses and just all our responsibilities so that we  
 22 can focus all our efforts on this task.  
 23 We'd also just pray for good health so  
 24 that we can all be here every day. All of us who are  
 25 part of this trial, we pray that we could be here every

1 day, be healthy, be attentive, sleep well, just all  
 2 those things we need to do to do the job that you've put  
 3 us here to do.  
 4 And, Father, again, we just ask just for  
 5 your guidance, your direction. And we just pray that  
 6 when all of this is over that all of us will walk away  
 7 knowing in your eyes that we did the right thing. We  
 8 ask this in Jesus name. Amen.  
 9 PRESIDING OFFICER: Thank you,  
 10 Senator King.  
 11 I will now have -- you may be seated.  
 12 Everyone be seated.  
 13 We will now have our Chief Justice  
 14 Nathan Hecht give the oath of office to myself and Judge  
 15 Lana Myers.  
 16 (The following oath was given to  
 17 Lieutenant Governor Dan Patrick.)  
 18 CHIEF JUSTICE HECHT: I, Dan Patrick, do  
 19 solemnly swear that I will impartially try William  
 20 Kenneth Paxton, Jr., Attorney General of Texas, upon the  
 21 impeachment charges submitted by the House of  
 22 Representatives, so help me God.  
 23 PRESIDING OFFICER: Now Judge Myers.  
 24 (The following oath was given to Judge  
 25 Lana Myers.)

1 CHIEF JUSTICE HECHT: I, Lana Myers, do  
 2 solemnly swear that I will impartially perform the  
 3 duties of legal counsel and jurist in the impeachment of  
 4 William Kenneth Paxton, Jr., Attorney General of Texas,  
 5 so help me God.  
 6 PRESIDING OFFICER: For those in the  
 7 gallery, and, again, watching online, we seldom bring  
 8 out the Sam Houston Bible. We do it in inaugurations  
 9 and other special occasions, and this is a very  
 10 significant and serious occasion that will be in the  
 11 history books. And I thought it appropriate to bring  
 12 out the Sam Houston Bible, not just for Judge Myers and  
 13 myself, but for each member of the Senate, the jurors.  
 14 So we're going to take a few minutes,  
 15 instead of swearing in everyone at one time -- and our  
 16 clerk of the court, Patsy Spaw, who I might mention has  
 17 not missed a session day in 54 years, has dedicated to  
 18 her service will present the Bible to each member -- I  
 19 will swear them in. You may choose to put your hand on  
 20 the Bible or not. That is your decision. And we  
 21 present the Bible to you.  
 22 We will do it one by one, starting with  
 23 Senator Blanco. Repeat after me.  
 24 (The following oath was given to all  
 25 qualified voting senator jurors.)

1 PRESIDING OFFICER: I do solemnly swear  
 2 or affirm I will impartially try Warren Kenneth Paxton,  
 3 Attorney General of Texas, upon the impeachment charges  
 4 submitted to me by the House of Representatives and a  
 5 true verdict render according to the law and the  
 6 evidence, so help me God.  
 7 Thank you, Senator.  
 8 This oath is being taken by all qualified  
 9 jurors today on the floor who have a vote.  
 10 Court reporters, would you please stand?  
 11 (The following oath was given to the court  
 12 reporters.)  
 13 PRESIDING OFFICER: If you will repeat  
 14 after me: I do solemnly swear or affirm that I will  
 15 correctly transcribe and report all of the proceedings  
 16 of the trial of Warren Kenneth Paxton, Jr. on  
 17 impeachment, so help me God.  
 18 And thank you for being here. Thank you.  
 19 Officers of the Court. Would all the  
 20 officers of the Court who are assisting in the trial  
 21 please step next to the Clerk of the Court. Raise your  
 22 right hand. Repeat after me.  
 23 (The following oath was given to the  
 24 officers of the Court.)  
 25 PRESIDING OFFICER: I do solemnly swear

1 or affirm that I will impartially serve the Court during  
 2 the proceedings of the trial of Warren Kenneth Paxton,  
 3 Jr. on impeachment, so help me God.  
 4 And thank all of you for preparing over  
 5 the last several months the Senate for today. Thank  
 6 you.  
 7 For the record, I want to announce the  
 8 counselors for the House of Managers. Please rise when  
 9 I announce your name.  
 10 Representative Andrew Murr.  
 11 Representative Ann Johnson.  
 12 Representative Briscoe Cain.  
 13 Representative Terry Canales.  
 14 Representative Erin Gamez.  
 15 Representative Charlie Geren.  
 16 Representative Jeff Leach.  
 17 Representative Oscar Longoria.  
 18 Representative Morgan Meyer.  
 19 Representative Joe Moody.  
 20 Representative David Spiller.  
 21 And Representative Cody Vasut.  
 22 Dick DeGuerin, Rusty Hardin, Justice  
 23 Harriet O'Neill, Brian Benken, Jenny Brevorka,  
 24 Terese Buess, Donna Cameron, Aisha Dennis,  
 25 Mark Donnelly, Daniel Dutko, Erin Epley, Ross Garber,

1 Leah Graham, Lisa Hobbs, Laura Hollingsworth,  
 2 Megan Moore, Mark White, and Joe Burrow.  
 3 Did I miss anyone? Thank you.  
 4 Sir? Mr. Lewis.  
 5 MR. LEWIS: Armstead Lewis.  
 6 PRESIDING OFFICER: Armstead Lewis.  
 7 Thank you, sir.  
 8 And now counselors for the record, I will  
 9 announce the -- get my list here -- Attorney General's  
 10 counsel, please rise when I call your name.  
 11 Tony Buzbee, Dan Cogdell,  
 12 Allison Collins, Anthony Dolcefino, Amy Hilton,  
 13 Christopher Hilton, Colby Holler, Kateland Jackson,  
 14 Mitch Little, Joseph Mazzara, Anthony Osso, and  
 15 Judd Stone.  
 16 Did I miss anyone? Thank you. Good to  
 17 see you.  
 18 I want to first -- I want to first  
 19 introduce Judge Lana Myers, who is sitting next to me.  
 20 She will be my legal counsel. I'm neither a lawyer or a  
 21 judge, so I appreciate her giving of her time to be here  
 22 today. She's served with distinction in the Dallas area  
 23 on the -- as a prosecutor in the criminal court and on  
 24 the Fifth Court of Appeals. So I want to thank you for  
 25 being here today. Thank you, Judge Myers.

1 Once again, good morning. For those of  
 2 you attending today, just a couple of brief remarks in  
 3 the gallery. All cell phones must be turned off. Other  
 4 than the media, no recording may be made of the  
 5 proceedings by those present. We must maintain decorum.  
 6 And no distractions in the gallery, as we will on the  
 7 floor at all times.  
 8 We're glad to have you here, but any  
 9 outbursts by anyone in the gallery will result in your  
 10 removal. So I hope you're with us for the whole time.  
 11 Our first order of business is to address  
 12 24 pretrial motions submitted by the parties. The  
 13 deadline for the parties to file pretrial motions was  
 14 August 5. Answers to the motions from the other party  
 15 were due August 15.  
 16 The rules that were written by the  
 17 Senators and passed 25 to 3 require any motion that  
 18 could result in dismissal of an article of impeachment  
 19 to be voted on by the members of the jury, the Senators.  
 20 There are 16 such motions that could result in dismissal  
 21 of articles of impeachment. Unlike regular session  
 22 where members speak and debate on the floor, the members  
 23 passed rules which do not allow questions, discussions,  
 24 or debate from the floor.  
 25 As you know in a regular trial a jury

1 does not make public comments during a trial, and  
 2 neither will this jury.  
 3 After the members of the Court vote on  
 4 the 16 dispositive motions, I will rule on the remaining  
 5 eight motions, which the rules require the Presiding  
 6 Officer to do.  
 7 It is possible that through certain votes  
 8 by members of the Court some or all of impeachment could  
 9 be dismissed. If the articles are dismissed, the Court  
 10 will enter a finding that they are dismissed with  
 11 prejudice thereby satisfying Article XV Section 5 of the  
 12 Constitution, reinstating Attorney General to office.  
 13 However, if any articles remain after votes on pretrial  
 14 motions and rules require, we move forward with a trial.  
 15 We will now take up pretrial motions  
 16 under the rules. It takes a majority of members  
 17 present -- that is 16 voting members -- who are eligible  
 18 to serve as jurors to grant a motion for dismissal. Per  
 19 the rules, all motions and answers are required to be  
 20 filed prior to the trial, and arguments of the counsel  
 21 for both sides are contained therein.  
 22 Members, you have read the pretrial  
 23 motions and the answers to the motions for each motion.  
 24 You will indicate on your voting form yea or nay. A yea  
 25 vote is to grant the motion; a nay vote is to deny the

1 motion.

2 The bailiff, as you know, will collect

3 your votes. The clerk will then announce them, each

4 vote, and the tally. And after she has tallied the

5 votes, I am required by the rules to confirm your vote

6 is accurate. So I will call each of you one by one by

7 your name, and you will rise in place and state how you

8 voted, yea or nay.

9 As previously mentioned, a motion is

10 considered granted if it receives yea votes from a

11 majority of the members present, which is 16, and who

12 are eligible to serve as jurors.

13 Members, we will now take up Motion 22

14 submitted by Respondent, Attorney General Paxton. The

15 motion is entitled No Evidence Motion for Summary

16 Judgment on All Articles of Impeachment. A yea vote is

17 to grant the motion; a nay vote is to deny the motion.

18 Please mark your vote on the voting form.

19 Bailiff, will you collect the votes and

20 bring them to the clerk.

21 Are all of the votes collected, Bailiff?

22 Thank you, Austin.

23 Thank you, Matt.

24 The secretary will -- the clerk -- I'm

25 sorry -- Ms. Spaw is our secretary of the Senate. The

1 clerk will now pull the votes at random and read them

2 into the record.

3 THE CLERK: Flores, no.

4 Eckhardt, no.

5 Kolkhorst, yea.

6 Bettencourt, yea.

7 Creighton, yea.

8 Middleton, nay.

9 Alvarado, nay.

10 King, nay.

11 Sparks, nay.

12 West, nay.

13 Whitmire, nay.

14 Huffman, nay.

15 Hinojosa, nay.

16 Zaffirini, nay.

17 Hancock, nay.

18 Menendez, nay.

19 Birdwell, nay.

20 Hall, yea.

21 Perry, nay.

22 La Mantia, nay.

23 Parker, yea.

24 Hughes, nay.

25 Miles, nay.

1 Gutierrez, nay.

2 Johnson, nay.

3 Springer, nay.

4 Schwertner, nay.

5 Campbell, yea.

6 Nichols, nay.

7 Blanco, nay.

8 24 nays; six yeas.

9 PRESIDING OFFICER: I will now confirm

10 the vote of the jury in alphabetical order.

11 Senator Alvarado, your vote?

12 SENATOR ALVARADO: Nay.

13 PRESIDING OFFICER: Senator Bettencourt.

14 SENATOR BETTENCOURT: Yea.

15 PRESIDING OFFICER: Senator Birdwell.

16 SENATOR BIRDWELL: Nay.

17 PRESIDING OFFICER: Senator Blanco.

18 SENATOR BLANCO: Nay.

19 PRESIDING OFFICER: Senator Campbell.

20 SENATOR CAMPBELL: Yea.

21 PRESIDING OFFICER: Senator Creighton.

22 SENATOR CREIGHTON: Yea.

23 PRESIDING OFFICER: Senator Eckhardt.

24 SENATOR ECKHARDT: Nay.

25 PRESIDING OFFICER: Senator Flores.

1 SENATOR FLORES: Nay.

2 PRESIDING OFFICER: Senator Gutierrez.

3 SENATOR GUTIERREZ: Nay.

4 PRESIDING OFFICER: Senator Hall.

5 SENATOR HALL: Yea.

6 PRESIDING OFFICER: Senator Hancock.

7 SENATOR HANCOCK: Nay.

8 PRESIDING OFFICER: Senator Hinojosa.

9 SENATOR HINOJOSA: Nay.

10 PRESIDING OFFICER: Senator Huffman.

11 SENATOR HUFFMAN: Nay.

12 PRESIDING OFFICER: Senator Hughes.

13 SENATOR HUGHES: Nay.

14 PRESIDING OFFICER: Senator Johnson.

15 SENATOR JOHNSON: Nay.

16 PRESIDING OFFICER: Senator King.

17 SENATOR KING: Nay.

18 PRESIDING OFFICER: Senator Kolkhorst.

19 SENATOR KOLKHORST: Yea.

20 PRESIDING OFFICER: Senator La Mantia.

21 SENATOR LA MANTIA: Nay.

22 PRESIDING OFFICER: Senator Menendez.

23 SENATOR MENENDEZ: Nay.

24 PRESIDING OFFICER: Senator Middleton.

25 SENATOR MIDDLETON: Nay.

1 PRESIDING OFFICER: Senator Miles.  
 2 SENATOR MILES: Nay.  
 3 PRESIDING OFFICER: Senator Nichols.  
 4 SENATOR NICHOLS: Nay.  
 5 PRESIDING OFFICER: Senator Parker.  
 6 SENATOR PARKER: Yea.  
 7 PRESIDING OFFICER: Senator Perry.  
 8 SENATOR PERRY: Nay.  
 9 PRESIDING OFFICER: Senator Schwertner.  
 10 SENATOR SCHWERTNER: Nay.  
 11 PRESIDING OFFICER: Senator Springer.  
 12 SENATOR SPRINGER: Nay.  
 13 PRESIDING OFFICER: Senator Sparks.  
 14 SENATOR SPARKS: Nay.  
 15 PRESIDING OFFICER: Senator West.  
 16 SENATOR WEST: Nay.  
 17 PRESIDING OFFICER: Senator Whitmire.  
 18 SENATOR WHITMIRE: Nay.  
 19 PRESIDING OFFICER: Senator Zaffirini.  
 20 SENATOR ZAFFIRINI: Nay.  
 21 PRESIDING OFFICER: 24 nays, six yeas.  
 22 The tally is confirmed. The motion is denied.  
 23 Members, we are now taking up Motion 9  
 24 submitted by the respondent, Attorney General Paxton.  
 25 The motion is entitled Motion to Exclude Evidence of Any

1 Alleged Conduct that Occurred Prior to January 2023. A  
 2 yea vote is to grant the motion; a nay vote is to deny  
 3 the motion. Please mark your voting form.  
 4 Bailiffs, please pick up the votes.  
 5 Are all votes collected? Thank you,  
 6 Bailiff.  
 7 Clerk will pull the votes at random.  
 8 THE CLERK: Eckhardt, nay.  
 9 King, nay.  
 10 Sparks, nay.  
 11 Flores, nay.  
 12 Blanco, nay.  
 13 La Mantia, nay.  
 14 Parker, yea.  
 15 Hughes, nay.  
 16 Miles, nay.  
 17 Gutierrez, nay.  
 18 Johnson, nay.  
 19 Springer, nay.  
 20 Schwertner, yea.  
 21 Alvarado, nay.  
 22 Campbell, yea.  
 23 Nichols, nay.  
 24 West, nay.  
 25 Whitmire, nay.

1 Huffman, nay.  
 2 Hinojosa, nay.  
 3 Zaffirini, nay.  
 4 Perry, yea.  
 5 Kolkhorst, yea.  
 6 Bettencourt, yea.  
 7 Creighton, yea.  
 8 Middleton, nay.  
 9 Hancock, nay.  
 10 Menendez, nay.  
 11 Birdwell, nay.  
 12 Hall, yea.  
 13 8 yeas, 22 nays.  
 14 PRESIDING OFFICER: I'll confirm the  
 15 votes.  
 16 Senator Alvarado.  
 17 SENATOR ALVARADO: Nay.  
 18 PRESIDING OFFICER: Senator Bettencourt.  
 19 SENATOR BETTENCOURT: Yea.  
 20 PRESIDING OFFICER: Senator Birdwell.  
 21 SENATOR BIRDWELL: Nay.  
 22 PRESIDING OFFICER: Senator Blanco.  
 23 SENATOR BLANCO: Nay.  
 24 PRESIDING OFFICER: Senator Campbell.  
 25 SENATOR CAMPBELL: Yea.

1 PRESIDING OFFICER: Senator Creighton.  
 2 SENATOR CREIGHTON: Yea.  
 3 PRESIDING OFFICER: Senator Eckhardt.  
 4 SENATOR ECKHARDT: Nay.  
 5 PRESIDING OFFICER: Senator Flores.  
 6 SENATOR FLORES: Nay.  
 7 PRESIDING OFFICER: Senator Gutierrez.  
 8 SENATOR GUTIERREZ: Nay.  
 9 PRESIDING OFFICER: Senator Hall.  
 10 SENATOR HALL: Yea.  
 11 PRESIDING OFFICER: Senator Hancock.  
 12 SENATOR HANCOCK: Nay.  
 13 PRESIDING OFFICER: Senator Hinojosa.  
 14 SENATOR HINOJOSA: Nay.  
 15 PRESIDING OFFICER: Senator Huffman.  
 16 SENATOR HUFFMAN: Nay.  
 17 PRESIDING OFFICER: Senator Hughes.  
 18 SENATOR HUGHES: Nay.  
 19 PRESIDING OFFICER: Senator Johnson.  
 20 SENATOR JOHNSON: Nay.  
 21 PRESIDING OFFICER: Senator King.  
 22 SENATOR KING: Nay.  
 23 PRESIDING OFFICER: Senator Kolkhorst.  
 24 SENATOR KOLKHORST: Yea.  
 25 PRESIDING OFFICER: Senator La Mantia.

1 SENATOR LA MANTIA: Nay.  
 2 PRESIDING OFFICER: Senator Menendez.  
 3 SENATOR MENENDEZ: Nay.  
 4 PRESIDING OFFICER: Senator Middleton.  
 5 SENATOR MIDDLETON: Nay.  
 6 PRESIDING OFFICER: Senator Miles.  
 7 SENATOR MILES: Nay.  
 8 PRESIDING OFFICER: Senator Nichols.  
 9 SENATOR NICHOLS: Nay.  
 10 PRESIDING OFFICER: Senator Parker.  
 11 SENATOR PARKER: Yea.  
 12 PRESIDING OFFICER: Senator Perry.  
 13 SENATOR PERRY: Yea.  
 14 PRESIDING OFFICER: Senator Schwertner.  
 15 SENATOR SCHWERTNER: Yea.  
 16 PRESIDING OFFICER: Senator Sparks.  
 17 SENATOR SPARKS: Nay.  
 18 PRESIDING OFFICER: Senator Springer.  
 19 SENATOR SPRINGER: Nay.  
 20 PRESIDING OFFICER: Senator West.  
 21 SENATOR WEST: Nay.  
 22 PRESIDING OFFICER: Senator Whitmire.  
 23 SENATOR WHITMIRE: Nay.  
 24 PRESIDING OFFICER: Senator Zaffirini.  
 25 SENATOR ZAFFIRINI: Nay.

1 PRESIDING OFFICER: Being 22 nays and 8  
 2 yeas, the motion is denied.  
 3 Members, we are now taking up Motion 8  
 4 submitted by the respondent, Attorney General Paxton,  
 5 entitled Motion to Dismiss Articles of Impeachment 1  
 6 through VII, and IX through XX. A yea vote is to grant  
 7 the motion; a nay vote is to deny the motion. Please  
 8 mark your ballots.  
 9 Bailiff, if you'll collect the ballots.  
 10 All the ballots collected? Thank you.  
 11 Clerk will pull at random and read the  
 12 votes.  
 13 THE CLERK: Johnson, nay.  
 14 Springer, nay.  
 15 Schwertner, yea.  
 16 Campbell, yea.  
 17 Nichols, nay.  
 18 West, nay.  
 19 Whitmire, nay.  
 20 Huffman, nay.  
 21 Hinojosa, nay.  
 22 Parker, yea.  
 23 Hughes, nay.  
 24 Miles, nay.  
 25 Gutierrez, nay.

1 Zaffirini, nay.  
 2 Blanco, nay.  
 3 La Mantia, nay.  
 4 Hancock, nay.  
 5 Menendez, nay.  
 6 Birdwell, nay.  
 7 Hall, yea.  
 8 Perry, yea.  
 9 Kolkhorst, yea.  
 10 Bettencourt, yea.  
 11 Creighton, yea.  
 12 Middleton, nay.  
 13 Alvarado, nay.  
 14 Eckhardt, nay.  
 15 King, nay.  
 16 Sparks, nay.  
 17 Flores, nay.  
 18 8 yeas, 22 nays.  
 19 PRESIDING OFFICER: Members, please  
 20 confirm your votes.  
 21 Senator Alvarado.  
 22 SENATOR ALVARADO: Nay.  
 23 PRESIDING OFFICER: Senator Bettencourt.  
 24 SENATOR BETTENCOURT: Yea.  
 25 PRESIDING OFFICER: Senator Birdwell.

1 SENATOR BIRDWELL: Nay.  
 2 PRESIDING OFFICER: Senator Blanco.  
 3 SENATOR BLANCO: Nay.  
 4 PRESIDING OFFICER: Senator Campbell.  
 5 SENATOR CAMPBELL: Yea.  
 6 PRESIDING OFFICER: Senator Creighton.  
 7 SENATOR CREIGHTON: Yea.  
 8 PRESIDING OFFICER: Senator Eckhardt.  
 9 SENATOR ECKHARDT: Nay.  
 10 PRESIDING OFFICER: Senator Flores.  
 11 SENATOR FLORES: Nay.  
 12 PRESIDING OFFICER: Senator Gutierrez.  
 13 SENATOR GUTIERREZ: Nay.  
 14 PRESIDING OFFICER: Senator Hall.  
 15 SENATOR HALL: Yea.  
 16 PRESIDING OFFICER: Senator Hancock.  
 17 SENATOR HANCOCK: Nay.  
 18 PRESIDING OFFICER: Senator Hinojosa.  
 19 SENATOR HINOJOSA: Nay.  
 20 PRESIDING OFFICER: Senator Huffman.  
 21 SENATOR HUFFMAN: Nay.  
 22 PRESIDING OFFICER: Senator Hughes.  
 23 SENATOR HUGHES: Nay.  
 24 PRESIDING OFFICER: Senator Johnson.  
 25 SENATOR JOHNSON: Nay.

1 PRESIDING OFFICER: Senator King.  
 2 SENATOR KING: Nay.  
 3 PRESIDING OFFICER: Senator Kolkhorst.  
 4 SENATOR KOLKHORST: Yea.  
 5 PRESIDING OFFICER: Senator La Mantia.  
 6 SENATOR LA MANTIA: Nay.  
 7 PRESIDING OFFICER: Senator Menendez.  
 8 SENATOR MENENDEZ: Nay.  
 9 PRESIDING OFFICER: Senator Middleton.  
 10 SENATOR MIDDLETON: Nay.  
 11 PRESIDING OFFICER: Senator Miles.  
 12 SENATOR MILES: Nay.  
 13 PRESIDING OFFICER: Senator Nichols.  
 14 SENATOR NICHOLS: Nay.  
 15 PRESIDING OFFICER: Senator Parker.  
 16 SENATOR PARKER: Yea.  
 17 PRESIDING OFFICER: Senator Perry.  
 18 SENATOR PERRY: Yea.  
 19 PRESIDING OFFICER: Senator Schwertner.  
 20 SENATOR SCHWERTNER: Yea.  
 21 PRESIDING OFFICER: Senator Sparks.  
 22 SENATOR SPARKS: Nay.  
 23 PRESIDING OFFICER: Senator Springer.  
 24 SENATOR SPRINGER: Nay.  
 25 PRESIDING OFFICER: Senator West.

1 SENATOR WEST: Nay.  
 2 PRESIDING OFFICER: Senator Whitmire.  
 3 SENATOR WHITMIRE: Nay.  
 4 PRESIDING OFFICER: Senator Zaffirini.  
 5 SENATOR ZAFFIRINI: Nay.  
 6 PRESIDING OFFICER: 8 yeas, 22 nays, the  
 7 motion is denied.  
 8 We're now taking up Motion No. 6,  
 9 members, submitted by the respondent, Attorney General  
 10 Paxton. The motion is entitled Motion to Quash Articles  
 11 of Impeachment or Grant Requests for Bill of  
 12 Particulars. A yea vote is to grant the motion; a nay  
 13 vote is to deny the motion. Mark your ballot.  
 14 Bailiffs, please collect the ballots.  
 15 All the ballots collected? Thank you.  
 16 The clerk will read the ballots at  
 17 random.  
 18 THE CLERK: Miles, nay.  
 19 Gutierrez, nay.  
 20 Johnson, nay.  
 21 Springer, nay.  
 22 Schwertner, nay.  
 23 Campbell, yea.  
 24 Nichols, nay.  
 25 West, nay.

1 Blanco, nay.  
 2 La Mantia, nay.  
 3 Parker, yea.  
 4 Hughes, nay.  
 5 Whitmire, nay.  
 6 Huffman, nay.  
 7 Hinojosa, nay.  
 8 Hancock, nay.  
 9 Menendez, nay.  
 10 Birdwell, nay.  
 11 Hall, yea.  
 12 Perry, nay.  
 13 Kolkhorst, yea.  
 14 Bettencourt, yea.  
 15 Creighton, yea.  
 16 Middleton, nay.  
 17 Alvarado, nay.  
 18 Eckhardt, nay.  
 19 King, nay.  
 20 Sparks, nay.  
 21 Flores, nay.  
 22 Zaffirini, nay.  
 23 Six yeas, 24 nays.  
 24 PRESIDING OFFICER: To confirm the vote.  
 25 Senator Alvarado.

1 SENATOR ALVARADO: Nay.  
 2 PRESIDING OFFICER: Bettencourt.  
 3 SENATOR BETTENCOURT: Yea.  
 4 PRESIDING OFFICER: Senator Birdwell.  
 5 SENATOR BIRDWELL: Nay.  
 6 PRESIDING OFFICER: Senator Blanco.  
 7 SENATOR BLANCO: Nay.  
 8 PRESIDING OFFICER: Senator Campbell.  
 9 SENATOR CAMPBELL: Yea.  
 10 PRESIDING OFFICER: Senator Creighton.  
 11 SENATOR CREIGHTON: Yea.  
 12 PRESIDING OFFICER: Senator Eckhardt.  
 13 SENATOR ECKHARDT: Nay.  
 14 PRESIDING OFFICER: Senator Flores.  
 15 SENATOR FLORES: Nay.  
 16 PRESIDING OFFICER: Senator Gutierrez.  
 17 SENATOR GUTIERREZ: Nay.  
 18 PRESIDING OFFICER: Senator Hall.  
 19 SENATOR HALL: Yea.  
 20 PRESIDING OFFICER: Senator Hancock.  
 21 SENATOR HANCOCK: Nay.  
 22 PRESIDING OFFICER: Senator Hinojosa.  
 23 SENATOR HINOJOSA: Nay.  
 24 PRESIDING OFFICER: Senator Huffman.  
 25 SENATOR HUFFMAN: Nay.



1 PRESIDING OFFICER: Senator Hughes.  
 2 SENATOR HUGHES: Nay.  
 3 PRESIDING OFFICER: Senator Johnson.  
 4 SENATOR JOHNSON: Nay.  
 5 PRESIDING OFFICER: Senator King.  
 6 SENATOR KING: Nay.  
 7 PRESIDING OFFICER: Senator Kolkhorst.  
 8 SENATOR KOLKHORST: Yea.  
 9 PRESIDING OFFICER: Senator La Mantia.  
 10 SENATOR LA MANTIA: Nay.  
 11 PRESIDING OFFICER: Senator Menendez.  
 12 SENATOR MENENDEZ: Nay.  
 13 PRESIDING OFFICER: Senator Middleton.  
 14 SENATOR MIDDLETON: Nay.  
 15 PRESIDING OFFICER: Senator Miles.  
 16 SENATOR MILES: Nay.  
 17 PRESIDING OFFICER: Senator Nichols.  
 18 SENATOR NICHOLS: Nay.  
 19 PRESIDING OFFICER: Senator Parker.  
 20 SENATOR PARKER: Yea.  
 21 PRESIDING OFFICER: Senator Perry.  
 22 SENATOR PERRY: Nay.  
 23 PRESIDING OFFICER: Senator Schwertner.  
 24 SENATOR SCHWERTNER: Nay.  
 25 PRESIDING OFFICER: Senator Sparks.

1 SENATOR SPARKS: Nay.  
 2 PRESIDING OFFICER: Senator Springer.  
 3 SENATOR SPRINGER: Nay.  
 4 PRESIDING OFFICER: Senator West.  
 5 SENATOR WEST: Nay.  
 6 PRESIDING OFFICER: Senator Whitmire.  
 7 SENATOR WHITMIRE: Nay.  
 8 PRESIDING OFFICER: Senator Zaffirini.  
 9 SENATOR ZAFFIRINI: Nay.  
 10 PRESIDING OFFICER: There being 24 nay  
 11 votes and six yea votes, the motion is denied.  
 12 Members, now we are taking up Motion 7  
 13 submitted by the respondent, Attorney General Paxton.  
 14 The motion is entitled Request for a Bill of  
 15 Particulars. The yea vote is a grant -- is granting the  
 16 motion. A nay vote is denying the motion.  
 17 Bailiffs pick up the votes.  
 18 All votes collected, secretary -- clerk  
 19 will call the votes.  
 20 THE CLERK: Campbell, yea.  
 21 Nichols, nay.  
 22 West, nay.  
 23 Whitmire, nay.  
 24 Huffman, nay.  
 25 Hinojosa, nay.

1 Flores, nay.  
 2 Blanco, nay.  
 3 La Mantia, nay.  
 4 Parker, yea.  
 5 Hughes, nay.  
 6 Miles, nay.  
 7 Gutierrez, nay.  
 8 Johnson, nay.  
 9 Springer, nay.  
 10 Schwertner, nay.  
 11 Hancock, nay.  
 12 Menendez, nay.  
 13 Birdwell, nay.  
 14 Hall, yea.  
 15 Perry, nay.  
 16 Kolkhorst, yea.  
 17 Bettencourt, yea.  
 18 Creighton, yea.  
 19 Middleton, nay.  
 20 Alvarado, nay.  
 21 Eckhardt, nay.  
 22 King, nay.  
 23 Sparks, nay.  
 24 Zaffirini, nay.  
 25 6 yeas, 24 nays.

1 PRESIDING OFFICER: Members, confirming  
 2 the vote.  
 3 Senator Alvarado.  
 4 SENATOR ALVARADO: Nay.  
 5 PRESIDING OFFICER: Senator Bettencourt.  
 6 SENATOR BETTENCOURT: Yea.  
 7 PRESIDING OFFICER: Senator Birdwell.  
 8 Senator Birdwell, I'm sorry. I didn't  
 9 hear you.  
 10 SENATOR BIRDWELL: Nay.  
 11 PRESIDING OFFICER: Senator Blanco.  
 12 SENATOR BLANCO: Nay.  
 13 PRESIDING OFFICER: Senator Campbell.  
 14 SENATOR CAMPBELL: Yea.  
 15 PRESIDING OFFICER: Senator Creighton.  
 16 SENATOR CREIGHTON: Yea.  
 17 PRESIDING OFFICER: Senator Eckhardt.  
 18 SENATOR ECKHARDT: Nay.  
 19 PRESIDING OFFICER: Senator Flores.  
 20 SENATOR FLORES: Nay.  
 21 PRESIDING OFFICER: Senator Gutierrez.  
 22 SENATOR GUTIERREZ: Nay.  
 23 PRESIDING OFFICER: Senator Hall.  
 24 SENATOR HALL: Yea.  
 25 PRESIDING OFFICER: Senator Hancock.

1 SENATOR HANCOCK: Nay.  
 2 PRESIDING OFFICER: Senator Hinojosa.  
 3 SENATOR HINOJOSA: Nay.  
 4 PRESIDING OFFICER: Senator Huffman.  
 5 SENATOR HUFFMAN: Nay.  
 6 PRESIDING OFFICER: Senator Hughes.  
 7 SENATOR HUGHES: Nay.  
 8 PRESIDING OFFICER: Senator Johnson.  
 9 SENATOR JOHNSON: Nay.  
 10 PRESIDING OFFICER: Senator King.  
 11 SENATOR KING: Nay.  
 12 PRESIDING OFFICER: Senator Kolkhorst.  
 13 SENATOR KOLKHORST: Yea.  
 14 PRESIDING OFFICER: Senator La Mantia.  
 15 SENATOR LA MANTIA: Nay.  
 16 PRESIDING OFFICER: Senator Menendez.  
 17 SENATOR MENENDEZ: Nay.  
 18 PRESIDING OFFICER: Senator Middleton.  
 19 SENATOR MIDDLETON: Nay.  
 20 PRESIDING OFFICER: Senator Miles.  
 21 SENATOR MILES: Nay.  
 22 PRESIDING OFFICER: Senator Nichols.  
 23 SENATOR NICHOLS: Nay.  
 24 PRESIDING OFFICER: Senator Parker.  
 25 SENATOR PARKER: Yea.

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1 PRESIDING OFFICER: Senator Perry.  
 2 SENATOR PERRY: Nay.  
 3 PRESIDING OFFICER: Senator Schwertner.  
 4 SENATOR SCHWERTNER: Nay.  
 5 PRESIDING OFFICER: Senator Sparks.  
 6 SENATOR SPARKS: Nay.  
 7 PRESIDING OFFICER: Senator Springer.  
 8 SENATOR SPRINGER: Nay.  
 9 PRESIDING OFFICER: Senator West.  
 10 SENATOR WEST: Nay.  
 11 PRESIDING OFFICER: Senator Whitmire.  
 12 SENATOR WHITMIRE: Nay.  
 13 PRESIDING OFFICER: Senator Zaffirini.  
 14 SENATOR ZAFFIRINI: Nay.  
 15 PRESIDING OFFICER: There being 24 nays  
 16 and six ayes, the motion is denied.  
 17 Members, now taking up Motion 13  
 18 submitted by the respondent, Attorney General Paxton.  
 19 The motion is entitled Motion to Dismiss Article I. A  
 20 yea vote is to grant the motion; a nay vote is to deny  
 21 the motion.  
 22 Please collect the ballots.  
 23 All votes counted -- all votes picked up,  
 24 rather. Thank you. The clerk will read the votes.  
 25 THE CLERK: Birdwell, nay.

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1 Hall, yea.  
 2 Perry, yea.  
 3 Kolkhorst, yea.  
 4 Bettencourt, yea.  
 5 Creighton, yea.  
 6 Middleton, nay.  
 7 Alvarado, nay.  
 8 Eckhardt, nay.  
 9 King, nay.  
 10 Sparks, nay.  
 11 Flores, nay.  
 12 Blanco, nay.  
 13 La Mantia, nay.  
 14 Parker, yea.  
 15 Hughes, nay.  
 16 Hancock, nay.  
 17 Menendez, nay.  
 18 Miles, nay.  
 19 Gutierrez, nay.  
 20 Johnson, nay.  
 21 Springer, nay.  
 22 Schwertner, yea.  
 23 Campbell, yea.  
 24 Nichols, nay.  
 25 West, nay.

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1 Whitmire, nay.  
 2 Huffman, nay.  
 3 Hinojosa, nay.  
 4 Zaffirini, nay.  
 5 8 yeas, 22 nays.  
 6 PRESIDING OFFICER: Confirming the vote.  
 7 Senator Alvarado.  
 8 SENATOR ALVARADO: Nay.  
 9 PRESIDING OFFICER: Senator Bettencourt.  
 10 SENATOR BETTENCOURT: Yea.  
 11 PRESIDING OFFICER: Senator Birdwell.  
 12 SENATOR BIRDWELL: Nay.  
 13 PRESIDING OFFICER: Senator Blanco.  
 14 SENATOR BLANCO: Nay.  
 15 PRESIDING OFFICER: Senator Campbell.  
 16 SENATOR CAMPBELL: Yea.  
 17 PRESIDING OFFICER: Senator Creighton.  
 18 SENATOR CREIGHTON: Yea.  
 19 PRESIDING OFFICER: Senator Eckhardt.  
 20 SENATOR ECKHARDT: Nay.  
 21 PRESIDING OFFICER: Senator Flores.  
 22 SENATOR FLORES: Nay.  
 23 PRESIDING OFFICER: Senator Gutierrez.  
 24 SENATOR GUTIERREZ: Nay.  
 25 PRESIDING OFFICER: Senator Hall.

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1 SENATOR HALL: Yea.  
 2 PRESIDING OFFICER: Senator Hancock.  
 3 SENATOR HANCOCK: Nay.  
 4 PRESIDING OFFICER: Senator Hinojosa.  
 5 SENATOR HINOJOSA: Nay.  
 6 PRESIDING OFFICER: Senator Huffman.  
 7 SENATOR HUFFMAN: Nay.  
 8 PRESIDING OFFICER: Senator Hughes.  
 9 SENATOR HUFFMAN: Nay.  
 10 PRESIDING OFFICER: Senator Johnson.  
 11 SENATOR JOHNSON: Nay.  
 12 PRESIDING OFFICER: Senator King.  
 13 SENATOR KING: Nay.  
 14 PRESIDING OFFICER: Senator Kolkhorst.  
 15 SENATOR KOLKHORST: Yea.  
 16 PRESIDING OFFICER: Senator La Mantia.  
 17 SENATOR LA MANTIA: Nay.  
 18 PRESIDING OFFICER: Senator Menendez.  
 19 SENATOR MENENDEZ: Nay.  
 20 PRESIDING OFFICER: Senator Middleton.  
 21 SENATOR MIDDLETON: Nay.  
 22 PRESIDING OFFICER: Senator Miles.  
 23 SENATOR MILES: Nay.  
 24 PRESIDING OFFICER: Senator Nichols.  
 25 SENATOR NICHOLS: Nay.

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1 PRESIDING OFFICER: Senator Parker.  
 2 SENATOR PARKER: Yea.  
 3 PRESIDING OFFICER: Senator Perry.  
 4 SENATOR PERRY: Yea.  
 5 PRESIDING OFFICER: Senator Schwertner.  
 6 SENATOR SCHWERTNER: Yea.  
 7 PRESIDING OFFICER: Senator Sparks.  
 8 SENATOR SPARKS: Nay.  
 9 PRESIDING OFFICER: Senator Springer.  
 10 SENATOR SPRINGER: Nay.  
 11 PRESIDING OFFICER: Senator West.  
 12 SENATOR WEST: Nay.  
 13 PRESIDING OFFICER: Senator Whitmire.  
 14 SENATOR WHITMIRE: Nay.  
 15 PRESIDING OFFICER: Senator Zaffirini.  
 16 SENATOR ZAFFIRINI: Nay.  
 17 PRESIDING OFFICER: There being 22 nays  
 18 and 8 yeas, the motion is denied.  
 19 Members, you have nine more to vote on.  
 20 Members, we're taking up Motion 14  
 21 submitted by the respondent, Attorney General Paxton.  
 22 The motion is entitled Motion to Dismiss Article II.  
 23 You may pick up the motions.  
 24 All votes collected? Thank you. The  
 25 clerk will call out the votes.

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1 THE CLERK: Hancock, nay.  
 2 Menendez, nay.  
 3 Birdwell, nay.  
 4 Hall, yea.  
 5 Perry, yea.  
 6 Kolkhorst, yea.  
 7 Bettencourt, yea.  
 8 Creighton, yea.  
 9 Middleton, nay.  
 10 Alvarado, nay.  
 11 Eckhardt, nay.  
 12 King, nay.  
 13 Sparks, nay.  
 14 Flores, nay.  
 15 Blanco, nay.  
 16 La Mantia, nay.  
 17 Parker, yea.  
 18 Hughes, nay.  
 19 Miles, nay.  
 20 Gutierrez, nay.  
 21 Johnson, nay.  
 22 Springer, nay.  
 23 Schwertner, yea.  
 24 Campbell, yea.  
 25 Nichols, nay.

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1 West, nay.  
 2 Whitmire, nay.  
 3 Huffman, nay.  
 4 Hinojosa, nay.  
 5 Zaffirini, nay.  
 6 8 yeas, 22 nays.  
 7 PRESIDING OFFICER: Confirming the vote.  
 8 Senator Alvarado.  
 9 SENATOR ALVARADO: Nay.  
 10 PRESIDING OFFICER: Senator Bettencourt.  
 11 SENATOR BETTENCOURT: Yea.  
 12 PRESIDING OFFICER: Senator Birdwell.  
 13 SENATOR BIRDWELL: Nay.  
 14 PRESIDING OFFICER: Senator Blanco.  
 15 SENATOR BLANCO: Nay.  
 16 PRESIDING OFFICER: Senator Campbell.  
 17 SENATOR CAMPBELL: Yea.  
 18 PRESIDING OFFICER: Senator Creighton.  
 19 SENATOR CREIGHTON: Yea.  
 20 PRESIDING OFFICER: Senator Eckhardt.  
 21 SENATOR ECKHARDT: Nay.  
 22 PRESIDING OFFICER: Senator Flores.  
 23 SENATOR FLORES: Nay.  
 24 PRESIDING OFFICER: Senator Gutierrez.  
 25 SENATOR GUTIERREZ: Nay.

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1 PRESIDING OFFICER: Senator Hall.  
 2 SENATOR HALL: Yea.  
 3 PRESIDING OFFICER: Senator Hancock.  
 4 SENATOR HANCOCK: Nay.  
 5 PRESIDING OFFICER: Senator Hinojosa.  
 6 SENATOR HINOJOSA: Nay.  
 7 PRESIDING OFFICER: Senator Huffman.  
 8 SENATOR HUFFMAN: Nay.  
 9 PRESIDING OFFICER: Senator Hughes.  
 10 SENATOR HUGHES: Nay.  
 11 PRESIDING OFFICER: Senator Johnson.  
 12 SENATOR JOHNSON: Nay.  
 13 PRESIDING OFFICER: Senator King.  
 14 SENATOR KING: Nay.  
 15 PRESIDING OFFICER: Senator Kolkhorst.  
 16 SENATOR KOLKHORST: Yea.  
 17 PRESIDING OFFICER: Senator La Mantia.  
 18 SENATOR LA MANTIA: Nay.  
 19 PRESIDING OFFICER: Senator Menendez.  
 20 SENATOR MENENDEZ: Nay.  
 21 PRESIDING OFFICER: Senator Middleton.  
 22 SENATOR MIDDLETON: Nay.  
 23 PRESIDING OFFICER: Senator Miles.  
 24 SENATOR MILES: Nay.  
 25 PRESIDING OFFICER: Senator Nichols.

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1 SENATOR NICHOLS: Nay.  
 2 PRESIDING OFFICER: Senator Parker.  
 3 SENATOR PARKER: Yea.  
 4 PRESIDING OFFICER: Senator Perry.  
 5 SENATOR PERRY: Yea.  
 6 PRESIDING OFFICER: Senator Schwertner.  
 7 SENATOR SCHWERTNER: Yea.  
 8 PRESIDING OFFICER: Senator Sparks.  
 9 SENATOR SPARKS: Nay.  
 10 PRESIDING OFFICER: Senator Springer.  
 11 SENATOR SPRINGER: Nay.  
 12 PRESIDING OFFICER: Senator West.  
 13 SENATOR WEST: Nay.  
 14 PRESIDING OFFICER: Senator Whitmire.  
 15 SENATOR WHITMIRE: Nay.  
 16 PRESIDING OFFICER: Senator Zaffirini.  
 17 SENATOR ZAFFIRINI: Nay.  
 18 PRESIDING OFFICER: There being 22 nay  
 19 votes, 8 yea votes, the motion is denied.  
 20 Members, we are now taking up Motion 15  
 21 sent in by respondent, Attorney General Paxton. The  
 22 motion is entitled Motion to Dismiss Article III. A yea  
 23 vote is to grant the motion; a nay vote is to deny the  
 24 motion.  
 25 Please pick up the votes.

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1 All votes collected? The secretary --  
 2 clerk will call out the vote.  
 3 THE CLERK: Parker, yea.  
 4 Hughes, nay.  
 5 Miles, nay.  
 6 Gutierrez, nay.  
 7 Johnson, nay.  
 8 Springer, nay.  
 9 Schwertner, yea.  
 10 Campbell, yea.  
 11 Nichols, nay.  
 12 West, nay.  
 13 Whitmire, nay.  
 14 Huffman, nay.  
 15 Hinojosa, nay.  
 16 Zaffirini, nay.  
 17 Blanco, nay.  
 18 La Mantia, nay.  
 19 Hancock, nay.  
 20 Menendez, nay.  
 21 Birdwell, nay.  
 22 Hall, yea.  
 23 Perry, nay.  
 24 Kolkhorst, yea.  
 25 Bettencourt, yea.

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1 Creighton, yea.  
 2 Middleton, nay.  
 3 Alvarado, nay.  
 4 Eckhardt, nay.  
 5 King, nay.  
 6 Sparks, nay.  
 7 Flores, nay.  
 8 7 yeas, 23 nays.  
 9 PRESIDING OFFICER: Confirming the vote.  
 10 Senator Alvarado.  
 11 SENATOR ALVARADO: Nay.  
 12 PRESIDING OFFICER: Senator Bettencourt.  
 13 SENATOR BETTENCOURT: Yea.  
 14 PRESIDING OFFICER: Senator Birdwell.  
 15 SENATOR BIRDWELL: Nay.  
 16 PRESIDING OFFICER: Senator Blanco.  
 17 SENATOR BLANCO: Nay.  
 18 PRESIDING OFFICER: Senator Campbell.  
 19 SENATOR CAMPBELL: Yea.  
 20 PRESIDING OFFICER: Senator Creighton.  
 21 SENATOR CREIGHTON: Yea.  
 22 PRESIDING OFFICER: Senator Eckhardt.  
 23 SENATOR ECKHARDT: Nay.  
 24 PRESIDING OFFICER: Senator Flores.  
 25 SENATOR FLORES: Nay.

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1 PRESIDING OFFICER: Senator Gutierrez.  
 2 SENATOR GUTIERREZ: Nay.  
 3 PRESIDING OFFICER: Senator Hall.  
 4 SENATOR HALL: Yea.  
 5 PRESIDING OFFICER: Senator Hancock.  
 6 SENATOR HANCOCK: Nay.  
 7 PRESIDING OFFICER: Senator Hinojosa.  
 8 SENATOR HINOJOSA: Nay.  
 9 PRESIDING OFFICER: Senator Huffman.  
 10 SENATOR HUFFMAN: Nay.  
 11 PRESIDING OFFICER: Senator Hughes.  
 12 SENATOR HUGHES: Nay.  
 13 PRESIDING OFFICER: Senator Johnson.  
 14 SENATOR JOHNSON: Nay.  
 15 PRESIDING OFFICER: Senator King.  
 16 SENATOR KING: Nay.  
 17 PRESIDING OFFICER: Senator Kolkhorst.  
 18 SENATOR KOLKHORST: Yea.  
 19 PRESIDING OFFICER: Senator La Mantia.  
 20 SENATOR LA MANTIA: Nay.  
 21 PRESIDING OFFICER: Senator Menendez.  
 22 SENATOR MENENDEZ: Nay.  
 23 PRESIDING OFFICER: Senator Middleton.  
 24 SENATOR MIDDLETON: Nay.  
 25 PRESIDING OFFICER: Senator Miles.

1 SENATOR MILES: Nay.  
 2 PRESIDING OFFICER: Senator Nichols.  
 3 SENATOR NICHOLS: Nay.  
 4 PRESIDING OFFICER: Senator Parker.  
 5 SENATOR PARKER: Yea.  
 6 PRESIDING OFFICER: Senator Perry.  
 7 SENATOR PERRY: Nay.  
 8 PRESIDING OFFICER: Senator Schwertner.  
 9 SENATOR SCHWERTNER: Yea.  
 10 PRESIDING OFFICER: Senator Sparks.  
 11 SENATOR SPARKS: Nay.  
 12 PRESIDING OFFICER: Senator Springer.  
 13 SENATOR SPRINGER: Nay.  
 14 PRESIDING OFFICER: Senator West.  
 15 SENATOR WEST: Nay.  
 16 PRESIDING OFFICER: Senator Whitmire.  
 17 SENATOR WHITMIRE: Nay.  
 18 PRESIDING OFFICER: Senator Zaffirini.  
 19 SENATOR ZAFFIRINI: Nay.  
 20 PRESIDING OFFICER: 23 nay votes, 7 yea  
 21 votes, the motion is denied.  
 22 Members, we're now taking up Motion 16,  
 23 submitted by the respondent, Attorney General Paxton.  
 24 The motion is entitled the Motion to Dismiss Article IV.  
 25 A yea vote is to grant the motion; a nay vote is to deny

1 the motion.  
 2 Please mark your ballot.  
 3 Please pick up the ballots.  
 4 All ballots collected clerk will read the  
 5 votes.  
 6 THE CLERK: Hancock, nay.  
 7 Menendez, nay.  
 8 Birdwell, nay.  
 9 Hall, yea.  
 10 Perry, nay.  
 11 Kolkhorst, yea.  
 12 Bettencourt, yea.  
 13 Creighton, yea.  
 14 Middleton, nay.  
 15 Alvarado, nay.  
 16 Eckhardt, nay.  
 17 King, nay.  
 18 Sparks, nay.  
 19 Flores, nay.  
 20 Blanco, nay.  
 21 La Mantia, nay.  
 22 Parker, yea.  
 23 Hughes, nay.  
 24 Miles, nay.  
 25 Gutierrez, nay.

1 Johnson, nay.  
 2 Springer, nay.  
 3 Schwertner, nay.  
 4 Campbell, yea.  
 5 Nichols, nay.  
 6 West, nay.  
 7 Whitmire, nay.  
 8 Huffman, nay.  
 9 Hinojosa, nay.  
 10 Zaffirini, nay.  
 11 6 yeas, 24 nays.  
 12 PRESIDING OFFICER: Confirming the votes.  
 13 Senator Alvarado.  
 14 SENATOR ALVARADO: Nay.  
 15 PRESIDING OFFICER: Senator Bettencourt.  
 16 SENATOR BETTENCOURT: Yea.  
 17 PRESIDING OFFICER: Senator Birdwell.  
 18 SENATOR BIRDWELL: Nay.  
 19 PRESIDING OFFICER: Senator Blanco.  
 20 SENATOR BLANCO: Nay.  
 21 PRESIDING OFFICER: Senator Campbell.  
 22 SENATOR CAMPBELL: Yea.  
 23 PRESIDING OFFICER: Senator Creighton.  
 24 SENATOR CREIGHTON: Yea.  
 25 PRESIDING OFFICER: Senator Eckhardt.

1 SENATOR ECKHARDT: Nay.  
 2 PRESIDING OFFICER: Senator Flores.  
 3 SENATOR FLORES: Nay.  
 4 PRESIDING OFFICER: Senator Gutierrez.  
 5 SENATOR GUTIERREZ: Nay.  
 6 PRESIDING OFFICER: Senator Hall.  
 7 SENATOR HALL: Yea.  
 8 PRESIDING OFFICER: Senator Hancock.  
 9 SENATOR HANCOCK: Nay.  
 10 PRESIDING OFFICER: Senator Hinojosa.  
 11 SENATOR HINOJOSA: Nay.  
 12 PRESIDING OFFICER: Senator Huffman.  
 13 SENATOR HUFFMAN: Nay.  
 14 PRESIDING OFFICER: Senator Hughes.  
 15 SENATOR HUGHES: Nay.  
 16 PRESIDING OFFICER: Senator Johnson.  
 17 SENATOR JOHNSON: Nay.  
 18 PRESIDING OFFICER: Senator King.  
 19 SENATOR KING: Nay.  
 20 PRESIDING OFFICER: Senator Kolkhorst.  
 21 SENATOR KOLKHORST: Yea.  
 22 PRESIDING OFFICER: Senator La Mantia.  
 23 SENATOR LA MANTIA: Nay.  
 24 PRESIDING OFFICER: Senator Menendez.  
 25 SENATOR MENENDEZ: Nay.

1 PRESIDING OFFICER: Senator Middleton.  
 2 SENATOR MIDDLETON: Nay.  
 3 PRESIDING OFFICER: Senator Miles.  
 4 SENATOR MILES: Nay.  
 5 PRESIDING OFFICER: Senator Nichols.  
 6 SENATOR NICHOLS: Nay.  
 7 PRESIDING OFFICER: Senator Parker.  
 8 SENATOR PARKER: Yea.  
 9 PRESIDING OFFICER: Senator Perry.  
 10 SENATOR PERRY: Nay.  
 11 PRESIDING OFFICER: Senator Schwertner.  
 12 SENATOR SCHWERTNER: Nay.  
 13 PRESIDING OFFICER: Senator Sparks.  
 14 SENATOR SPARKS: Nay.  
 15 PRESIDING OFFICER: Senator Springer.  
 16 SENATOR SPRINGER: Nay.  
 17 PRESIDING OFFICER: Senator West.  
 18 SENATOR WEST: Nay.  
 19 PRESIDING OFFICER: Senator Whitmire.  
 20 SENATOR WHITMIRE: Nay.  
 21 PRESIDING OFFICER: Senator Zaffirini.  
 22 SENATOR ZAFFIRINI: Nay.  
 23 PRESIDING OFFICER: 24 nay votes, 6 yea  
 24 votes, the motion is denied.  
 25 Members, we're now taking up Motion 11,

1 submitted by the respondent, Attorney General Paxton.  
 2 The motion is entitled Motion to Dismiss Article V. A  
 3 yea vote is to grant the motion; a nay vote is to deny  
 4 the motion.  
 5 Please mark your ballots.  
 6 Please collect the ballots.  
 7 All ballots collected. Clerk will read  
 8 the votes.  
 9 THE CLERK: Flores, nay.  
 10 Johnson, nay.  
 11 Springer, nay.  
 12 Schwertner, yea.  
 13 Campbell, yea.  
 14 Nichols, nay.  
 15 West, nay.  
 16 Whitmire, nay.  
 17 Huffman, nay.  
 18 Hinojosa, nay.  
 19 Zaffirini, nay.  
 20 Blanco, nay.  
 21 La Mantia, nay.  
 22 Parker, yea.  
 23 Hughes, yea.  
 24 Miles, nay.  
 25 Gutierrez, nay.

1 Hancock, nay.  
 2 Menendez, nay.  
 3 Birdwell, nay.  
 4 Hall, yea.  
 5 Perry, nay.  
 6 Kolkhorst, yea.  
 7 Bettencourt, yea.  
 8 Creighton, yea.  
 9 Middleton, nay.  
 10 Alvarado, nay.  
 11 Eckhardt, nay.  
 12 King, nay.  
 13 Sparks, nay.  
 14 8 yeas, 22 nays.  
 15 PRESIDING OFFICER: Confirming your vote.  
 16 Senator Alvarado.  
 17 SENATOR ALVARADO: Nay.  
 18 PRESIDING OFFICER: Senator Bettencourt.  
 19 SENATOR BETTENCOURT: Yea.  
 20 PRESIDING OFFICER: Senator Birdwell.  
 21 SENATOR BIRDWELL: Nay.  
 22 PRESIDING OFFICER: Senator Blanco.  
 23 SENATOR BLANCO: Nay.  
 24 PRESIDING OFFICER: Senator Campbell.  
 25 SENATOR CAMPBELL: Yea.

1 PRESIDING OFFICER: Senator Creighton.  
 2 SENATOR CREIGHTON: Yea.  
 3 PRESIDING OFFICER: Senator Eckhardt.  
 4 SENATOR ECKHARDT: Nay.  
 5 PRESIDING OFFICER: Senator Flores.  
 6 SENATOR FLORES: Nay.  
 7 PRESIDING OFFICER: Senator Gutierrez.  
 8 SENATOR GUTIERREZ: Nay.  
 9 PRESIDING OFFICER: Senator Hall.  
 10 SENATOR HALL: Yea.  
 11 PRESIDING OFFICER: Senator Hancock.  
 12 SENATOR HANCOCK: Nay.  
 13 PRESIDING OFFICER: Senator Hinojosa.  
 14 SENATOR HINOJOSA: Nay.  
 15 PRESIDING OFFICER: Senator Huffman.  
 16 SENATOR HUFFMAN: Nay.  
 17 PRESIDING OFFICER: Senator Hughes.  
 18 SENATOR HUGHES: Yea.  
 19 PRESIDING OFFICER: Senator Johnson.  
 20 SENATOR JOHNSON: Nay.  
 21 PRESIDING OFFICER: Senator King.  
 22 SENATOR KING: Nay.  
 23 PRESIDING OFFICER: Senator Kolkhorst.  
 24 SENATOR KOLKHORST: Yea.  
 25 PRESIDING OFFICER: Senator La Mantia.

1 SENATOR LA MANTIA: Nay.  
 2 PRESIDING OFFICER: Senator Menendez.  
 3 SENATOR MENENDEZ: Nay.  
 4 PRESIDING OFFICER: Senator Middleton.  
 5 SENATOR MIDDLETON: Nay.  
 6 PRESIDING OFFICER: Senator Miles.  
 7 SENATOR MILES: Nay.  
 8 PRESIDING OFFICER: Senator Nichols.  
 9 SENATOR NICHOLS: Nay.  
 10 PRESIDING OFFICER: Senator Parker.  
 11 SENATOR PARKER: Yea.  
 12 PRESIDING OFFICER: Senator Perry.  
 13 SENATOR PERRY: Nay.  
 14 PRESIDING OFFICER: Senator Schwertner.  
 15 SENATOR SCHWERTNER: Yea.  
 16 PRESIDING OFFICER: Senator Sparks.  
 17 SENATOR SPARKS: Nay.  
 18 PRESIDING OFFICER: Senator Springer.  
 19 SENATOR SPRINGER: Nay.  
 20 PRESIDING OFFICER: Senator West.  
 21 SENATOR WEST: Nay.  
 22 PRESIDING OFFICER: Senator Whitmire.  
 23 SENATOR WHITMIRE: Nay.  
 24 PRESIDING OFFICER: Senator Zaffirini.  
 25 SENATOR ZAFFIRINI: Nay.

1 PRESIDING OFFICER: 22 nays, 8 yeas, the  
 2 motion is denied.  
 3 Members, now taking up Motion 17  
 4 submitted by the respondent, Attorney General Paxton.  
 5 The motion is entitled Motion to Dismiss Article VI. A  
 6 yea vote is to grant the motion; a nay vote is to deny  
 7 the motion.  
 8 Please mark your voting form.  
 9 This is Motion 17, Counselor. Motion 17.  
 10 If you cannot hear, let me know. Both  
 11 sides if you cannot hear clearly, let me know.  
 12 Please collect the votes.  
 13 All ballots collected. Clerk will read  
 14 the vote.  
 15 THE CLERK: Perry, yea.  
 16 Kolkhorst, yea.  
 17 Bettencourt, yea.  
 18 Creighton, yea.  
 19 Middleton, nay.  
 20 Alvarado, nay.  
 21 Eckhardt, nay.  
 22 King, nay.  
 23 Sparks, yea.  
 24 Flores, nay.  
 25 Blanco, nay.

1 La Mantia, nay.  
 2 Parker, yea.  
 3 Hughes, nay.  
 4 Miles, nay.  
 5 Hancock, nay.  
 6 Menendez, nay.  
 7 Birdwell, nay.  
 8 Hall, yea.  
 9 Gutierrez, nay.  
 10 Johnson, nay.  
 11 Springer, nay.  
 12 Schwertner, yea.  
 13 Campbell, yea.  
 14 Nichols, nay.  
 15 West, nay.  
 16 Whitmire, nay.  
 17 Huffman, nay.  
 18 Hinojosa, nay.  
 19 Zaffirini, nay.  
 20 9 yeas, 21 nays.  
 21 PRESIDING OFFICER: Confirming your vote.  
 22 Senator Alvarado.  
 23 SENATOR ALVARADO: Nay.  
 24 PRESIDING OFFICER: Senator Bettencourt.  
 25 SENATOR BETTENCOURT: Yea.

1 PRESIDING OFFICER: Senator Birdwell.  
 2 SENATOR BIRDWELL: Nay.  
 3 PRESIDING OFFICER: Senator Blanco.  
 4 SENATOR BLANCO: Nay.  
 5 PRESIDING OFFICER: Senator Campbell.  
 6 SENATOR CAMPBELL: Yea.  
 7 PRESIDING OFFICER: Senator Creighton.  
 8 SENATOR CREIGHTON: Yea.  
 9 PRESIDING OFFICER: Senator Eckhardt.  
 10 SENATOR ECKHARDT: Nay.  
 11 PRESIDING OFFICER: Senator Flores.  
 12 SENATOR FLORES: Nay.  
 13 PRESIDING OFFICER: Senator Gutierrez.  
 14 SENATOR GUTIERREZ: Nay.  
 15 PRESIDING OFFICER: Senator Hall.  
 16 SENATOR HALL: Yea.  
 17 PRESIDING OFFICER: Senator Hancock.  
 18 SENATOR HANCOCK: Nay.  
 19 PRESIDING OFFICER: Senator Hinojosa.  
 20 SENATOR HINOJOSA: Nay.  
 21 PRESIDING OFFICER: Senator Huffman.  
 22 SENATOR HUFFMAN: Nay.  
 23 PRESIDING OFFICER: Senator Hughes.  
 24 SENATOR HUGHES: Nay.  
 25 PRESIDING OFFICER: Senator Johnson.

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1 SENATOR JOHNSON: Nay.  
 2 PRESIDING OFFICER: Senator King.  
 3 SENATOR KING: Nay.  
 4 PRESIDING OFFICER: Senator Kolkhorst.  
 5 SENATOR KOLKHORST: Yea.  
 6 PRESIDING OFFICER: Senator La Mantia.  
 7 SENATOR LA MANTIA: Nay.  
 8 PRESIDING OFFICER: Senator Menendez.  
 9 SENATOR MENENDEZ: Nay.  
 10 PRESIDING OFFICER: Senator Middleton.  
 11 SENATOR MIDDLETON: Nay.  
 12 PRESIDING OFFICER: Senator Miles.  
 13 SENATOR MILES: Nay.  
 14 PRESIDING OFFICER: Senator Nichols.  
 15 SENATOR NICHOLS: Nay.  
 16 PRESIDING OFFICER: Senator Parker.  
 17 SENATOR PARKER: Yea.  
 18 PRESIDING OFFICER: Senator Perry.  
 19 SENATOR PERRY: Yea.  
 20 PRESIDING OFFICER: Senator Schwertner.  
 21 SENATOR SCHWERTNER: Yea.  
 22 PRESIDING OFFICER: Senator Sparks.  
 23 SENATOR SPARKS: Yea.  
 24 PRESIDING OFFICER: Senator Springer.  
 25 SENATOR SPRINGER: Nay.

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1 PRESIDING OFFICER: Senator West.  
 2 SENATOR WEST: Nay.  
 3 PRESIDING OFFICER: Senator Whitmire.  
 4 SENATOR WHITMIRE: Nay.  
 5 PRESIDING OFFICER: Senator Zaffirini.  
 6 SENATOR ZAFFIRINI: Nay.  
 7 PRESIDING OFFICER: 21 nay votes, nine  
 8 yea votes, the motion is denied.  
 9 We're now taking up Motion 18 submitted  
 10 by the respondent, Attorney General Paxton. The motion  
 11 is entitled Motion to Dismiss Eight -- Article VIII,  
 12 excuse me. A yea vote is to grant the motion; a nay  
 13 vote is to deny the motion.  
 14 Please mark your ballot.  
 15 Collect the ballots, please.  
 16 Members, we would normally take a break  
 17 about this time, but we will continue. We have four  
 18 more motions, and then I have my eight motions which  
 19 will not take as long to announce. And then we'll take  
 20 a break at that point. And after that point, we will  
 21 come back and begin trial.  
 22 All ballots in, thank you.  
 23 Clerk will read the votes.  
 24 THE CLERK: Hancock, nay.  
 25 Menendez, nay.

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1 Birdwell, yea.  
 2 Hall, yea.  
 3 Perry, yea.  
 4 Kolkhorst, yea.  
 5 Bettencourt, yea.  
 6 Creighton, yea.  
 7 Middleton, nay.  
 8 Alvarado, nay.  
 9 Eckhardt, nay.  
 10 King, nay.  
 11 Sparks, yea.  
 12 Flores, nay.  
 13 Blanco, nay.  
 14 La Mantia, nay.  
 15 Parker, yea.  
 16 Hughes, yea.  
 17 Miles, nay.  
 18 Gutierrez, nay.  
 19 Johnson, nay.  
 20 Springer, nay.  
 21 Schwertner, nay.  
 22 Campbell, yea.  
 23 Nichols, nay.  
 24 West, nay.  
 25 Whitmire, nay.

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1 Huffman, nay.  
 2 Hinojosa, nay.  
 3 Zaffirini, nay.  
 4 Ten yeas, 20 nays.  
 5 PRESIDING OFFICER: Confirming the vote.  
 6 Senator Alvarado.  
 7 SENATOR ALVARADO: Nay.  
 8 PRESIDING OFFICER: Senator Bettencourt.  
 9 SENATOR BETTENCOURT: Yea.  
 10 PRESIDING OFFICER: Senator Birdwell.  
 11 SENATOR BIRDWELL: Yea.  
 12 PRESIDING OFFICER: Senator Blanco.  
 13 SENATOR BLANCO: Nay.  
 14 PRESIDING OFFICER: Senator Campbell.  
 15 SENATOR CAMPBELL: Yea.  
 16 PRESIDING OFFICER: Senator Creighton.  
 17 SENATOR CREIGHTON: Yea.  
 18 PRESIDING OFFICER: Senator Eckhardt.  
 19 SENATOR ECKHARDT: Nay.  
 20 PRESIDING OFFICER: Senator Flores.  
 21 SENATOR FLORES: Nay.  
 22 PRESIDING OFFICER: Senator Gutierrez.  
 23 SENATOR GUTIERREZ: Nay.  
 24 PRESIDING OFFICER: Senator Hall.  
 25 SENATOR HALL: Yea.

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1 PRESIDING OFFICER: Senator Hancock.  
 2 SENATOR HANCOCK: Nay.  
 3 PRESIDING OFFICER: Senator Hinojosa.  
 4 SENATOR HINOJOSA: Nay.  
 5 PRESIDING OFFICER: Senator Huffman.  
 6 SENATOR HUFFMAN: Nay.  
 7 PRESIDING OFFICER: Senator Hughes.  
 8 SENATOR HUGHES: Yea.  
 9 PRESIDING OFFICER: Senator Johnson.  
 10 SENATOR JOHNSON: Nay.  
 11 PRESIDING OFFICER: Senator King.  
 12 SENATOR KING: Nay.  
 13 PRESIDING OFFICER: Senator Kolkhorst.  
 14 SENATOR KOLKHORST: Yea.  
 15 PRESIDING OFFICER: Senator La Mantia.  
 16 SENATOR LA MANTIA: Nay.  
 17 PRESIDING OFFICER: Senator Menendez.  
 18 SENATOR MENENDEZ: Nay.  
 19 PRESIDING OFFICER: Senator Middleton.  
 20 SENATOR MIDDLETON: Nay.  
 21 PRESIDING OFFICER: Senator Miles.  
 22 SENATOR MILES: Nay.  
 23 PRESIDING OFFICER: Senator Nichols.  
 24 SENATOR NICHOLS: Nay.  
 25 PRESIDING OFFICER: Senator Parker.

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1 SENATOR PARKER: Yea.  
 2 PRESIDING OFFICER: Senator Perry.  
 3 SENATOR PERRY: Yea.  
 4 PRESIDING OFFICER: Senator Schwertner.  
 5 SENATOR SCHWERTNER: Nay.  
 6 PRESIDING OFFICER: Senator Sparks.  
 7 SENATOR SPARKS: Yea.  
 8 PRESIDING OFFICER: Senator Springer.  
 9 SENATOR SPRINGER: Nay.  
 10 PRESIDING OFFICER: Senator West.  
 11 SENATOR WEST: Nay.  
 12 PRESIDING OFFICER: Senator Whitmire.  
 13 SENATOR WHITMIRE: Nay.  
 14 PRESIDING OFFICER: Senator Zaffirini.  
 15 SENATOR ZAFFIRINI: Nay.  
 16 PRESIDING OFFICER: There being 20 nays  
 17 and ten yeas, the motion is denied.  
 18 We're now taking up Motion 19 submitted  
 19 by the respondent, Attorney General Paxton. The motion  
 20 is entitled Motion to Dismiss Articles VII and XV. A  
 21 yea vote is to grant the motion; a nay vote is to deny  
 22 the motion. Please mark your ballots.  
 23 You may collect the ballots.  
 24 All ballots collected. Clerk will call  
 25 the vote.

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1 THE CLERK: Senator Blanco, no.  
 2 Senator La Mantia, no.  
 3 Senator Parker, yea.  
 4 Senator Hughes, nay.  
 5 Senator Miles, nay.  
 6 Senator Gutierrez, nay.  
 7 Senator Johnson, nay.  
 8 Senator Springer, nay.  
 9 Senator Schwertner, yea.  
 10 Senator Campbell, yea.  
 11 Senator Nichols, nay.  
 12 Senator West, nay.  
 13 Senator Whitmire, nay.  
 14 Senator Huffman, nay.  
 15 Senator Hinojosa, nay.  
 16 Senator Zaffirini, nay.  
 17 Senator Hancock, nay.  
 18 Senator Menendez, nay.  
 19 Senator Birdwell, nay.  
 20 Senator Hall, yea.  
 21 Senator Perry, yea.  
 22 Senator Kolkhorst, yea.  
 23 Senator Bettencourt, yea.  
 24 Senator Creighton, yea.  
 25 Senator Middleton, nay.

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1 Senator Alvarado, nay.  
 2 Senator Eckhardt, nay.  
 3 Senator King, nay.  
 4 Senator Sparks, yea.  
 5 Senator Flores, nay.  
 6 Nine yeas, 21 nays.  
 7 PRESIDING OFFICER: Confirming the vote.  
 8 Senator Alvarado.  
 9 SENATOR ALVARADO: Nay.  
 10 PRESIDING OFFICER: Senator Bettencourt.  
 11 SENATOR BETTENCOURT: Yea.  
 12 PRESIDING OFFICER: Senator Birdwell.  
 13 SENATOR BIRDWELL: Nay.  
 14 PRESIDING OFFICER: Senator Blanco.  
 15 SENATOR BLANCO: Nay.  
 16 PRESIDING OFFICER: Senator Campbell.  
 17 SENATOR CAMPBELL: Yea.  
 18 PRESIDING OFFICER: Senator Creighton.  
 19 SENATOR CREIGHTON: Yea.  
 20 PRESIDING OFFICER: Senator Eckhardt.  
 21 SENATOR ECKHARDT: Nay.  
 22 PRESIDING OFFICER: Senator Flores.  
 23 SENATOR FLORES: Nay.  
 24 PRESIDING OFFICER: Senator Gutierrez.  
 25 SENATOR GUTIERREZ: Nay.

1 PRESIDING OFFICER: Senator Hall.  
 2 SENATOR HALL: Yea.  
 3 PRESIDING OFFICER: Senator Hancock.  
 4 SENATOR HANCOCK: Nay.  
 5 PRESIDING OFFICER: Senator Hinojosa.  
 6 SENATOR HINOJOSA: Nay.  
 7 PRESIDING OFFICER: Senator Huffman.  
 8 SENATOR HUGHES: Nay.  
 9 PRESIDING OFFICER: Senator Hughes.  
 10 SENATOR HUGHES: Nay.  
 11 PRESIDING OFFICER: Senator Johnson.  
 12 SENATOR JOHNSON: Nay.  
 13 PRESIDING OFFICER: Senator King.  
 14 SENATOR KING: Nay.  
 15 PRESIDING OFFICER: Senator Kolkhorst.  
 16 SENATOR KOLKHORST: Yea.  
 17 PRESIDING OFFICER: Senator La Mantia.  
 18 SENATOR LA MANTIA: Nay.  
 19 PRESIDING OFFICER: Senator Menendez.  
 20 SENATOR MENENDEZ: Nay.  
 21 PRESIDING OFFICER: Senator Middleton.  
 22 SENATOR MIDDLETON: Nay.  
 23 PRESIDING OFFICER: Senator Miles.  
 24 SENATOR MILES: Nay.  
 25 PRESIDING OFFICER: Senator Nichols.

1 SENATOR NICHOLS: Nay.  
 2 PRESIDING OFFICER: Senator Parker.  
 3 SENATOR PARKER: Yea.  
 4 PRESIDING OFFICER: Senator Perry.  
 5 SENATOR PERRY: Yea.  
 6 PRESIDING OFFICER: Senator Schwertner.  
 7 SENATOR SCHWERTNER: Yea.  
 8 PRESIDING OFFICER: Senator Sparks.  
 9 SENATOR SPARKS: Yea.  
 10 PRESIDING OFFICER: Senator Springer.  
 11 SENATOR SPRINGER: Nay.  
 12 PRESIDING OFFICER: Senator West.  
 13 SENATOR WEST: Nay.  
 14 PRESIDING OFFICER: Senator Whitmire.  
 15 SENATOR WHITMIRE: Nay.  
 16 PRESIDING OFFICER: Senator Zaffirini.  
 17 SENATOR ZAFFIRINI: Nay.  
 18 PRESIDING OFFICER: There being 21 nays,  
 19 nine yeas, the motion is denied.  
 20 We're now taking up Motion 20 submitted  
 21 by the respondent, Attorney General Paxton. The motion  
 22 is entitled Motion to Dismiss Articles IX and X. A yea  
 23 vote is a grant the motion; a nay vote is to deny the  
 24 motion.  
 25 Please mark your vote on your voting

1 form.  
 2 Please pick up the ballots.  
 3 All votes collected. Clerk will read the  
 4 vote.  
 5 THE CLERK: King, nay.  
 6 Sparks, nay.  
 7 Flores, nay.  
 8 Blanco, nay.  
 9 La Mantia, nay.  
 10 Parker, yea.  
 11 Hughes, nay.  
 12 Miles, nay.  
 13 Gutierrez, nay.  
 14 Johnson, nay.  
 15 Springer, nay.  
 16 Schwertner, nay.  
 17 Campbell, yea.  
 18 Nichols, nay.  
 19 West, nay.  
 20 Whitmire, nay.  
 21 Huffman, nay.  
 22 Hinojosa, nay.  
 23 Zaffirini, nay.  
 24 Hancock, nay.  
 25 Menendez, nay.

1 Birdwell, nay.  
 2 Hall, yea.  
 3 Perry, nay.  
 4 Kolkhorst, yea.  
 5 Bettencourt, yea.  
 6 Creighton, yea.  
 7 Middleton, nay.  
 8 Alvarado, nay.  
 9 Eckhardt, nay.  
 10 6 yeas, 24 nays.  
 11 PRESIDING OFFICER: Confirming the vote.  
 12 Senator Alvarado.  
 13 SENATOR ALVARADO: Nay.  
 14 PRESIDING OFFICER: Senator Bettencourt.  
 15 SENATOR BETTENCOURT: Yea.  
 16 PRESIDING OFFICER: Senator Birdwell.  
 17 SENATOR BIRDWELL: Nay.  
 18 PRESIDING OFFICER: Senator Blanco.  
 19 SENATOR BLANCO: Nay.  
 20 PRESIDING OFFICER: Senator Campbell.  
 21 SENATOR CAMPBELL: Yea.  
 22 PRESIDING OFFICER: Senator Creighton.  
 23 SENATOR CREIGHTON: Yea.  
 24 PRESIDING OFFICER: Senator Eckhardt.  
 25 SENATOR ECKHARDT: Nay.

1 PRESIDING OFFICER: Senator Flores.  
 2 SENATOR FLORES: Nay.  
 3 PRESIDING OFFICER: Senator Gutierrez.  
 4 SENATOR GUTIERREZ: Nay.  
 5 PRESIDING OFFICER: Senator Hall.  
 6 SENATOR HALL: Yea.  
 7 PRESIDING OFFICER: Senator Hancock.  
 8 SENATOR HANCOCK: Nay.  
 9 PRESIDING OFFICER: Senator Hinojosa.  
 10 SENATOR HINOJOSA: Nay.  
 11 PRESIDING OFFICER: Senator Huffman.  
 12 SENATOR HUFFMAN: Nay.  
 13 PRESIDING OFFICER: Senator Hughes.  
 14 SENATOR HUGHES: Nay.  
 15 PRESIDING OFFICER: Senator Johnson.  
 16 SENATOR JOHNSON: Nay.  
 17 PRESIDING OFFICER: Senator King.  
 18 SENATOR KING: Nay.  
 19 PRESIDING OFFICER: Senator Kolkhorst.  
 20 SENATOR KOLKHORST: Yea.  
 21 PRESIDING OFFICER: Senator La Mantia.  
 22 SENATOR LA MANTIA: Nay.  
 23 PRESIDING OFFICER: Senator Menendez.  
 24 SENATOR MENENDEZ: Nay.  
 25 PRESIDING OFFICER: Senator Middleton.

1 SENATOR MIDDLETON: Nay.  
 2 PRESIDING OFFICER: Senator Miles.  
 3 SENATOR MILES: Nay.  
 4 PRESIDING OFFICER: Senator Nichols.  
 5 SENATOR NICHOLS: Nay.  
 6 PRESIDING OFFICER: Senator Parker.  
 7 SENATOR PARKER: Yea.  
 8 PRESIDING OFFICER: Senator Perry.  
 9 Senator Perry. Senator Perry. Nay? We  
 10 can't hear you, Senator Perry.  
 11 SENATOR PERRY: Nay.  
 12 PRESIDING OFFICER: Senator Schwertner.  
 13 SENATOR SCHWERTNER: Nay.  
 14 PRESIDING OFFICER: Senator Sparks.  
 15 SENATOR SPARKS: Nay.  
 16 PRESIDING OFFICER: Senator Springer.  
 17 SENATOR SPRINGER: Nay.  
 18 PRESIDING OFFICER: Senator West.  
 19 SENATOR WEST: Nay.  
 20 PRESIDING OFFICER: Senator Whitmire.  
 21 SENATOR WHITMIRE: Nay.  
 22 PRESIDING OFFICER: Senator Zaffirini.  
 23 SENATOR ZAFFIRINI: Nay.  
 24 PRESIDING OFFICER: 24 nay votes, six yea  
 25 votes, the motion is denied.

1 We're now taking up Motion 21 submitted  
 2 by respondent, Attorney General Paxton. The motion is  
 3 entitled Motion to Dismiss or Hold in Abeyance Articles  
 4 XVI through XX. A yea vote is to grant the motion; a  
 5 nay vote is to deny the motion.  
 6 Please mark your ballot.  
 7 Please pick up the votes.  
 8 Members, you have one more motion after  
 9 this to rule on, and then I will rule on my eight  
 10 pretrial motions.  
 11 Yes?  
 12 Pardon?  
 13 SENATOR WEST: Mr. President, may I  
 14 approach the podium. May I approach the podium?  
 15 PRESIDING OFFICER: Senator West, do you  
 16 want to approach the bench or the clerk?  
 17 SENATOR WEST: The bench.  
 18 PRESIDING OFFICER: You may come up.  
 19 (Bench conference off the record)  
 20 PRESIDING OFFICER: You may read the  
 21 votes.  
 22 THE CLERK: Okay.  
 23 Kolkhorst, yea.  
 24 Johnson, nay.  
 25 Hancock, nay.

|    |                   |
|----|-------------------|
| 1  | Menendez, nay.    |
| 2  | Birdwell, nay.    |
| 3  | Hall, yea.        |
| 4  | Perry, yea.       |
| 5  | Springer, nay.    |
| 6  | West, nay.        |
| 7  | Schwertner, yea.  |
| 8  | Campbell, yea.    |
| 9  | Nichols, nay.     |
| 10 | Whitmire, nay.    |
| 11 | Huffman, nay.     |
| 12 | Hinojosa, nay.    |
| 13 | Zaffirini, nay.   |
| 14 | Bettencourt, yea. |
| 15 | Creighton, yea.   |
| 16 | Middleton, nay.   |
| 17 | Alvarado, nay.    |
| 18 | Eckhardt, nay.    |
| 19 | King, nay.        |
| 20 | Sparks, yea.      |
| 21 | Flores, nay.      |
| 22 | Blanco, nay.      |
| 23 | La Mantia, nay.   |
| 24 | Parker, yea.      |
| 25 | Hughes, nay.      |

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|    |   |
|----|---|
| 1  | Miles, nay.                             |
| 2  | Gutierrez, nay.                         |
| 3  | Nine yeas, 21 nays.                     |
| 4  | PRESIDING OFFICER: Confirming the vote. |
| 5  | Senator Alvarado.                       |
| 6  | SENATOR ALVARADO: Nay.                  |
| 7  | PRESIDING OFFICER: Senator Birdwell.    |
| 8  | Senator Birdwell, well, go ahead. I     |
| 9  | called you.                             |
| 10 | SENATOR BIRDWELL: Nay.                  |
| 11 | PRESIDING OFFICER: Senator Bettencourt. |
| 12 | SENATOR BETTENCOURT: Yea.               |
| 13 | PRESIDING OFFICER: Senator Blanco.      |
| 14 | SENATOR BLANCO: Nay.                    |
| 15 | PRESIDING OFFICER: Senator Campbell.    |
| 16 | SENATOR CAMPBELL: Yea.                  |
| 17 | PRESIDING OFFICER: Senator Creighton.   |
| 18 | SENATOR CREIGHTON: Yea.                 |
| 19 | PRESIDING OFFICER: Senator Eckhardt.    |
| 20 | SENATOR ECKHARDT: Nay.                  |
| 21 | PRESIDING OFFICER: Senator Flores.      |
| 22 | SENATOR FLORES: Nay.                    |
| 23 | PRESIDING OFFICER: Senator Gutierrez.   |
| 24 | SENATOR GUTIERREZ: Nay.                 |
| 25 | PRESIDING OFFICER: Senator Hall.        |

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|    |                                       |
|----|---------------------------------------|
| 1  | SENATOR HALL: Yea.                    |
| 2  | PRESIDING OFFICER: Senator Hancock.   |
| 3  | SENATOR HANCOCK: Nay.                 |
| 4  | PRESIDING OFFICER: Senator Hinojosa.  |
| 5  | SENATOR HINOJOSA: Nay.                |
| 6  | PRESIDING OFFICER: Senator Huffman.   |
| 7  | SENATOR HUFFMAN: Nay.                 |
| 8  | PRESIDING OFFICER: Senator Hughes.    |
| 9  | SENATOR HUGHES: Nay.                  |
| 10 | PRESIDING OFFICER: Senator Johnson.   |
| 11 | SENATOR JOHNSON: Nay.                 |
| 12 | PRESIDING OFFICER: Senator King.      |
| 13 | SENATOR KING: Nay.                    |
| 14 | PRESIDING OFFICER: Senator Kolkhorst. |
| 15 | SENATOR KOLKHORST: Yea.               |
| 16 | PRESIDING OFFICER: Senator La Mantia. |
| 17 | SENATOR LA MANTIA: Nay.               |
| 18 | PRESIDING OFFICER: Senator Menendez.  |
| 19 | SENATOR MENENDEZ: Nay.                |
| 20 | PRESIDING OFFICER: Senator Middleton. |
| 21 | SENATOR MIDDLETON: Nay.               |
| 22 | PRESIDING OFFICER: Senator Miles.     |
| 23 | SENATOR MILES: Nay.                   |
| 24 | PRESIDING OFFICER: Senator Nichols.   |
| 25 | SENATOR NICHOLS: Nay.                 |

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|    |   |
|----|---|
| 1  | PRESIDING OFFICER: Senator Parker.                      |
| 2  | SENATOR PARKER: Yea.                                    |
| 3  | PRESIDING OFFICER: Senator Perry.                       |
| 4  | SENATOR PERRY: Nay.                                     |
| 5  | PRESIDING OFFICER: Senator Schwertner.                  |
| 6  | SENATOR SCHWERTNER: Yea.                                |
| 7  | PRESIDING OFFICER: Senator Sparks.                      |
| 8  | SENATOR SPARKS: Yea.                                    |
| 9  | PRESIDING OFFICER: Senator Springer.                    |
| 10 | SENATOR SPRINGER: Nay.                                  |
| 11 | PRESIDING OFFICER: Senator West.                        |
| 12 | SENATOR WEST: Nay.                                      |
| 13 | PRESIDING OFFICER: Senator Whitmire.                    |
| 14 | SENATOR WHITMIRE: Nay.                                  |
| 15 | PRESIDING OFFICER: Senator Zaffirini.                   |
| 16 | SENATOR ZAFFIRINI: Nay.                                 |
| 17 | PRESIDING OFFICER: 21 nays nine yeas,                   |
| 18 | the motion is denied.                                   |
| 19 | Members, this is your last motion to take               |
| 20 | up. This is Motion No. 10 submitted by the respondent,  |
| 21 | Attorney General Paxton. The motion is entitled Motion  |
| 22 | to Exclude Evidence Gathered in Violation of the Law. A |
| 23 | yea vote is a grant to grant the motion; a nay vote is  |
| 24 | to deny the motion.                                     |
| 25 | Please mark your ballot.                                |

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1 Please pick up the ballots.  
 2 All ballots collected, the clerk will  
 3 call out the votes.  
 4 THE CLERK: King, nay.  
 5 Sparks, yea.  
 6 Flores, nay.  
 7 Blanco, nay.  
 8 La Mantia, nay.  
 9 Parker, yea.  
 10 Hughes, nay.  
 11 Miles, nay.  
 12 Gutierrez, nay.  
 13 Johnson, nay.  
 14 Springer, nay.  
 15 Schwertner, yea.  
 16 Campbell, yea.  
 17 Nichols, nay.  
 18 West, nay.  
 19 Whitmire, nay.  
 20 Huffman, nay.  
 21 Hinojosa, nay.  
 22 Zaffirini, nay.  
 23 Hancock, nay.  
 24 Menendez, nay.  
 25 Birdwell, nay.

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1 Hall, yea.  
 2 Perry, nay.  
 3 Kolkhorst, yea.  
 4 Bettencourt, yea.  
 5 Creighton, yea.  
 6 Middleton, nay.  
 7 Alvarado, nay.  
 8 Eckhardt, nay.  
 9 8 yeas, 22 nays.  
 10 PRESIDING OFFICER: Confirming the vote.  
 11 Senator Alvarado.  
 12 SENATOR ALVARADO: Nay.  
 13 PRESIDING OFFICER: Senator Bettencourt.  
 14 SENATOR BETTENCOURT: Yea.  
 15 PRESIDING OFFICER: Senator Birdwell.  
 16 SENATOR BIRDWELL: Nay.  
 17 PRESIDING OFFICER: Senator Blanco.  
 18 SENATOR BLANCO: Nay.  
 19 PRESIDING OFFICER: Senator Campbell.  
 20 SENATOR CAMPBELL: Yea.  
 21 PRESIDING OFFICER: Senator Creighton.  
 22 SENATOR CREIGHTON: Yea.  
 23 PRESIDING OFFICER: Senator Eckhardt.  
 24 SENATOR ECKHARDT: Nay.  
 25 PRESIDING OFFICER: Senator Flores.

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1 SENATOR FLORES: Nay.  
 2 PRESIDING OFFICER: Senator Gutierrez.  
 3 SENATOR GUTIERREZ: Nay.  
 4 PRESIDING OFFICER: Senator Hall.  
 5 SENATOR HALL: Yea.  
 6 PRESIDING OFFICER: Senator Hancock.  
 7 SENATOR HANCOCK: Nay.  
 8 PRESIDING OFFICER: Senator Hinojosa.  
 9 SENATOR HINOJOSA: Nay.  
 10 PRESIDING OFFICER: Senator Huffman.  
 11 SENATOR HUFFMAN: Nay.  
 12 PRESIDING OFFICER: Senator Hughes.  
 13 SENATOR HUGHES: Nay.  
 14 PRESIDING OFFICER: Senator Johnson.  
 15 SENATOR JOHNSON: Nay.  
 16 PRESIDING OFFICER: Senator King.  
 17 SENATOR KING: Nay.  
 18 PRESIDING OFFICER: Senator Kolkhorst.  
 19 SENATOR KOLKHORST: Yea.  
 20 PRESIDING OFFICER: Senator La Mantia.  
 21 SENATOR LA MANTIA: Nay.  
 22 PRESIDING OFFICER: Senator Menendez.  
 23 SENATOR MENENDEZ: Nay.  
 24 PRESIDING OFFICER: Senator Middleton.  
 25 SENATOR MIDDLETON: Nay.

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1 PRESIDING OFFICER: Senator Miles.  
 2 SENATOR MILES: Nay.  
 3 PRESIDING OFFICER: Senator Nichols.  
 4 SENATOR NICHOLS: Nay.  
 5 PRESIDING OFFICER: Senator Parker.  
 6 SENATOR PARKER: Yea.  
 7 PRESIDING OFFICER: Senator Nichols was  
 8 nay. I didn't mean to speak over you.  
 9 Senator Perry.  
 10 SENATOR PERRY: Nay.  
 11 PRESIDING OFFICER: Senator Schwertner.  
 12 SENATOR SCHWERTNER: Yea.  
 13 PRESIDING OFFICER: Senator Sparks.  
 14 SENATOR SPARKS: Nay.  
 15 PRESIDING OFFICER: Senator Springer.  
 16 SENATOR SPRINGER: Nay.  
 17 PRESIDING OFFICER: Senator West.  
 18 SENATOR WEST: Nay.  
 19 PRESIDING OFFICER: Senator Whitmire.  
 20 SENATOR WHITMIRE: Nay.  
 21 PRESIDING OFFICER: Senator Zaffirini.  
 22 SENATOR ZAFFIRINI: Nay.  
 23 PRESIDING OFFICER: Being 22 nays and 8  
 24 yeas, the motion is denied.  
 25 Members and those in the gallery and

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1 watching, the Senators voted on the rules 25 to 3, and  
 2 part of those rules say that all other pretrial motions  
 3 shall be ruled on by the Presiding Officer, which is  
 4 myself.  
 5 I'll begin with Motion 2 submitted by the  
 6 House Board of Managers. This motion is Entitled Motion  
 7 to Clarify Certain Senate Rules Governing the  
 8 Impeachment Trial of Warren Kenneth Paxton, Jr.  
 9 This motion was partially addressed by my  
 10 August 9 exhibit production order. Additionally, the  
 11 managers' request for clarification on timing has been  
 12 addressed through an agreement of the parties last week.  
 13 For those watching, I'll clarify the time  
 14 keeping for the trial moving forward. There has been  
 15 much discussion on the impeachment rule, especially  
 16 No. 17 on time limitations. Each side of the House  
 17 Managers and the Attorney General Paxton has one hour  
 18 for opening statements, 24 hours for presentation of  
 19 evidence, one hour for rebuttal evidence, and one hour  
 20 for final arguments.  
 21 That's a total of 27 hours for each side.  
 22 Both parties, the Managers and Attorney  
 23 General Paxton, are in agreement on this issue, which  
 24 pleases the Court. Managers in this motion you state at  
 25 a minimum, you seek clarification that the time spent by

1 an opposing party on cross-examination will be counted  
 2 only against the party conducting the cross-examination.  
 3 Attorney General Paxton's team, you  
 4 responded that time spent questioning a witness, whether  
 5 via direct or cross-examination, is charged against the  
 6 side conducting the questioning.  
 7 Based on your agreement last week, this  
 8 is how the clock will run. For example, House Managers,  
 9 when you call a witness, any direct questioning of the  
 10 witness counts against your 24 hours. When Paxton's  
 11 team questions the witness on cross, time will be  
 12 counted against your clock.  
 13 I also want to note that the clock will  
 14 keep running through routine objections. However, if I  
 15 find that it's being abused by either side, I can always  
 16 use my discretion to give back the time to the other  
 17 party.  
 18 To summarize so we're clear, what  
 19 everyone has agreed to, both parties have a total of 24  
 20 hours for presentation of evidence which includes  
 21 direct, cross-examination, redirect, and recross. Any  
 22 time a party questions a witness, whether via direct,  
 23 cross, redirect, recross, the clock will continue to  
 24 run.  
 25 And, again, in addition to the 24 hours,

1 each party has one hour for opening statements, if they  
 2 choose to make those, one hour for rebuttal, and one  
 3 hour for closing arguments.  
 4 I've also told both sides if they do not  
 5 use the full hour allotted for their opening statement,  
 6 any remaining time will be added to their 24 hours for  
 7 presentation of evidence.  
 8 For example, if one side only uses 30  
 9 minutes, they will have 24 and a half hours of time.  
 10 Finally, Managers requested to change the  
 11 rules regarding the use of wireless mobile devices. A  
 12 rule change must be submitted in writing during trial  
 13 and requires a 24-hour layout period. Accordingly, this  
 14 motion has been addressed and no further action shall be  
 15 taken.  
 16 Now, I will take up Motion 24 submitted  
 17 by the respondent, Attorney General Paxton. The motion  
 18 is entitled Motion to Compel Discovery from House  
 19 Managers. This motion was addressed by my July 12  
 20 discovery order and August 9 exhibit production order.  
 21 Therefore, no further action on this motion will be  
 22 taken.  
 23 Now I'll take up Motion 12 submitted by  
 24 the respondent, Attorney General Paxton. The motion is  
 25 entitled Motion to Exclude Inadmissible Evidence. This

1 addresses the issue of political contributions. Because  
 2 this information is readily available for the Texas  
 3 Ethics Commission for everyone to read, this motion is  
 4 denied.  
 5 Now I will take up Motion 23 submitted by  
 6 the respondent, Attorney General Paxton. The motion is  
 7 entitled Motion for Notice of Brady Material and Notice  
 8 of Trial Exhibits. The motion was addressed by my  
 9 July 12 discovery order and August 9 exhibit production  
 10 order. Accordingly, no further action is needed on this  
 11 motion.  
 12 Now I will take up Motion 3 submitted by  
 13 the House Board of Managers. The motion is entitled  
 14 Request to Clarify the July 12 Discovery Order, or  
 15 alternatively Motion for Protective Order Regarding  
 16 Documents Produced to Warren Kenneth Paxton, Jr.  
 17 Pursuant to the Senate July 12 Discovery Order. This  
 18 motion was addressed by my July 20th reiteration of the  
 19 orders of the Court. Accordingly, no further action on  
 20 this motion.  
 21 Now I will take up Motion 1 submitted by  
 22 the respondent, Attorney General Paxton. The motion is  
 23 entitled Motion for Pretrial Scheduling Order or  
 24 Pretrial Conference. This motion was addressed by my  
 25 July 12 discovery order and August 9 exhibit production

1 order. Accordingly, no further action is needed.  
 2 Now I will take up Motion 4 submitted by  
 3 the respondent, Attorney General Paxton. The motion is  
 4 entitled Motion to Preclude Attorney General Warren  
 5 Kenneth Paxton, Jr. from Being Compelled to Testify.  
 6 This Court notes that many factors and  
 7 circumstances in this proceeding lean more on criminal  
 8 in nature. The rules require a standard of beyond a  
 9 reasonable doubt, which is reserved for criminal cases.  
 10 Exculpatory evidence was required to be produced  
 11 consistent with criminal cases. The rules require a  
 12 plea to the Court to be guilty or not guilty, which are  
 13 the pleas exclusively used in criminal cases.  
 14 Judgments of the Court of Impeachment are  
 15 entered as acquittal or conviction, which are operative  
 16 terms for judgments in criminal cases. And the House of  
 17 Managers have repeatedly compared the action of the  
 18 House of Representatives to a grand jury, as they prefer  
 19 the articles of impeachment. Grand juries are utilized  
 20 only in criminal cases.  
 21 Therefore, the motion is granted. The  
 22 attorney general cannot be compelled to testify. This  
 23 is consistent with the reasoning and judgment in the  
 24 United States Supreme Court Boyd versus the United  
 25 States.

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1 The Court's ruling is clear. You may not  
 2 call the attorney general as a witness.  
 3 Finally I will take up Motion 5 by  
 4 respondent, Attorney General Paxton. The motion is  
 5 entitled Motion Challenging Jurors for Cause. That  
 6 motion is denied.  
 7 To both parties, what we will do at this  
 8 point is -- and to the members, it's a little odd today  
 9 because we have a break coming close to the lunch break.  
 10 So we'll take a short ten-minute break at this one,  
 11 because we're going to break around 12:15 for lunch.  
 12 We'll take a ten-minute break. Be back in ten minutes.  
 13 Before you leave -- wait a minute. I  
 14 haven't dismissed you yet. To both parties, when we  
 15 come back, I'll have a short statement about the rules.  
 16 Then we will read the articles of impeachment. Attorney  
 17 General Paxton will be asked how you plead after each  
 18 article. And then we will swear in witnesses, those who  
 19 are here. And then we will break for lunch. And after  
 20 lunch will be when the opening statement for those  
 21 parties that choose to make that will be given.  
 22 So that's the schedule. It's 11:20. Be  
 23 back on the floor ready to go at 11:30. Thank you.  
 24 (Recess: 11:20 a.m. to 11:37 a.m.)  
 25 PRESIDING OFFICER: Members, please take

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1 your seats.  
 2 Members, now that we are moving forward  
 3 based on the pretrial motions, I'd like to comment on  
 4 several of the key rules and procedures for the trial,  
 5 particularly so we are totally transparent for the  
 6 public and that everyone knows what is about to happen.  
 7 First, the Texas Constitution and the law  
 8 require the Senate to receive articles of impeachment  
 9 preferred by the House of Representatives and try them  
 10 in the Senate. For the general public, the articles of  
 11 impeachment are the charges brought by the House. The  
 12 Senate is committed to conducting a fair and impartial  
 13 trial where eligible senators will serve as jurors.  
 14 We will start each day at 9 a.m. and  
 15 continue until at least 6:00, possibly a bit later. Of  
 16 course today we started on Tuesday because of the  
 17 holiday, but next week it will be Monday through Friday  
 18 and potentially could go to Saturday next week. We will  
 19 not do Saturday this week.  
 20 We will break probably every 90 minutes  
 21 or so for the jurors and the parties to stretch. We'll  
 22 do it for 20 minutes, and we'll be timely and come back.  
 23 We'll break for lunch about 12:15 most  
 24 days for 45 minutes, till one, and then we will come  
 25 back for the afternoon.

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1 I'd like to place a couple of things on  
 2 the record officially. The parties have agreed to  
 3 provide the court and the opposing party with 24 hours  
 4 of advanced notice on witnesses they plan to call to  
 5 testify, is that correct? Both sides?  
 6 MR. BUZBEE: Yes, sir.  
 7 MR. HARDIN: Yes, sir.  
 8 PRESIDING OFFICER: Thank you.  
 9 Additionally, the parties said they would  
 10 agree to the admissibility of certain exhibits, is that  
 11 correct?  
 12 MR. HARDIN: No, Your Honor. If I may be  
 13 heard.  
 14 PRESIDING OFFICER: Yes.  
 15 MR. HARDIN: As you know, it was  
 16 suggested last Wednesday to the Court it would probably  
 17 be a good idea for people to talk about  
 18 pre-admittance --  
 19 PRESIDING OFFICER: Hold on one second.  
 20 We cannot hear. Is that mic on?  
 21 MR. HARDIN: Thank you, Your Honor. I  
 22 apologize.  
 23 PRESIDING OFFICER: Start at the  
 24 beginning. Start at the beginning.  
 25 MR. HARDIN: It's a good trial run of

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1 screwing up on the technology.  
 2 I think -- what I said was Mr. Buzbee  
 3 suggested last Wednesday that we -- the sides get  
 4 together and agree what could be preadmitted. We  
 5 thought that was a great idea, the President thought so,  
 6 and we assumed that's what was going to happen.  
 7 On Thursday we were asked would we --  
 8 what our position was about their exhibits, and we said  
 9 we would agree to preadmit all of their exhibits. They  
 10 could put in anything we wanted that was on their  
 11 witness list, and we would not object. They wrote  
 12 back -- they came back and said, "Is that a  
 13 precondition?" And I said, "No, that is our position.  
 14 You -- we will not object to any of your exhibits."  
 15 "Now, what is your position about ours?"  
 16 "We'll get back to you."  
 17 We didn't hear. We didn't get back. And  
 18 finally they wrote back and said, "We will not agree to  
 19 preadmit any of your exhibits."  
 20 So that means, in light of what the Court  
 21 said earlier -- by the way, do I say Court or what do I  
 22 say?  
 23 PRESIDING OFFICER: Court is fine.  
 24 MR. HARDIN: I can handle Mr. President,  
 25 but I don't know what to refer to the facility.

1 PRESIDING OFFICER: Court is fine.  
 2 MR. HARDIN: Thank you.  
 3 What that means is that any time they  
 4 seek to introduce an exhibit, it's going to come in  
 5 unobjected to because that was the word we gave them.  
 6 When we seek to introduce a new exhibit,  
 7 there may be continued objections, which is going to  
 8 slow it down. And so I welcome the Court's observation  
 9 that if that starts taking away somebody's time  
 10 unfairly, the Court has the ability to acknowledge that.  
 11 And I'm just simply asking at this stage, no action on  
 12 the part of the Court, but an awareness is we thought we  
 13 were playing fair with what they got in here and  
 14 represented to you, and we're not taking our word back.  
 15 These guys wouldn't even negotiate it  
 16 with us. They wouldn't even talk to us about, "We'll  
 17 agree to some; we won't agree to others."  
 18 I stand up as a matter of privilege in  
 19 the House of -- or Senate of privilege, I just want the  
 20 Court to know, no, we did not have an agreement on  
 21 preadmitted.  
 22 PRESIDING OFFICER: Any response?  
 23 MR. BUZBEE: I don't think that merits a  
 24 response, Your Honor. You know, when he puts his  
 25 exhibits up, we'll take a look at them. When he puts up

1 his exhibits, we'll take a look at them and we'll object  
 2 if it's appropriate. If it's not appropriate, we will  
 3 not object. We'll do it like we're supposed to do.  
 4 Thank you, Your Honor.  
 5 PRESIDING OFFICER: I've heard you both,  
 6 okay? I've heard both.  
 7 Members, if you're watching at home, also  
 8 know that you may attend in person if you wish. Go to  
 9 senate.texas.gov for public access, guidelines, more  
 10 information in case you're watching at home and want to  
 11 come in person.  
 12 I want to remind the jurors and everyone  
 13 watching that the Juror Senators may not consider any  
 14 evidence unless taken under oath in this chamber. Their  
 15 decision -- your decision must only be based on the  
 16 facts and evidence presented here in this chamber and by  
 17 considering the credibility of the witnesses testifying  
 18 here and here only under oath.  
 19 No evidence whatsoever outside of this  
 20 chamber shall be considered for any purpose. This  
 21 includes anything said in the House impeachment  
 22 proceedings where no testimony was given under oath.  
 23 Senators cannot consider anything reported in the news,  
 24 anything on social media, or anything they have been  
 25 told by anyone outside of this trial of this chamber,

1 only what you hear under oath testified to in this court  
 2 and your belief in those who are testifying.  
 3 Senate Jurors may only consider evidence  
 4 given under oath in this chamber as you are the sole  
 5 determiners of the credibility of the witnesses called  
 6 to testify.  
 7 One unique aspect of this proceeding is  
 8 that one senator is the spouse of the accused. The  
 9 senators adopted rules that make the spouse of the  
 10 accused ineligible to vote as a juror. They could find  
 11 no instance where a spouse of any defendant in any type  
 12 of trial was allowed to be a juror.  
 13 However, even though Senator Paxton  
 14 cannot vote, the threshold to convict remains the same.  
 15 The members kept the threshold at two-thirds of 31  
 16 senators, which would still require 21, even though only  
 17 30 members are voting. So the threshold is still 21  
 18 votes.  
 19 At the end of the trial, the members will  
 20 deliberate in private, as any jury would. To be clear  
 21 the Presiding Officer -- I do not have a vote on guilt  
 22 or innocence. I will not give any member my opinion on  
 23 how they should vote.  
 24 In deliberations, the Senator Jurors will  
 25 consider the following: Did the House Managers prove



1 beyond a reasonable doubt any article of impeachment  
 2 against attorney general, and if so, shall that article  
 3 be sustained which would result in removal from office?  
 4 Therefore, it's a two-part question.  
 5 Even if a member believes the House  
 6 Managers have proven an article beyond a reasonable  
 7 doubt, the member may only sustain the article if they  
 8 also believe Attorney General Paxton should be removed  
 9 from office based on that article.  
 10 If any one of the 16 articles is  
 11 sustained against Attorney General Paxton, he'll be  
 12 removed from office.  
 13 The jury would then vote one last time on  
 14 whether he can hold public office again, if that were to  
 15 occur.  
 16 Members at home watching, if you wish to  
 17 read the 31 rules voted 25 to 3 by the senators which  
 18 govern this trial in more detail, they are posted on our  
 19 website. These are just a few of the rules that will  
 20 guide this trial, but I hope my statements today clarify  
 21 some questions that the public may have had or have.  
 22 After I swear in witnesses who are  
 23 present, each party may make an opening statement and  
 24 after the articles are read -- the impeachment articles  
 25 are read.

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1 With that, Attorney General Paxton,  
 2 please rise.  
 3 Clerk, please read the articles of  
 4 impeachment one at a time referred by the House of  
 5 Representatives.  
 6 THE CLERK: Articles of impeachment,  
 7 Article I (Disregard of Official Duty - Protection of  
 8 Charitable Organization).  
 9 While holding office as attorney general,  
 10 Warren Kenneth Paxton violated the duties of his office  
 11 by failing to act as public protector of charitable  
 12 organizations as required by Chapter 123, Property Code.  
 13 Specifically, Paxton caused employees of  
 14 his office to intervene in a lawsuit brought by the Roy  
 15 F. and JoAnn Cole Mitte Foundation against several  
 16 corporate entities controlled by Nate Paul. Paxton  
 17 harmed the Mitte Foundation in an effort to benefit  
 18 Paul.  
 19 PRESIDING OFFICER: Senator Paxton (sic),  
 20 how do you plead?  
 21 MR. BUZBEE: Attorney General Ken Paxton  
 22 is innocent and therefore pleads not guilty.  
 23 PRESIDING OFFICER: Clerk will read the  
 24 next article.  
 25 THE CLERK: Article II (Disregard of

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1 Official Duty-Abuse of the Opinion Process).  
 2 While holding office as attorney general,  
 3 Warren Kenneth Paxton misused his official power to  
 4 issue written legal opinions under Subchapter C, Chapter  
 5 402, Government Code.  
 6 Specifically, Paxton caused employees of  
 7 his office to prepare an opinion in an attempt to avoid  
 8 the impending foreclosure sales of properties belonging  
 9 to Nate Paul or business entities controlled by Paul.  
 10 Paxton concealed his actions by soliciting the chair of  
 11 a senate committee to serve as straw requestor.  
 12 Furthermore, Paxton directed employees of his office to  
 13 reverse their legal conclusion for the benefit of Paul.  
 14 MR. BUZBEE: Those allegations are --  
 15 PRESIDING OFFICER: How do you plead?  
 16 MR. BUZBEE: -- untrue; therefore, he  
 17 pleads not guilty.  
 18 PRESIDING OFFICER: I didn't mean to step  
 19 on you. You want to repeat that?  
 20 MR. BUZBEE: The allegations that I just  
 21 heard are untrue; therefore, Ken Paxton pleads not  
 22 guilty.  
 23 PRESIDING OFFICER: Thank you.  
 24 THE CLERK: Article III (Disregard of  
 25 Official Duty-Abuse of the Open Records Process).

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1 While holding office as attorney general,  
 2 Warren Kenneth Paxton misused his official power to  
 3 administer the public information law (Chapter 552,  
 4 Government Code).  
 5 Specifically, Paxton directed employees  
 6 of his office to act contrary to law by refusing to  
 7 render a proper decision relating to a public  
 8 information request for records held by the Department  
 9 of Public Safety and by issuing a decision involving  
 10 another public information request that was contrary to  
 11 law and applicable legal precedent.  
 12 PRESIDING OFFICER: Attorney General  
 13 Paxton, how do you plead?  
 14 MR. BUZBEE: Everything she just said  
 15 there was false; therefore, Attorney General Ken Paxton  
 16 pleads not guilty.  
 17 PRESIDING OFFICER: Clerk will read the  
 18 next article.  
 19 THE CLERK: Article IV (Disregard of  
 20 Official Duty-Misuse of Official Information).  
 21 While holding office as attorney general,  
 22 Warren Kenneth Paxton misused his official power to  
 23 administer the public information law (Chapter 552,  
 24 Government Code).  
 25 Specifically, Paxton improperly obtained

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1 access to information held by his office that had not  
 2 been publicly disclosed for the purpose of providing the  
 3 information to the benefit of Nate Paul.  
 4 PRESIDING OFFICER: Attorney General, how  
 5 do you plead?  
 6 MR. BUZBEE: Your Honor, those are all  
 7 untrue; therefore, Ken Paxton pleads not guilty.  
 8 PRESIDING OFFICER: Clerk will read the  
 9 next article.  
 10 THE CLERK: Article V (Disregard of  
 11 Official Duty-Engagement of Cammack).  
 12 While holding office as attorney general,  
 13 Warren Kenneth Paxton misused his official powers by  
 14 violating the laws governing the appointment of  
 15 prosecuting attorneys pro tem.  
 16 Specifically, Paxton engaged Brandon  
 17 Cammack, a licensed attorney, to conduct an  
 18 investigation into a baseless complaint, during which  
 19 Cammack issued more than 30 grand jury subpoenas, in an  
 20 effort to benefit Nate Paul or Paul's business entities.  
 21 PRESIDING OFFICER: Attorney General  
 22 Paxton, how do you plead?  
 23 MR. BUZBEE: The Attorney General is  
 24 innocent and therefore pleads not guilty.  
 25 PRESIDING OFFICER: Clerk will read the

1 next article.  
 2 THE CLERK: Article VI (Disregard of  
 3 Official Duty-Termination of Whistleblowers).  
 4 While holding office as attorney general,  
 5 Warren Kenneth Paxton violated the duties of his office  
 6 by terminating and taking adverse personnel action  
 7 against employees of his office in violation of this  
 8 state's whistleblower law (Chapter 554, Government  
 9 Code).  
 10 Specifically, Paxton terminated employees  
 11 of his office who made good faith reports of his  
 12 unlawful actions to law enforcement authorities. Paxton  
 13 terminated the employees without good cause or due  
 14 process and in retaliation for reporting his illegal  
 15 acts and improper conduct. Furthermore, Paxton engaged  
 16 in a public and private campaign to impugn the  
 17 employees' professional reputations or prejudice their  
 18 future employment.  
 19 PRESIDING OFFICER: Attorney General  
 20 Paxton, how do you plead?  
 21 MR. BUZBEE: Everything she said there,  
 22 sir, is legally and factually incorrect, and therefore  
 23 Attorney General Ken Paxton pleads not guilty.  
 24 PRESIDING OFFICER: The clerk will read  
 25 the next article.

1 THE CLERK: Article VII (Misapplication  
 2 of Public Resources-Whistleblower Investigation and  
 3 Report).  
 4 While holding office as attorney general,  
 5 Warren Kenneth Paxton misused public resources entrusted  
 6 to him.  
 7 Specifically, Paxton directed employees  
 8 of his office to conduct a sham investigation into  
 9 whistleblower complaints made by employees whom Paxton  
 10 had terminated and to create and publish a lengthy  
 11 written report containing false or misleading statements  
 12 in Paxton's defense.  
 13 PRESIDING OFFICER: Attorney General  
 14 Paxton, how do you plead?  
 15 MR. BUZBEE: The allegations she just  
 16 referenced are untrue; therefore, the attorney general  
 17 pleads not guilty.  
 18 PRESIDING OFFICER: The clerk will read  
 19 the next article.  
 20 THE CLERK: Article VIII (Disregard of  
 21 Official Duty-Settlement Agreement).  
 22 While holding office as attorney general,  
 23 Warren Kenneth Paxton misused his official powers by  
 24 concealing his wrongful acts in connection with  
 25 whistleblower complaints made by employees whom Paxton

1 had terminated.  
 2 Specifically, Paxton entered into a  
 3 settlement agreement with the whistleblowers that  
 4 provides for payment of the settlement from public  
 5 funds. The settlement agreement stayed the wrongful  
 6 termination suit and conspicuously delayed the discovery  
 7 of facts and testimony at trial, to Paxton's advantage,  
 8 which deprived the electorate of its opportunity to make  
 9 an informed decision when voting for attorney general.  
 10 PRESIDING OFFICER: Attorney General  
 11 Paxton, how do you plead?  
 12 MR. BUZBEE: The attorney general is  
 13 innocent of those charges and pleads not guilty.  
 14 PRESIDING OFFICER: The clerk will read  
 15 the next article.  
 16 THE CLERK: Article IX (Constitutional  
 17 Bribery-Paul's Employment of Mistress).  
 18 While holding office as attorney general,  
 19 Warren Kenneth Paxton engaged in bribery in violation of  
 20 Section 41 Article XVI, Texas Constitution.  
 21 Specifically, Paxton benefited from Nate  
 22 Paul's employment of a woman with whom Paxton was having  
 23 an extramarital affair. Paul received favorable legal  
 24 assistance from, or specialized access to, the Office of  
 25 Attorney General.

1 PRESIDING OFFICER: Attorney General  
 2 Paxton, how do you plead?  
 3 MR. BUZBEE: Those allegations are flat  
 4 out false. The attorney general pleads not guilty.  
 5 PRESIDING OFFICER: The clerk will read  
 6 the next article.  
 7 THE CLERK: Article X (Constitutional  
 8 Bribery-Paul's Providing Renovations to Paxton Home).  
 9 While holding office as attorney general,  
 10 Warren Kenneth Paxton engaged in bribery in violation of  
 11 Section 41, Article XVI, Texas Constitution.  
 12 Specifically, Paxton benefited from Nate  
 13 Paul providing renovations to Paxton's home. Paul  
 14 received favorable legal assistance from or specialized  
 15 access to the Office of Attorney General.  
 16 PRESIDING OFFICER: Attorney General  
 17 Paxton, how do you plead?  
 18 MR. BUZBEE: Those allegations are  
 19 offensive and false. The attorney general pleads not  
 20 guilty.  
 21 PRESIDING OFFICER: Clerk will read the  
 22 next article.  
 23 THE CLERK: Article XV (False Statements  
 24 in Official Records-Whistleblower Response Report).  
 25 While holding office as attorney general,

1 Warren Kenneth Paxton made false or misleading  
 2 statements in official records to mislead both the  
 3 public and public officials.  
 4 Specifically, Paxton made or caused to be  
 5 made multiple false or misleading statements in the  
 6 lengthy written report issued by his office in response  
 7 to whistleblower allegations.  
 8 PRESIDING OFFICER: Attorney General  
 9 Paxton, how do you plead?  
 10 MR. BUZBEE: Stand by that report and  
 11 therefore plead not guilty.  
 12 MR. HARDIN: Your Honor, objection. It's  
 13 simply that if he wants to take the stand and testify,  
 14 we'll be -- welcome that; but otherwise, this is  
 15 supposed to be a plea from the client. He can enter a  
 16 plea of not guilty for his client. He can't make  
 17 speeches as he's doing that, and I object. I ask that  
 18 he just be instructed to plead not guilty or guilty,  
 19 whichever he chooses, but not to be making speeches  
 20 through his lawyer.  
 21 PRESIDING OFFICER: Sustained.  
 22 Clerk will read the next charge.  
 23 THE CLERK: Article XVI (Conspiracy and  
 24 Attempted Conspiracy).  
 25 While holding office as attorney general,

1 Warren Kenneth Paxton acted with others to conspire, or  
 2 attempt to conspire, to commit acts described in one or  
 3 more articles.  
 4 PRESIDING OFFICER: Attorney General  
 5 Paxton, how do you plead?  
 6 MR. BUZBEE: Absolutely not guilty.  
 7 PRESIDING OFFICER: Clerk will read the  
 8 next article.  
 9 THE CLERK: Article XVII  
 10 (Misappropriation of public resources).  
 11 While holding office as attorney general,  
 12 Warren Kenneth Paxton misused his official powers by  
 13 causing employees of his office to perform services for  
 14 his benefit and the benefit of others.  
 15 PRESIDING OFFICER: Attorney General  
 16 Paxton, how do you plead?  
 17 MR. BUZBEE: Again, Your Honor, not  
 18 guilty.  
 19 PRESIDING OFFICER: Clerk will read the  
 20 next article.  
 21 THE CLERK: Article XVIII (Dereliction of  
 22 duty).  
 23 While holding office as attorney general,  
 24 Warren Kenneth Paxton violated the Texas Constitution,  
 25 his oaths of office, statutes, and public policy against

1 public officials acting contrary to the public interest  
 2 by engaging in acts described in one or more articles.  
 3 PRESIDING OFFICER: Attorney General, how  
 4 do you -- Paxton, how do you plead?  
 5 MR. BUZBEE: Not guilty.  
 6 PRESIDING OFFICER: Clerk will read the  
 7 next article.  
 8 THE CLERK: Article XIX (Unfitness for  
 9 office).  
 10 While holding office as attorney general,  
 11 Warren Kenneth Paxton engaged in misconduct, public --  
 12 private or public, of such character as to indicate his  
 13 unfitness for office as shown by the acts described in  
 14 one or more articles.  
 15 PRESIDING OFFICER: Attorney General, how  
 16 do you plead?  
 17 MR. BUZBEE: Not guilty, Your Honor.  
 18 PRESIDING OFFICER: Clerk will read the  
 19 following article.  
 20 THE CLERK: Article XX (Abuse of Public  
 21 Trust).  
 22 While holding office as attorney general,  
 23 Warren Kenneth Paxton used, misused, or failed to use  
 24 his official powers in a manner calculated to subvert  
 25 the lawful operation of the government of the State of

1 Texas and obstruct the fair and impartial administration  
 2 of justice, thereby bringing the Office of Attorney  
 3 General into scandal and disrepute to the prejudice of  
 4 public confidence in the government of this state, as  
 5 shown by the acts described in one or more articles.  
 6 PRESIDING OFFICER: Attorney General  
 7 Paxton, how do you plead?  
 8 MR. BUZBEE: Your Honor, the attorney  
 9 general is innocent, and we plead not guilty.  
 10 PRESIDING OFFICER: You may be seated.  
 11 Bailiff, do we have witnesses to be sworn  
 12 in? Please bring them into the court.  
 13 (Witnesses enter Senate chamber)  
 14 PRESIDING OFFICER: Bailiff, are these  
 15 the only witnesses in the building to be sworn in?  
 16 (The following oath was given to the  
 17 witnesses.)  
 18 PRESIDING OFFICER: At this time I'll  
 19 swear in any witness who's present. Please raise your  
 20 right hand and repeat after me: I do solemnly swear or  
 21 affirm that the evidence I give upon this hearing by the  
 22 Senate of Texas of impeachment charges against Warren  
 23 Kenneth Paxton, Jr. shall be the truth, the whole truth,  
 24 and nothing but the truth, so help me God.  
 25 Ladies and gentlemen pursuant to Rule 24,

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1 the rule has been invoked. The rule means that  
 2 witnesses, except the members of the court, the parties  
 3 and their counsel, must remain outside the hearing or  
 4 the courtroom at all times while testimony is being  
 5 heard except when testifying or until discharged.  
 6 If you are a witness, please remain in  
 7 town and available to promptly appear at the Capitol if  
 8 the Court or either party calls on you.  
 9 You must not converse with each other or  
 10 with any other person except counsel for the parties  
 11 concerning the proceedings before the Court and are not  
 12 to read any report, watch any livestream or broadcast of  
 13 the proceedings, including news reports or social media  
 14 or comment on testimony before the Court.  
 15 Any witness violating this instruction  
 16 may be punished for contempt up to six months in jail or  
 17 a \$500 fine. Do y'all understand?  
 18 THE WITNESSES: Yes.  
 19 PRESIDING OFFICER: Thank you. You're  
 20 dismissed.  
 21 Members, at this time we'll break -- just  
 22 because this is a perfect break point -- for lunch. Be  
 23 back at one, and then we will have opening statements  
 24 when we return. Thank you. Thank you, parties.  
 25 (Recessed for lunch at 12:00 p.m.)

Lorrie A. Schnoor, CSR, RDR, CRR

1 CERTIFICATE  
 2 STATE OF TEXAS )  
 3 COUNTY OF TRAVIS )  
 4 I, Lorrie A. Schnoor, Certified Shorthand  
 5 Reporter in and for the State of Texas, Registered  
 6 Diplomat Reporter and Certified Realtime Reporter, do  
 7 hereby certify that the above-mentioned matter occurred  
 8 as hereinbefore set out.  
 9 I further certify that I am neither counsel  
 10 for, related to, nor employed by any of the parties or  
 11 attorneys in the action in which this proceeding was  
 12 taken, and further that I am not financially or  
 13 otherwise interested in the outcome of the action.  
 14 Certified to by me this 5th day of September,  
 15 2023.  
 16  
 17 /s/ **Lorrie A. Schnoor**  
 18 \_\_\_\_\_  
 19 LORRIE A. SCHNOOR, RDR, CRR  
 20 Texas Certified Shorthand Reporter  
 21 CSR No. 4642 - Expires 1/31/24  
 22 email: laschnoor@prodigy.net  
 23  
 24  
 25

Lorrie A. Schnoor, CSR, RDR, CRR



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PROCEEDINGS  
TUESDAY, SEPTEMBER 5, 2023  
(1:02 p.m.)

THE BAILIFF: All rise. The Court of Impeachment of the Texas Senate is now in session. The Honorable Lieutenant Governor and President of the Senate, Dan Patrick, now presiding.

PRESIDING OFFICER: You may be seated. Mr. Hardin, I am going to take your suggestion into consideration on exhibits, if time is spent from your side.

MR. HARDIN: Thank you very much.

PRESIDING OFFICER: At this time, opening statement by the Managers.

MR. STONE: Mr. Presiding Officer, the attorney general would like to be heard on one housekeeping matter before that.

PRESIDING OFFICER: Yes.

MR. STONE: The attorney general seeks a ruling from this Court that to the extent privileges -- attorney-client privilege, executive privilege, et cetera -- may apply, those are held by the attorney general.

Now, we're not asking the Court to rule that any particular statement or any particular document

is privileged at this time. But for purposes of the Manager's opening statement and going forward in this case, we ask that this Court rule that those privileges, which all attached during the time at which the attorney general was the actual acting serving duly-elected attorney general attached to him, or conversations he had with his subordinates, conversations involved with other parties where he was the client seeking legal advice from subordinates and essentially directing his official functions. And to the extent that those are implicated, we seek a ruling from this Court initially that those privileges, if they exist at all, belong to the attorney general.

PRESIDING OFFICER: Mr. Hardin, do you have a response?

MR. HARDIN: Yes, Your Honor. I do want the record to reflect in light of the Court's earlier analogy to a criminal case, I want the record to reflect that the attorney general apparently is not here. Maybe he's coming at some time today, but I think if we're going to talk about this analogously being a criminal case, that the -- the defendant ought to be ordered to appear throughout this, just as everyone else. That's number one.

But number two is we're prepared to

address this issue. There is a motion to -- I think one of the third parties had a motion on the attorney-client issue that they were trying to raise. But I would have thought we would have dealt with this before now, just as we were getting ready to do opening statements. They've known they had this issue all along.

If the Court wants to hear argument on it now, Mr. Garber was always prepared to do it on our side. We'll be glad to engage in argument, but I think it's totally discretionary with the Court as you are ready to proceed.

PRESIDING OFFICER: And under the Rule, Attorney General Paxton was required to be here, addressing that first point, throughout the trial.

I'm still thinking of your motion.

I want to clarify under -- I believe it was Resolution 36, he was required to be here at 9:00 but not all day, so I want to clarify that.

Yes?

MR. BUZBEE: I'm sorry about that. As per the rule, he was here at 9:00 as required. I didn't see anything else on the rule that required him to be here at any other time.

PRESIDING OFFICER: You're right, correct.

1 Mr. Hardin, Mr. Murr, please come to the  
 2 bench. Please approach.  
 3 We have asked, for the record, the Paxton  
 4 team counselors to come forward.  
 5 (At the bench, off the record)  
 6 PRESIDING OFFICER: I will address --  
 7 and, Members, let me just remind -- not remind you, but  
 8 when we're meeting at the bench, the jurors may not come  
 9 up to the conversation.  
 10 I'll rule on your motion as they come up.  
 11 And, Members of the Jury, I want to  
 12 remind you that statements made in the opening statement  
 13 is not evidence, and it's an outline of what they're  
 14 going to present.  
 15 With that, Mr. Murr.  
 16 SENATOR SPRINGER: Mr. President?  
 17 PRESIDING OFFICER: Yes.  
 18 SENATOR SPRINGER: If you can remind --  
 19 several of us are having a hard time hearing. Those  
 20 mics are low, and I don't think they were intended maybe  
 21 for them to be standing at the table talking. So that  
 22 if you could make sure that for those of us who have a  
 23 hard time hearing in this chamber, that they try to be  
 24 closer to the microphone.  
 25 PRESIDING OFFICER: Yes, Senator. The

1 requirement was to be sitting at the mics at the table,  
 2 not standing. So when you come to the podium, you can  
 3 stand, but be sure you get into the mic because it is --  
 4 the echoes in here are very difficult. Thank you.  
 5 Mr. Murr, you have 60 minutes.  
 6 HOUSE MANAGERS' OPENING STATEMENT  
 7 MR. MURR: Mr. President, Senators, today  
 8 is an important day. On this day in 1836, Sam Houston,  
 9 whose Bible you used for your oaths today, was elected  
 10 president of the Republic of Texas.  
 11 Today is also an important day because we  
 12 begin this impeachment trial. While impeachment is  
 13 rare, the drafters of our state constitution recognized  
 14 that there are times when this extraordinary remedy is  
 15 needed to protect the state and its citizens from a  
 16 public officeholder who has abused the power of his  
 17 office by putting self-interest above that of the people  
 18 of Texas.  
 19 The drafters concluded that this great  
 20 deliberative body, the Texas Senate, is best positioned  
 21 to determine what -- when this remedy is appropriate.  
 22 Earlier this year, Mr. Paxton came to the  
 23 Legislature seeking \$3.3 million in taxpayer money to  
 24 settle a whistleblower lawsuit. Mr. Paxton would not  
 25 answer any questions about the underlying claims. He

1 had successfully blocked any discovery in the case for  
 2 almost two years, and he refused to justify the  
 3 settlement.  
 4 The House investigated the serious  
 5 allegations raised by the whistleblowers. The House  
 6 uncovered egregious misconduct and abuse of office by  
 7 the Attorney General of the State of Texas and voted  
 8 overwhelmingly to prefer Articles of Impeachment to the  
 9 Senate.  
 10 This is why we are here.  
 11 The allegations in the articles reveal  
 12 that the State's top lawyer engaged in conduct designed  
 13 to advance the economic interests and legal positions of  
 14 a friend and donor to the detriment of innocent Texans.  
 15 Mr. Paxton turned the keys of the Office  
 16 of Attorney General over to Nate Paul so that Mr. Paul  
 17 could use the awesome power of the people's law firm to  
 18 punish and harass perceived enemies.  
 19 I was raised in rural Texas where a  
 20 person's honor is more important than money, where  
 21 integrity matters, and by a family deeply affected by  
 22 political corruption. This is precisely the type of  
 23 grave official wrong that our Texas Supreme Court has  
 24 said warrants impeachment.  
 25 My grandfather, who was privileged to

1 serve the State of Texas for many years, had a favorite  
 2 quote from Abraham Lincoln: Nearly all men can stand  
 3 adversity, but if you really want to test a man's  
 4 character, give him power.  
 5 Mr. Paxton has been entrusted with great  
 6 power. Unfortunately, rather than rise to the occasion,  
 7 he's revealed his true character. And as the  
 8 overwhelming evidence will show, he is not fit to be the  
 9 attorney general for the State of Texas.  
 10 Mr. Paxton argues that the Senate should  
 11 not exercise its constitutional duty to decide whether  
 12 his conduct merits impeachment because voters were aware  
 13 of the allegations and still reelected him.  
 14 He claims that the Senate should abide by  
 15 the alleged will of the voters. However, this ignores  
 16 the intent of our framers of the Constitution.  
 17 Impeachment was included in the Constitution after the  
 18 Founding Fathers debated and rejected the idea that  
 19 elections could singularly protect the public against  
 20 abusive officeholders.  
 21 In other words, drafters agreed that  
 22 impeachment was and is necessary to protect against  
 23 abusive officials because it was simply too easy for  
 24 them to use the powers of their office to conceal the  
 25 truth until after the next election.

1 The concept of the forgiveness doctrine  
 2 is not in our constitution. It does not apply here.  
 3 The courts have made that very clear. And even if it  
 4 did, the doctrine presumes that voters know all the  
 5 facts. The voters did not and do not know the whole  
 6 truth.

7 Mr. Paxton went to great lengths to hide  
 8 his misconduct from the public. The evidence will show  
 9 that he used massive resources of his office to prepare  
 10 and issue a sham report that allegedly exonerated him.  
 11 The evidence will show that this report contains false  
 12 and misleading information about the allegations against  
 13 him and about the whistleblowers themselves.

14 And he also lied about the independent  
 15 nature of this investigation. Documents will show that  
 16 he played a key role in drafting that report.

17 The Constitution says the Senate has the  
 18 power and the duty to decide this case and to protect  
 19 the people of Texas from someone who has violated his  
 20 oath and has shown he does not respect the law. The  
 21 witnesses and the evidence will show you that  
 22 Mr. Paxton's conduct merits the exercise of that power.  
 23 And the witnesses and the evidence will show and prove  
 24 beyond a reasonable doubt that he should be removed from  
 25 office and prevented from ever holding a position of

1 trust in the State of Texas again.

2 Mr. Paxton argues that the articles do  
 3 not allege impeachable conduct because they do not  
 4 allege that he committed a crime. We do allege that he  
 5 committed crimes. We have detailed that Mr. Paxton  
 6 received favors, including home renovations and help in  
 7 concealing and continuing an extramarital affair, in  
 8 exchange for the Office of Attorney General punishing  
 9 Nate Paul's enemies.

10 However, we don't have to show some type  
 11 of quid pro quo to establish that his conduct should  
 12 result in impeachment.

13 As the Texas Supreme Court made clear  
 14 regarding the impeachment of Governor Ferguson 106 years  
 15 ago, wrongs justifying impeachment don't have to be  
 16 crimes. Wrongs justifying impeachment are broader than  
 17 that because they have the purpose of protecting the  
 18 State, not punishing the offender.

19 Mr. Paxton should be removed from office  
 20 because he failed to protect the State, and instead used  
 21 the power of his elected office for his own benefit, and  
 22 this was wrong. The oath of office that we all took to  
 23 protect the citizens of the state and to uphold the laws  
 24 of this state and this constitution mean something. It  
 25 isn't just words on paper. It's literally an oath to

1 God.

2 And Mr. Paxton had an obligation not to  
 3 abuse his office for his own benefit. He betrayed his  
 4 constituents and the sacred public trust that's been  
 5 given him. And in Texas we require more from our public  
 6 officials than to merely avoid being a criminal.

7 The witnesses you will hear from are  
 8 remarkable people. Until they refused to follow  
 9 Mr. Paxton's wrongful demands, they were his most  
 10 trusted handpicked advisers, and they believed in his  
 11 conservative mission for the Office of the Attorney  
 12 General.

13 The problem isn't that their commitment  
 14 to conservative governance changed, it is at the end of  
 15 the day, Mr. Paxton wasn't the man they thought he was  
 16 and he wasn't the man he publically proclaimed to be.

17 His trusted advisers are not RINOs or  
 18 part of some deep state storyline, they are movement  
 19 conservatives guided by their faith. These witnesses  
 20 will explain step by step how they discovered that  
 21 Mr. Paxton grew increasingly intent and passionate about  
 22 helping his partner, Nate Paul, escape civil and  
 23 criminal legal troubles that he was facing.

24 They will describe in chilling detail  
 25 when they connected the dots of Mr. Paxton's slow creep

1 of corruption. The senior staff were outraged when they  
 2 discovered that Mr. Paxton had directed a young,  
 3 inexperienced outside attorney to obtain grand jury  
 4 subpoenas to harass and interfere with an ongoing  
 5 criminal investigation; subpoenas that had been  
 6 improperly issued to DPS officers, a federal judge,  
 7 attorneys involved in a civil lawsuit against Nate Paul,  
 8 and even court staff. And the subpoenas sought  
 9 intensely personal information, including cell phone and  
 10 e-mail records.

11 Now, I'm not going to detail in this  
 12 opening all the allegations against Mr. Paxton. You're  
 13 aware of many of them. You sit as a unique jury, having  
 14 known Mr. Paxton and familiar with some of the facts.  
 15 But even a quick summary of some of the evidence that  
 16 you're going to hear is shocking.

17 One of Mr. Paxton's many acts of deceit  
 18 involved a member of this chamber at a time when the  
 19 policy of the State was Texas is open for business  
 20 during COVID. Mr. Paxton directed his staff to issue a  
 21 legal opinion advising that statewide forfeiture  
 22 sales -- excuse me -- statewide foreclosure sales not  
 23 move forward.

24 Mr. Paxton was adamant that the opinion,  
 25 which came to be known as the midnight opinion, be



1 issued before the end of the weekend, just in time for  
 2 Nate Paul to use it to avoid a foreclosure sale the  
 3 following Tuesday. This conduct benefited Nate Paul and  
 4 it harmed businesses and people impacted by foreclosure.  
 5 Mr. Paxton also used the power of this  
 6 office to harm a charity solely to benefit Nate Paul.  
 7 The Office of the Attorney General is charged with the  
 8 responsibility of intervening in lawsuits when it's  
 9 necessary to assist a charitable organization.  
 10 As you'll hear, the first and only  
 11 charitable case Mr. Paxton took a personal interest in  
 12 was the Mitte Foundation's lawsuit against Nate Paul's  
 13 entities as an investor.  
 14 The evidence will show that Mr. Paxton  
 15 directed his office to intervene in the lawsuit, to stay  
 16 the case, and allow the AG's office the opportunity to  
 17 pressure this charity to accept a lowball settlement  
 18 offer.  
 19 This would have saved Nate Paul millions  
 20 of dollars. The creep of corruption continued when  
 21 Nate Paul wanted access to confidential investigation  
 22 materials related to police raids on his home and  
 23 businesses. In an attempt to learn what the police knew  
 24 and how they knew it, Mr. Paul submitted multiple open  
 25 records requests seeking the full police file. Even

1 though no police file may be disclosed due to the  
 2 well-established law enforcement exception, Mr. Paxton  
 3 pressured his deputies to authorize the release of this  
 4 information.  
 5 Had he succeeded, Mr. Paxton would have  
 6 created precedent allowing any person under criminal  
 7 investigation, whether for a violent felony or a sex  
 8 offense, to obtain confidential information about the  
 9 investigations of their conduct. Mr. Paxton simply did  
 10 not care that his request to release information to  
 11 Nate Paul would have put police and victims across the  
 12 state at risk.  
 13 Unfortunately, the House investigation  
 14 revealed that Mr. Paxton's relationship with Mr. Paul  
 15 was far more extensive than even his closest advisers  
 16 knew. Over the course of three months, Mr. Paxton  
 17 personally met with Nate Paul more than 20 times. Many  
 18 times Mr. Paxton would ditch his security detail. And  
 19 Nate Paul even set up a secret Uber account that allowed  
 20 Mr. Paxton to secretly visit Nate Paul and others.  
 21 To conceal his efforts, Mr. Paxton  
 22 communicated in off-the-book ways, using burner phones,  
 23 encrypted messaging apps, and secret e-mail addresses.  
 24 Mr. Paxton's brazen abuse of the criminal  
 25 justice division at the Office of Attorney General is

1 finally what caused eight of his senior staff to report  
 2 him to the police. The question that haunts them and  
 3 should frighten all of us is what would have happened if  
 4 they had not reported him? How far would Mr. Paxton  
 5 have gone in using the power of the attorney general's  
 6 office to harass and punish his and Nate Paul's  
 7 perceived enemies and hurt innocent Texans?  
 8 Mr. Paxton tries to defend his actions by  
 9 isolating each event and claiming that standing alone  
 10 they can't support impeachment. You cannot and should  
 11 not view each act in a vacuum. The evidence will show  
 12 that they're all connected. They're all connected by  
 13 Mr. Paxton and his desire to deliver for his partner,  
 14 Nate Paul.  
 15 Mr. Paxton will also argue that the acts  
 16 represent differences of opinion on policy or efforts to  
 17 help a constituent. But the witnesses will explain to  
 18 you that Mr. Paxton's actions have nothing to do with  
 19 implementing conservative policy and, in fact, his  
 20 efforts violated those very principles.  
 21 Mr. Paxton's senior advisers were fully  
 22 aware of the dire consequences of reporting him to law  
 23 enforcement. They knew retribution would be swift and  
 24 vicious. The choice they made to report him to the  
 25 police was one of the hardest of their lives, but they

1 will tell you that there really wasn't a choice at all.  
 2 Sam Houston, who, on this day in 1836,  
 3 was elected president of a new and free republic,  
 4 reminded Texans: Do right and risk the consequences.  
 5 Do right and risk the consequences.  
 6 Doing the right thing is sometimes not  
 7 easy. Sometimes we must do the right thing in the face  
 8 of enormous pressure to remain silent. The witnesses  
 9 felt this pressure, the House felt this pressure, and  
 10 the Senate is feeling this pressure.  
 11 It's unfair and it's wrong. But despite  
 12 the forces that seek to intimidate the Senate, you have  
 13 taken the first steps toward the truth by giving the  
 14 people who did the right thing a chance to testify.  
 15 Despite the attacks that they know will continue to  
 16 come, the witnesses will do the right thing once more,  
 17 and they will take this witness stand and they will  
 18 provide the clarity that the Senate needs and that the  
 19 public deserves to find out what was really happening  
 20 behind closed doors.  
 21 As Chair, I resolutely give this  
 22 statement with the support of, and on behalf of, the  
 23 Board of Managers and on behalf of the Texas House.  
 24 You-all provided us with an hour to make an opening  
 25 statement, but we prefer to yield back the rest of that

1 time to the most important folks that will show up in  
 2 this room: The witnesses. The same witnesses that  
 3 Mr. Paxton has been so desperate to discredit and  
 4 intimidate into silence.

5 We are honored to be able to give them  
 6 their day in this honored and rare court, but we simply  
 7 seek justice on behalf of the people of Texas.

8 Thank you, Mr. President.

9 PRESIDING OFFICER: Does the defense wish  
 10 to make an opening statement?

11 MR. BUZBEE: We do, Your Honor. I think  
 12 we have 15 minutes to break. Is that the rules?

13 PRESIDING OFFICER: No. You're -- you're  
 14 up right now.

15 ATTORNEY GENERAL PAXTON'S OPENING STATEMENT  
 16 BY MR. BUZBEE

17 MR. BUZBEE: May it please the Court.  
 18 I stand in this hallowed chamber in this  
 19 historic proceeding on behalf of the duly elected  
 20 Attorney General of the State of Texas.

21 The prosecution and the press, and I'm  
 22 sure here, will tell a whopping story. It's a tale full  
 23 of sound and fury. It signifies nothing. And you may  
 24 wonder why I say that. Because when we are done, I  
 25 believe that no matter your party affiliation, and no

1 matter where you stand now, you will conclude what I  
 2 have concluded: That there is nothing to this.

3 Ken Paxton gave nothing of significance to Nate Paul.  
 4 Nate Paul received nothing of significance from  
 5 Ken Paxton. This whole case is a whole lot of nothing.

6 I make my living trying cases to Texas  
 7 juries. Cases are supposed to be decided only upon the  
 8 evidence. But I do wonder are we really going to get a  
 9 fair trial here? Have you already decided based on what  
 10 is politically expedient or what is best for you  
 11 personally?

12 Or is it even possible to get a fair  
 13 hearing? Especially after this case has been tried in  
 14 the press, Ken Paxton has been convicted in the press  
 15 based on ignorance, innuendo, and outright lies.

16 So the question is: Will you decide  
 17 based only on the evidence? Because that's your oath.  
 18 That's what you swore to do no matter the consequences,  
 19 and I urge you to do your duty and do it without fear.

20 They say this is the impeachment of a  
 21 lifetime. But is it? Because depending on what you do  
 22 here, maybe it will become commonplace. What happens  
 23 here will have consequences no matter how it turns out.  
 24 Let's be clear. If this misguided effort is successful,  
 25 which I feel confident it will not be, the precedent it

1 would set will be perilous for any elected official in  
 2 the state of Texas.

3 What is being attempted here hasn't  
 4 happened in our state in 100 years. And unlike other  
 5 efforts of the past like this one, this scheme was  
 6 rushed, it was secretive, it was poorly planned, and was  
 7 wholly unsupported by evidence.

8 Indeed, despite the social media frenzy,  
 9 the misinformed commentators, the reporters with an  
 10 agenda, at the end of this you will come to know what I  
 11 know: That despite all of us being told that the  
 12 evidence in this matter is 10 times worse than the  
 13 public knows, it is instead 100 times less.

14 There is nothing here to support  
 15 impeachment. Nothing.

16 Now, there's been a gag order in this  
 17 case. That gag order put our team at a distinct  
 18 disadvantage. That gag order prevented us from  
 19 rebutting this false narrative created by a frenzied  
 20 press. The gag order, of course, didn't stop those  
 21 media members with agendas or those media outlets  
 22 aligned with the House Managers, and they were calling  
 23 for Ken Paxton's head.

24 We've heard in the media about burner  
 25 phones. There are no burner phones, but we couldn't

1 respond.

2 We've heard about secret e-mail  
 3 addresses. So secret that every person on Ken Paxton's  
 4 staff used the same type of e-mail address because they  
 5 were traveling to China. There's no secret e-mail  
 6 address. But we couldn't respond.

7 We've heard about Uber rides for  
 8 Ken Paxton in Vegas, Chicago, or to even nightclubs.  
 9 Those are manufactured lies. But we couldn't respond.

10 We've even heard from the press about  
 11 cakes from HEB, stolen pens, pilfered sport coats.  
 12 Outright foolishness. But we couldn't respond.

13 We heard about house renovations  
 14 supposedly paid for by the manipulating boogeyman,  
 15 Nate Paul. That never happened. Ken Paxton and  
 16 Angela Paxton paid for their house renovations, and I'm  
 17 going to show that absolutely 100 percent. They know  
 18 it, but yet they still stood up here and repeated that  
 19 lie.

20 Let's talk a little bit about some  
 21 background. 2015 Ken Paxton ran against the anointed  
 22 candidate for attorney general, Dan Branch. Branch  
 23 represented Highland Park and the political elites.  
 24 Dan Branch was the establishment candidate. Ken Paxton  
 25 beat him soundly.

1 Almost immediately after that win,  
 2 Ken Paxton was on the receiving end of a clearly  
 3 political indictment at the hands of rivals within his  
 4 own party. That saga continues to this day with a pair  
 5 of unelected special prosecutors nudging it forward year  
 6 after year, with the expectation and hope that some day  
 7 they will get paid.

8 Nevertheless, despite being indicted and  
 9 despite a very public lawsuit that makes the exact same  
 10 allegations that are being made here, Ken Paxton easily  
 11 won his last primary, as he has in every election. In  
 12 fact, Ken Paxton thumped the establishment candidate,  
 13 who this last time happened to be a Bush. And it wasn't  
 14 even close. Ken Paxton won 68 percent to 32 percent in  
 15 the primary.

16 Now, think about that. General Paxton  
 17 trounced the establishment candidate, a member of the  
 18 Bush dynasty, and beat him badly. And incidentally, as  
 19 an aside, did you realize that the day before the vote  
 20 for this impeachment was had, that that same Bush  
 21 applied to renew his law license?

22 Let's put this proceeding in context.  
 23 Almost 30 million people live in the state of Texas.  
 24 Texans chose at the voting booth who they wanted to be  
 25 their attorney general, despite the same baseless

1 allegations that are being made here. But because of  
 2 what this House has done, only 30 people out of almost  
 3 30 million will decide whether Ken Paxton is allowed to  
 4 serve in the office he was voted into.

5 That's not how it's supposed to work.  
 6 That's not democratic. What could be less democratic  
 7 than 30 people deciding who serves as the Attorney  
 8 General of Texas instead of the 4.2 million people who  
 9 voted to put him there?

10 Every election season we hear your vote  
 11 is your voice. It's important to go vote to be a good  
 12 member of society. We hear about the sanctity of the  
 13 right to vote. We hear that people fought and died for  
 14 the right to vote. We hear every vote should count.

15 Yet to get here, Texas House took away  
 16 the votes of over 4 million Texans who voted for  
 17 Ken Paxton, and they did it in only a four-hour hearing.  
 18 There is a right way for Texas voters to remove someone  
 19 from office. It's called vote against them.

20 Who the people want, who the people voted  
 21 for should matter. Let me give you some names.  
 22 George P. Bush, Eva Guzman,  
 23 Louie Gohmert, Dan Branch, Barry Smitherman,  
 24 Joe Jaworski, Rochelle Garza, Justin Nelson. Those are  
 25 just some of the people that Texans decided they did not

1 want to be their attorney general.

2 The people chose General Paxton. Do  
 3 their votes matter? People are watching. The will of  
 4 those Texans should not be subverted.

5 And people of Texas, let me say this: I  
 6 am very happy that these proceedings are being  
 7 live-streamed. I think it is good that Texas voters can  
 8 hear every bit of evidence, or the complete lack of  
 9 evidence, that supports this from both sides. I'm sure  
 10 that the more than 4.2 million people who voted for  
 11 Ken Paxton will want to hear why, will want to hear why  
 12 30 people are deciding his fate.

13 And through all this, we must not forget.  
 14 Ken Paxton for the last eight years has operated the  
 15 most aggressive, effective litigation apparatus of any  
 16 attorney general's office in the country. According to  
 17 the pundits, Ken Paxton was never supposed to be serving  
 18 in statewide office.

19 Ken Paxton is very much serving. Look at  
 20 his record. Under his leadership, the AG's office has  
 21 won major cases for Texas on immigration, the lives of  
 22 the unborn, religious freedom, and the continuous  
 23 overreach by the federal government on our everyday  
 24 lives. Under his direction the AG's office has sued the  
 25 Obama and Biden administrations more than any other AG

1 office in the country. Even CNN has called Texas a  
 2 legal graveyard for Biden's policies. And under his  
 3 watch, and with his personal involvement, the attorney  
 4 general -- the attorney general's office has recovered  
 5 billions of dollars for Texas taxpayers, including  
 6 \$3 billion against big pharma as a result of the opioid  
 7 crisis. It has been said, but I think it's worth  
 8 repeating: Ken Paxton is the best attorney general in  
 9 the country, period.

10 All of this, of course, begs the most  
 11 pressing question: If Ken Paxton is so good at his job  
 12 and routinely defeats his political opponents at the  
 13 ballot box, then what the devil are we doing here?

14 We know this entire process took less  
 15 than two months with fewer than 15 witnesses, none of  
 16 which were ever put under oath. Shouldn't this  
 17 investigation, if done right, have taken a whole lot  
 18 longer?

19 After all, this historic procedure took  
 20 an entire year the last time it was used, with sworn  
 21 testimony taken by the committee, in open hearings,  
 22 giving the respondent an opportunity to be heard, to  
 23 confront his accusers. So why was it so short this  
 24 time? Why did it happen when it did? What was the  
 25 rush?

1 Because if they had taken their time and  
 2 done it right, we wouldn't be here. We wouldn't hear  
 3 about burner phones. We wouldn't hear about house  
 4 renovations. We wouldn't hear about secret Uber rides.  
 5 We wouldn't hear any of that foolishness because they  
 6 would have delved into it and saw that it was all false.  
 7 So why? I'll tell you why.  
 8 May 19th, 2023, Speaker Dade Phelan was  
 9 so drunk while running House business he could barely  
 10 even hold the gavel. And that drunkenness was on video  
 11 and it was on the Internet for the entire world to see.  
 12 I'm sure you've seen the video as well. Four days  
 13 later, on May 23rd, Ken Paxton issued a statement and  
 14 called for Dade Phelan to resign.  
 15 In response, the committee heard and met  
 16 the very next day, conducted a four-hour hearing, and  
 17 recommended impeachment the day after that. Because of  
 18 the rush, the House didn't bother to vet this  
 19 foolishness. And now they put it right in your lap for  
 20 you to do the work that they failed to do.  
 21 This impeachment was the perfect marriage  
 22 of a group of representatives fueled by a powerful  
 23 lobbyist and led by a drunken speaker seeking political  
 24 vengeance. It was also a result of a group of  
 25 uninformed civil litigants and their attorneys who are

1 motivated by money.  
 2 The House's General Investigating  
 3 Committee proceeded in a rush in secret. So secret, in  
 4 fact, that the only people who could have testified and  
 5 brought actual evidence and exonerated Ken Paxton were  
 6 not even called.  
 7 I hope you will look at the evidence. I  
 8 hope you'll really look at the evidence. I have faith  
 9 in this body that you will actually see the evidence.  
 10 Make an informed decision.  
 11 I want to focus just on a few of the  
 12 impeachment articles. There's so many of them, I  
 13 wouldn't have time to go through every one. But I think  
 14 one that you might be interested in is Article X.  
 15 That's the article where the House Managers have argued  
 16 that Ken Paxton's house renovations were paid for by  
 17 Nate Paul.  
 18 And you've heard that lie repeated over  
 19 and over and over again in the press, and it's false.  
 20 The House Managers adopted this lie about a nonexistent  
 21 bribe and repeated it with no evidence, nothing. The  
 22 news media innocently amplified this lie without ever  
 23 documenting it. And then it's been repeated over and  
 24 over, and even repeated by my colleague today.  
 25 Hear this press corps: Ken Paxton and

1 Angela Paxton paid for their house renovations, period.  
 2 You will see in this case a Steam Team  
 3 estimate. The Paxton's house in Tarrytown had some  
 4 water damage. Steam Team came out to correct the water  
 5 damage. We're going to show you those documents where a  
 6 USAA claim was made to pay for that. You will see that  
 7 the Paxtons had fits with the insurance company, just  
 8 like all of us have at one time or another, trying to  
 9 get that claim paid.  
 10 You will see that Angela Paxton  
 11 specifically was involved in talking through some of the  
 12 repairs they were going to do as a part of that process.  
 13 They were going to do some upgrades. And you'll see  
 14 mind-numbing pictures of Angela and Ken Paxton at Home  
 15 Depot, at Lowe's, pricing stoves, pricing countertops,  
 16 trying to get the best buy, and ultimately deciding that  
 17 despite what you hear about granite, with all due  
 18 respect, Senator Paxton, their countertops are just old,  
 19 ratty tile. And they didn't get a new stove. And they  
 20 didn't get to change out their cabinets.  
 21 But that's not what you've heard in the  
 22 press. I'm going to show you the USAA docs. I'm going  
 23 to show you in September 16th of 2020 USAA made its  
 24 final determination of what they would pay. They paid  
 25 for Steam Clean, the original contractor.

1 And the second contractor was Cupertino  
 2 Builders. And you've heard, oh, that's a foul. Buzbee,  
 3 in the press conference, he showed -- he showed  
 4 Cupertino Builders' invoice, that company didn't exist.  
 5 Well, guess what? It did. It absolutely did. I'm  
 6 going to show you the documents and you're going to see  
 7 that this article is false, just like every other one.  
 8 You're going to see the USAA  
 9 determination. You're going to see that USAA knew that  
 10 they had another contractor. You're going to see a text  
 11 from -- from the trustee back and forth between  
 12 Ken Paxton where Ken Paxton says, I have this invoice.  
 13 I have to pay it.  
 14 You're going to see all of that. And  
 15 you're going to see the wire come from the Paxtons' bank  
 16 account and go into Cupertino Builders' bank account.  
 17 You're going to see the front side of the transportation  
 18 and the back side of the transaction. And you're going  
 19 to conclude, like I've concluded, and like everybody has  
 20 to conclude, that these folks were pinching pennies.  
 21 They were trying to update and renovate their house, and  
 22 there were a lot of things they just couldn't afford.  
 23 I'm going to show you pictures ad nauseam  
 24 of their house and you will conclude what I've concluded  
 25 is the Paxtons have been defamed over and over in the

1 press and by the House.

2 Now, the second so-called bribe,

3 Nate Paul. The bogeyman, Nate Paul, gave Ken Paxton

4 \$25,000. Oh, goodness gracious. You know when he gave

5 that money? October 2018, years before any of these

6 allegations ever existed. Years before any of the acts

7 allegedly that occurred ever occurred.

8 Think about their theory. Their theory

9 is Nate Paul in October of 2018 was thinking -- he was

10 so manipulative and so smart that he knew at some time,

11 sometime years in the future, he may be needing

12 something from Ken Paxton. Here's the problem with

13 that. He gave money to people in this very chamber as

14 well.

15 Ken Paxton wasn't the only recipient of a

16 campaign donation. But let's focus on campaign

17 donations. Incidentally, in 2018 Ken Paxton raised

18 millions upon millions of dollars. A \$25,000 donation,

19 although it sounds like a lot of money, Ken Paxton is a

20 great fundraiser. He raises a lot of money. And that

21 donation ain't even a blip on the radar screen.

22 And let's think about that. Campaign

23 donations can't be bribes. They are not bribes. Do any

24 of us believe that a campaign donation in here is a

25 bribe? Do you know how often I get calls for campaign

1 donations? A lot.

2 Are those bribes? No. If campaign

3 donations were bribes, everybody in this town would be

4 impeached. Just line up. Once we finish Ken Paxton,

5 we'll start impeaching everybody else.

6 I want to shift our focus for the time I

7 have and address what could be the elephant in the room.

8 There's been some salacious allegations made about

9 Ken Paxton. The argument is, is that Nate Paul provided

10 a job for a woman named Laura Olson. It doesn't hold

11 any water.

12 Laura Olson applied for a job.

13 Laura Olson got a job. You're going to see the

14 employment contract. You're going to see what her

15 salary was. You're going to see her paystubs. You're

16 going to hear about the work that she did. And you're

17 also going to hear that she continues to do that work

18 today. Today. That was not a bribe. That was a job

19 sought out and received, and she's doing real work

20 today. You'll see the paystubs and you'll see the

21 employment application.

22 Now, you've heard so much -- my colleague

23 talked about how Ken Paxton turned over the keys to the

24 AG's office to Nate Paul. Remember hearing that?

25 Totally false.

1 One of the things you're going to see in

2 this case is that Ken Paxton got nothing from Nate Paul

3 and Nate Paul got nothing from Ken Paxton.

4 Let's look at what Nate Paul got from the

5 AG's office. Nate Paul believed that the feds had

6 targeted him. He believed that the feds had violated

7 his civil rights. He believed that an affidavit, a

8 warrant for the search of his home and businesses, had

9 been altered. He believed it. Still believes it today.

10 He didn't know where to go. He went to

11 Ken Paxton. Ken Paxton sent him to the Travis County

12 District Attorney's Office, who then turned around and

13 referred it back because of conflicts. There were

14 conflicts. But what did Nate Paul get from that? No

15 bankruptcies were averted. No foreclosures were

16 stopped. No FB agents were indicted. No FB agents had

17 to respond to any subpoena. Nothing. Nate Paul got

18 nothing.

19 If that was an attempt to bribe, that was

20 the least effective one in the history of the United

21 States. You're going to see Nate Paul got nothing.

22 In fact, you will also see e-mail after

23 e-mail after e-mail of Nate Paul and his lawyers sending

24 letters to the AG's office, madder than a hornet's nest.

25 You're not doing what -- you're not doing your job.

1 You're not doing your job. You're not doing what you're

2 supposed to do. We're going to sue the AG's office.

3 Does that sound like somebody who has the

4 keys to the AG's office? It sounds like somebody who

5 might be a little entitled and thinks that public

6 officials should jump when he says jump. Maybe jump and

7 hope he jumps high enough.

8 But one thing is clear: Nate Paul got

9 nothing and he was very unhappy about it. He did not

10 think the AG's office was doing its job, and he sent

11 e-mail after e-mail, letter after letter, culminating in

12 a letter where he threatened a lawsuit against the AG's

13 office.

14 You never saw those e-mails, did you?

15 You never saw those letters, did you? You never even

16 heard about them. The press knows about them. They

17 didn't report that, did they?

18 This idea that the AG's office harmed the

19 Mitte Foundation -- do you know who the Mitte Foundation

20 is? Do you know their history? Do you know who the

21 first AG was that had issue with the Mitte Foundation?

22 Greg Abbott. Greg Abbott.

23 Greg Abbott sued the Mitte Foundation for

24 all kinds of foolishness. They had one person indicted.

25 They had another person who allegedly beat their wife

1 and child. There was, like, a lot of turnover. And in  
 2 this particular instance, you will see why the AG's  
 3 office decided to intervene.

4 There's a memo, a memo that lays out the  
 5 tortured history of the Mitte Foundation and the  
 6 decision-making matrix. And every single person in the  
 7 chain of command signed off, including the so-called  
 8 whistleblowers, to intervene in the Mitte Foundation  
 9 case. Not to protect charity -- see, this is the  
 10 misconception.

11 The AG's office is not there to protect  
 12 charities, as has been alleged. The AG's office is  
 13 there to protect -- to protect the public's interest in  
 14 charity. In other words, those are donated funds, and  
 15 the charity better take care of its Ps and Qs. And the  
 16 Mitte Foundation was not.

17 And Nate Paul was so mad that the AG's  
 18 office wasn't doing more. The AG's office intervened.  
 19 The intervention lasted three months, and the AG's  
 20 office dropped the case once they saw what was going on.

21 And remember this. You'll see the memo  
 22 where not only did the entire chain of command decide to  
 23 intervene in the Mitte Foundation litigation but also  
 24 decided to open an investigation of the Mitte  
 25 Foundation. Have you heard that in the press?

1 This is what we're up against. We are  
 2 trying a case not here in front of you, Honorable  
 3 Members. We're trying a case where we're getting  
 4 prosecuted in the press. And so here we are, the  
 5 baseless allegations thrown at us, shotgun approach,  
 6 throw it against the wall and see what will stick, and  
 7 make them respond. That's what this is. That's what  
 8 this is and that's what it has been. There's a reason  
 9 my colleague did not go through any facts to support  
 10 this, because there are no facts to support this.

11 And let's also talk briefly about this  
 12 so-called midnight opinion. Again, utter foolishness.  
 13 Did you know on the very day that the informal guidance  
 14 was issued, they issued another one, the very same time  
 15 frame, like the very same day? Do you want to know how  
 16 many foreclosures were stopped by the informal guidance?  
 17 Zero. They didn't report that either, did they? And  
 18 you didn't hear that either, did you?

19 Many of these articles I would -- I would  
 20 respectfully suggest, if you look at what's alleged and  
 21 you look at the evidence, you'll dismiss it out of hand.

22 This is a good one. They claim that this  
 23 was an AG's opinion, this so-called midnight opinion.  
 24 On the very face of the document, it says, This is  
 25 informal guidance. It's not a 402 legal opinion. That

1 should have been the reason that should have been  
 2 dismissed. But we will show that to you. We will prove  
 3 that to you and that article should be disposed of in  
 4 short work.

5 Now, finally let me talk about these  
 6 ex-employees. One of the facts that I find to be the  
 7 most egregious with regard to these ex-employees is that  
 8 they made assumptions about their boss, but they did not  
 9 raise those assumptions with their boss. Many of the  
 10 issues in this particular case, most of those so-called  
 11 whistleblowers participated in and signed off on.

12 You know what the genesis of all of this  
 13 is? Remember when I talked about the referral to the --  
 14 from the District Attorney's Office to the AG's office?  
 15 They were unaware that the District Attorney's Office  
 16 had done a second referral. That did not go through the  
 17 AG's office. It went directly to this young man,  
 18 Brandon Cammack.

19 And so when they saw that Brandon Cammack  
 20 had gotten subpoenas that went to some financial  
 21 institutions, they just -- they -- their heads almost  
 22 exploded. And rather than asking the questions calling  
 23 the DA's office, finding out what was going on, they  
 24 just assumed that this young man, this young lawyer who  
 25 was being paid 300 bucks an hour, because that's -- that

1 was the rate and that's why we got somebody like  
 2 Brandon Cammack. But they assumed that he was off doing  
 3 something untoward.

4 And they never asked the questions, why  
 5 would you be subpoenaing a financial institution? It's  
 6 because it was a second referral from the DA's office, a  
 7 second referral that gave him the authority to  
 8 investigate bid rigging. We all know there was bid  
 9 rigging going around -- going on in Austin. That was  
 10 what the DA referred to the AG's office to investigate.  
 11 Not prosecute, investigate.

12 They assumed. They assumed the worst.  
 13 Instead of asking their boss, you know what they did  
 14 instead? They sent a letter to the FBI saying that  
 15 Brandon Cammack had appeared in front of a grand jury.  
 16 He never appeared in front of any grand jury.

17 The subpoenas were prepared by the DA's  
 18 office. All he did was DocuSign them. They sent that  
 19 letter to the -- to the FBI. They came and met with  
 20 some of the governor's staff. They came and may have  
 21 met with some of you even, instead of meeting with their  
 22 boss that they claim they were loyal to.

23 And you know what -- do you want to know  
 24 what is most egregious? They sent letters and they took  
 25 Ken Paxton's name off the letterhead. Now, you think

1 about that for a minute.  
 2 Oh, these people were retaliated against  
 3 and fired. Ken Paxton was trying to hide something.  
 4 Let me -- let me just ask you point-blank. If one of  
 5 your staff, your chief of staff, decided that he  
 6 disagreed or she disagreed with one of your actions, and  
 7 decided when you were out of the office in Ohio trying  
 8 to put together the Google case with a bunch of other  
 9 AGs to recover money for the State of Texas while you're  
 10 gone, they get together, they send everybody home, and  
 11 eight of them meet and they take Ken Paxton's name off  
 12 the letterhead and start sending correspondence without  
 13 his name. Imagine if your chief of staff did that. You  
 14 would fire them on the spot.  
 15 If you're a subordinate and you disagree  
 16 with your boss' course of action, you raise it with her  
 17 or him, and if there's still a disagreement, you resign.  
 18 That's how it works.  
 19 What you don't do is try to hijack the  
 20 office, wage a coup, or all the other things they did.  
 21 Sabotage grants. You know, they tried to sabotage the  
 22 grants that the AG's office would receive. Millions of  
 23 dollars in grants. They tried to sabotage the office.  
 24 You're going to hear a much different story when you  
 25 hear the evidence, a much different story.

MARY ORALIA BERRY, CSR, RDR, CRR, CBC

1 And let me finish with this. There's a  
 2 young man named Drew Wicker. He's been all over the  
 3 news. Do you remember who I'm talking about? I think  
 4 my colleague made it clear. And we all know that you  
 5 guys read. I mean, obviously, you pay attention to what  
 6 is going on. That's part of your job.  
 7 There's a young man named Drew Wicker, a  
 8 good young man. He was interviewed by the House  
 9 investigators. I want you to watch and listen to that  
 10 interview because they asked him, Did you ever deliver  
 11 anything to Nate Paul? No. Never. Never happened.  
 12 They came back five minutes later. When  
 13 you delivered things to Nate Paul, how many things did  
 14 you deliver?  
 15 This is how they did this young man, who  
 16 feels like he's in between a rock and a hard place.  
 17 He's friends with some of the people that quit or were  
 18 fired, and he still says that Angela and Ken Paxton are  
 19 like family to him.  
 20 They squeezed him and they squeezed him.  
 21 He's the one, you may recall, that said, I was there in  
 22 the kitchen, and Angela had expressed that she wanted  
 23 granite countertops. And Ken Paxton was there with me.  
 24 And Kevin Wood, the contractor, says, Let me check with  
 25 Nate.

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1 And then we heard about \$20,000 granite  
 2 countertops. I don't know where those are,  
 3 Senator Paxton. I don't know where those are.  
 4 What you'll see instead is I have the  
 5 samples that they went -- when they went to Home Depot  
 6 and Lowe's, and they sampled and they priced it, and  
 7 they decided they couldn't afford it. Nate Paul had  
 8 nothing whatever to do with it, and Drew Wicker knows  
 9 that is true as well.  
 10 We look forward to putting on this case.  
 11 And we hope, we hope you'll listen to all the evidence.  
 12 We hope that you'll make a decision, not based on  
 13 political expediency, but based on the evidence you're  
 14 going to hear.  
 15 And remember, the burden of proof is not  
 16 we throw out allegations and you say, Oh, that sounds  
 17 sexy, I'm voting for impeachment. They have to prove  
 18 their case by the numbers, by the numbers, beyond a  
 19 reasonable doubt. They won't be able to do that.  
 20 And on that point, I'm going to turn it  
 21 over to my colleague for my time remaining, Dan Cogdell,  
 22 who has some points he would like to make.  
 23 Dan.  
 24 MR. COGDELL: Is there a monitor up  
 25 there?

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1 MR. BUZBEE: No, we didn't have any. I  
 2 just had to go off the cuff.  
 3 MR. COGDELL: May I deliver from here,  
 4 Your Honor?  
 5 PRESIDING OFFICER: Yes, you may.  
 6 MR. COGDELL: I'm sorry for the format,  
 7 but can I at least see off of this?  
 8 Good afternoon. My name --  
 9 PRESIDING OFFICER: Counsel, you are  
 10 going to have to stay at the mic.  
 11 MR. COGDELL: Yes, sir. I'll do my best.  
 12 ATTORNEY GENERAL PAXTON'S OPENING STATEMENT  
 13 BY MR. COGDELL  
 14 MR. COGDELL: Good afternoon. My name  
 15 is -- whoa. I'm getting off to a great start. My name  
 16 is Dan Cogdell. Anthony Osso and I are two of the  
 17 lawyers that are helping Ken Paxton.  
 18 You know, when you get ready for a case  
 19 like this, there's some things that you know and there's  
 20 some things that you don't know. Well, in this case,  
 21 when I was preparing, I knew I was going to know most of  
 22 the lawyers. I know my opposing counsel. I've known  
 23 him most of my life. They're friends. I'm not going to  
 24 say anything negative about them.  
 25 It should give you some pause, though,

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1 because if they're friends with me, you know their  
2 judgment is a little bit askew. That having been said,  
3 I know some of the witnesses. I know Mr. Penley. I  
4 know Mr. Maxwell. Most of these people are good people.  
5 I have no problem with their character, generally  
6 speaking. I have a big problem with some of the things  
7 that they did.

8 I don't mind sharing with you that my  
9 wife is going through a significant medical issue and it  
10 wasn't the best time for me to come here, but she said,  
11 No. You go. This is bigger than me. This is bigger  
12 than you, and this is bigger than Ken Paxton.

13 No offense, Ken. She's not your biggest  
14 fan.

15 But what she meant by that is we are  
16 living on the wet end of democracy right now. Is it up  
17 to the voters or is it up to politicians to see who  
18 stays in office?

19 Your -- your decision is much bigger than  
20 Ken Paxton. Your decision is literally about democracy  
21 in this state. I appreciate Mr. Murr's comments. I  
22 also appreciate the focus on the bigger picture than  
23 what is happening in here.

24 One of the things that's intimidating,  
25 even -- I've been doing this for a long time, 42 years.

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1 Sometimes I don't recognize that dude in the mirror when  
2 I walk in, in the mornings.

3 But I wonder to myself, how do I begin a  
4 case like this? This is a case of enormous  
5 consequences. I wanted the press. I wanted the sound  
6 bites. I wanted the cute things, right?

7 As a side note, this may be one moment I  
8 get to relish because I'm not automatically the biggest  
9 ego of the lawyers involved. Not automatically. I have  
10 some competition.

11 The significance of this case is titanic,  
12 as I mentioned. And I wondered, What am I going to do?  
13 What am I going to say? Oh, my God. I need the hook.  
14 I need the line. I need -- I need the pop. And it  
15 occurred to me I don't need that. It occurred to me  
16 that I have the truth. It occurred to me that the  
17 reason we're here -- how did we get here?

18 This is the very room where  
19 General Paxton has been sworn in again and again. This  
20 is the very room, as I understand it, where one of his  
21 daughters got married. How do we go from that to here?  
22 I'll tell you how. Because people assumed things that  
23 weren't true.

24 They assumed that Paxton was involved in  
25 an illegal relationship with Nate Paul. They assumed

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1 that Paxton's actions were intended to get the records  
2 to Nate Paul. They assumed that Paxton gave the DPS  
3 records to Nate Paul. They assumed that Paxton hired  
4 Cammack illegally. All of those things are false. All  
5 of those things are false.

6 Even Einstein said assumptions are made  
7 and most assumptions are wrong. A man much lesser,  
8 perhaps, than Einstein but he's important to me, my dad.  
9 He told me when I was a young kid, You know, son, how  
10 do -- you can't spell assume without making an ass out  
11 of you and me. And he's right. And that's exactly what  
12 happened in this case.

13 The reality is this is not a trial where  
14 you can assume anything. This is a trial that requires  
15 proof beyond a reasonable doubt. Spoiler alert: It's  
16 the same amount of proof that's required in a death  
17 penalty case.

18 I'm a visual learner. I like to see  
19 things to help me learn, so I'm going to offer these  
20 next slides to you. Just -- they're not the law, but  
21 they're an explanation. We deal with different  
22 standards. A lot of you are lawyers. A lot of you know  
23 these things, but a lot of you have never dealt with  
24 proof beyond a reasonable doubt.

25 So let me suggest probable cause. If

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1 probable cause were a house, probable cause might look  
2 like that. Probable cause is the same standard by which  
3 the House had to, quote, indict or return the Articles  
4 of Impeachment. That is the quantum of proof that was  
5 required.

6 Preponderance of the evidence, that is --  
7 that is the standard that Mr. Buzbee uses in his -- in  
8 his cases. Those 50 versus -- 50 and a half versus --  
9 any slight more, any -- a little bit more. That's the  
10 preponderance.

11 Clear and convincing evidence, that is  
12 the same quantum of proof that is required in a -- in a  
13 situation where CPS wants to take your child away.

14 Proof beyond a reasonable doubt, if it  
15 was a house, it would look like that. It would look  
16 like Mr. DeGuerin's house. It would look like a big  
17 house.

18 Sorry, Dick.

19 My point is a pretty simple one. There  
20 is a huge difference between the quantum of proof that  
21 the House based its decision on and what you are  
22 required by law to base your decision on. It's night  
23 and day. I'm going to go through the articles quickly.

24 Judge, how much time do I have left?

25 PRESIDING OFFICER: Twenty-one minutes.

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1 MR. COGDELL: Oh, good.  
 2 PRESIDING OFFICER: Twenty-one minutes.  
 3 MR. COGDELL: I may give a couple of  
 4 those back. We'll see. Here's the allegation.  
 5 That Paxton directed employees at his  
 6 office to act contrary to law by refusing to render a  
 7 proper decision relating to a public information request  
 8 for records held by the DPS, by issuing a decision  
 9 involving another public information request, which is a  
 10 mouthful, that was contrary to law and applicable legal  
 11 precedent. That's the allegation.  
 12 Here are the facts. Fact Number 1 is  
 13 that Paxton is the attorney general. Paxton, as the  
 14 attorney general, can decide how his office responds to  
 15 these inquiries. He's the attorney general.  
 16 Fact Number 2: Paxton did not order the  
 17 release of the records. That's kind of been lost in the  
 18 wash here. There's all of these suggestions that Paxton  
 19 ordered the release of the records that ostensibly were  
 20 favorable to Nate Paul. No, he didn't. He did not  
 21 order the release of those records. Period. Full stop.  
 22 What he did was, had his office take no  
 23 position on whether or not the records should be  
 24 released. That's a different color of horse.  
 25 Fact Number 4, that no records were

1 released to Nate Paul as a result of the actions of  
 2 Ken Paxton. Let me repeat that. Nate Paul got not a  
 3 single record based upon the action of Ken Paxton.  
 4 Fact 5: There were other records that  
 5 were released to Nate Paul and his lawyers, but they had  
 6 nothing to do with any action by Ken Paxton. Do you  
 7 follow me? Other records were released, but not at  
 8 Paxton's direction, suggestion, interference, what have  
 9 you.  
 10 Misuse of official information. The  
 11 allegation: Specifically, Paxton improperly obtained  
 12 access to information held by his office that had not  
 13 been properly disclosed for the purpose of providing  
 14 that information to the benefit of Nate Paul. That's  
 15 the allegation.  
 16 The facts are a little different. Fact  
 17 Number 1: Paxton did not illegally access any records.  
 18 Let me repeat that. Despite what the allegation is, he  
 19 never accessed any record illegally. It didn't happen.  
 20 As the attorney general, Paxton had every  
 21 right legally to access those records.  
 22 Fact 3: There's no evidence that Paxton  
 23 copied those records. I'm kind of getting -- getting  
 24 into the weeds with you here, but bear with me.  
 25 There's a fellow named Vassar that you'll

1 hear about. He had the file and is responsible for  
 2 maintaining that file. He gave those files to  
 3 Mr. Wicker, who Mr. Buzbee talked to you about.  
 4 Mr. Wicker is an aide that works with -- with Ken.  
 5 Wicker says he was never asked to copy  
 6 the file. I think the evidence is going to be pretty  
 7 overwhelmingly that Ken Paxton may be more  
 8 technologically challenged than me. So if anybody was  
 9 going to copy those files, it wouldn't be Ken Paxton.  
 10 I'm not even sure he had the code to the copy machine.  
 11 Paxton gives the file back to Wicker  
 12 after Wicker gave it to him. Wicker gives it back to  
 13 Vassar.  
 14 And there's no evidence that Paxton gave  
 15 those documents to Mr. Paul. There's this big  
 16 kerfuffle. And look, you're going to hear from a fellow  
 17 by the name of Dave Maxwell. Dave is 6-foot-6 without  
 18 the Stetson. You call Central Casting and ask them to  
 19 send you a Texas Ranger, and by God, they send you  
 20 Dave Maxwell. I'm a fan of Dave Maxwell generally  
 21 speaking, but Dave Maxwell did some things and said some  
 22 things that weren't true.  
 23 While he was being interviewed by the  
 24 House, he said, and I quote, Ken Paxton -- Ken Paxton  
 25 gave the file to Drew Wicker and he delivered it to

1 Nate Paxton (sic) in an alley in the dark of the night.  
 2 That's absolutely false. Maybe Dave was  
 3 just comfortable in his own skin and thought he could  
 4 stretch out his credibility. It's either a mistake or a  
 5 lie. I don't care. Whatever it was, was wrong. That  
 6 never happened.  
 7 Months later, Wicker gives an envelope to  
 8 Nate Paul. An envelope. But there's no evidence that  
 9 that envelope contained these celebrated documents. And  
 10 I suggest to you that these documents would have been  
 11 several inches thick, not two or three pages.  
 12 And it was -- I'll skip past that.  
 13 But at the time -- or really after the  
 14 time when the Board of Managers is claiming that  
 15 Nate Paul surreptitiously had these documents, his  
 16 lawyers are still suing in court to get the documents.  
 17 That makes no sense. Why would his lawyers still be  
 18 pursuing civil remedies, which they're entitled to do to  
 19 get these documents, if he already had the documents and  
 20 if he had gotten those documents from Ken Paxton?  
 21 That is dumber than a bucket of hair. It  
 22 makes no sense. They're just wrong. Maybe they had  
 23 good intentions. Maybe this was their belief for the  
 24 moment. But they're wrong.  
 25 Fifth allegation: Disregard of official

1 duty, the engagement of Brandon Cammack. It is: While  
 2 holding as office as attorney general, Ken Paxton  
 3 misused his official powers by violating the laws  
 4 governing the appointment of prosecuting attorneys pro  
 5 term -- or pro tem. We'll get into that. And Paxton  
 6 engaged Brandon Cammack, a licensed attorney, to conduct  
 7 an investigation into a baseless complaint -- that's the  
 8 allegation -- during which Cammack issued more than 30  
 9 grand jury subpoenas in an effort to benefit Nate Paul.  
 10 Whatever.

11 Here are the facts. Fact Number 1 is  
 12 Paxton has every legal right to hire Brandon Cammack.  
 13 We're going to get into the why, but he's got that right  
 14 under the Government Code.

15 You're going to hear a bunch of kerfuffle  
 16 about one of my favorite terms, the EAM, the executive  
 17 action memorandum. I'm sorry, but only in State  
 18 government could we come up with a phrase like the  
 19 executive action memorandum. What it really is, it's  
 20 policy. It's not the law. It's an internal policy  
 21 within the attorney general's office. It is not the  
 22 law.

23 Fact 2: Cammack was not an attorney pro  
 24 tem. Maybe that's a distinction without a difference,  
 25 but that's what they've alleged. And you would think

1 that these lawyers -- and the investigative committee  
 2 and the committee are full of lawyers, most of which, or  
 3 many of which, are ex-DAs -- an attorney pro tem is  
 4 appointed when the entire office has been disqualified.  
 5 This had nothing to do with that.

6 Brandon Cammack was hired, as the  
 7 documents say, as an outside counsel, but they've  
 8 alleged in their complaint he was an attorney pro tem.  
 9 He was not.

10 Fact 3, a baseless complaint. Here's the  
 11 funny thing about being a baseless complaint. They  
 12 forgot to tell Brandon Cammack about that. And we've  
 13 got a lot of people that have been hurt by these  
 14 allegations and the investigations. And I guess it  
 15 depends on your viewfinder on whose ox is getting gored  
 16 and whether you like Brandon Cammack or not. He got  
 17 absolutely skewered from the press. He was vilified by  
 18 the press. He was just taken to the woodshed. He was  
 19 beat like a rented mule by the press.

20 And all that young man was trying to do  
 21 was doing an investigation that the people who worked  
 22 for Ken Paxton wouldn't do. And guess what? No one  
 23 bothered to tell Mr. Cammack that it's a baseless  
 24 investigation. In fact, he was told by Ken Paxton the  
 25 same thing that Mark Penley was told by Ken Paxton, who,

1 parenthetically, I know and I like, but he didn't do  
 2 anything. But more importantly, the direction given to  
 3 Penley, the direction given to Cammack was the same:  
 4 Find the truth.

5 Let me repeat that. The direction that  
 6 Paxton gave him in this corrupt, invasive, corrosive,  
 7 bribery, kickback, horrible scheme, the direction he  
 8 gave Mark Penley who worked for him was exactly the same  
 9 direction he gave Brandon Cammack: Find the truth.

10 We're going to impeach a sitting attorney  
 11 general for giving the direction, Find the truth? Not  
 12 one person, not one piece of evidence will you hear  
 13 where they say lie -- where Ken Paxton told him to lie,  
 14 cheat, steal, shape, do whatever it takes. I just --  
 15 that didn't happen. That didn't happen.

16 And yet here we sit with 31 of you, with  
 17 15 of us and 15 or more of them, here we sit when the  
 18 allegation -- when the allegation is it's a corrupt --  
 19 when the truth is he said, Go find the truth. For God's  
 20 sakes, what are we doing here?

21 Oh, yeah, this baseless complaint that  
 22 Mr. Murr -- nice to meet you, sir -- that Mr. Murr  
 23 referred to, it wasn't a baseless complaint. The Travis  
 24 County DA's Office referred it to the AG's office, and  
 25 ultimately a second one to Brandon Cammack. It may not

1 be the greatest, sexiest complaint ever, but it wasn't  
 2 baseless.

3 Fact 4: No one bothered to tell  
 4 Brandon Cammack -- I think I've got a bit histrionical  
 5 about that.

6 And another one of my friends,  
 7 Johnny Sutton, former United States attorney, worked  
 8 under W, great lawyer, fine fellow. But these same  
 9 folks, the whistleblowers that are carping so much about  
 10 Ken Paxton and going outside counsel and doing all of  
 11 these ultra vires things, went to hire another lawyer.  
 12 They were trying to hire Johnny Sutton who, last I  
 13 checked, was an outside lawyer.

14 Now, you've got to be asking yourself:  
 15 Why is it that Paxton hired Cammack? Number 1, Paxton  
 16 believed in good faith that there had been misconduct.  
 17 Number 2, he asked his deputies to  
 18 investigate it. His -- his direction was simple: Seek  
 19 the truth. His staff did little to nothing in terms of  
 20 an actual investigation. He asked again; nothing really  
 21 happened. No one seemed to be interested in it at -- at  
 22 any of it. For two months it just sat there.

23 The one time where Ken Paxton comes to  
 24 Mark Penley and says, Hey, man, I would like you to look  
 25 at this, he does nothing. He does absolutely nothing.

1 Frustrated, he interviews outside lawyers and decided on  
2 Cammack.

3 And, again, he gave Cammack the same  
4 investigation -- or same instruction he gave  
5 Mark Penley: Find the truth. At no time did Paxton  
6 ever seek to impede, impair, obstruct.

7 Here is one of my favorite vignettes that  
8 you're going to see. Dave Maxwell, this 6-foot-6 Texas  
9 Ranger, iconic figure, he's going to come in and say he  
10 was asked to participate in an illegal investigation.  
11 Really, Ranger? It's an illegal investigation.

12 And on video, according to you, if you're  
13 world right -- if your world view is right, they ask you  
14 right there on videotape to participate in an illegal  
15 investigation, and you just sat there like a bump on a  
16 log. You didn't arrest anybody. You didn't make a  
17 note. You didn't cause anything to be filed. It was  
18 illegal, and you were asked to participate in it, and  
19 literally there you sat? This is our legendary one  
20 riot, one Ranger in action doing nothing? Really?

21 Paxton just wanted it investigated.

22 Mr. Buzbee stole a little bit of my  
23 thunder on these -- these letterhead issues, but the  
24 point might be worth stating again.

25 Who in the world do these people think

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1 they are? Honest to God, if your chief of staff came in  
2 and scraped your name off the letterhead and sent it  
3 out, how long -- how much longer do you think they would  
4 be working for you? They wouldn't be, and they  
5 shouldn't be.

6 Who in the world gave these people that  
7 idea? Who in the world told these people it was -- it  
8 was going to be okay? I bet you the evidence is no one.  
9 They took it upon themselves. They deputized themselves  
10 into some sort of Power Ranger team where they could  
11 just do whatever they wanted, scrape Ken Paxton's name  
12 off the -- off the letterhead and send these letters  
13 out.

14 Mr. Buzbee also talked to you about  
15 Michael Wynne's letter to Paxton, but I think it bears  
16 repeating. Under their world view, Wynne, who  
17 represents Nate Paul, writes a letter to Ken Paxton, his  
18 supposed co-conspirator, threatens to sue his  
19 co-conspirator, threatens to sue the Office of the  
20 Attorney General, alleging false statements made by  
21 Ken Paxton damaging Mr. Paul's reputation, claiming  
22 inappropriate coordination to undermine the  
23 investigation, alleging obstruction to present -- to  
24 prevent the Mitte Foundation investigation.

25 Literally bringing suit against one of

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1 his -- what in the real world would be a co-conspirator.  
2 What's next? A hired hit man suing for breach of  
3 contract when he doesn't get paid for the kill? Are you  
4 kidding me?

5 This makes absolutely no sense. None.  
6 And the reason it makes no sense is because there was no  
7 illegal relationship between Paxton and Paul.

8 Look, I get it. I understand why there's  
9 some eye rolls about Paxton doing things that most of  
10 you would think, I don't know about that. I don't know  
11 about that. But here is why Paxton was a little  
12 different.

13 These claims with Ken Paxton that make --  
14 Nate Paul was making, they resonated with him. I hear  
15 you. They very well may not have resonated with you,  
16 but I'll suggest to you, luckily, you haven't gone  
17 through what Ken Paxton has gone through for the last  
18 eight years. Let me repeat that: Eight years.

19 How do I know eight years? Because I  
20 have been by his side on that Texas State Securities  
21 fraud case. In that case, Paxton believed he had been  
22 the target of a wrongful prosecution, and here is why.

23 Number 1, it had been pending for six  
24 years at that point, back in 2020 when all of the fur  
25 was hitting the fan.

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1 PRESIDING OFFICER: Counselor, you have  
2 four minutes left.

3 MR. COGDELL: Yes, sir. Thank you.  
4 Number 2, the judge that presided over  
5 the --

6 MR. HARDIN: Excuse me. Excuse me.  
7 Objection. I believe -- I believe the Court has said  
8 all four of those, counselor, out of this trial. He  
9 doesn't get to start talking about the merits of it.

10 MR. COGDELL: No. I get to talk about  
11 his mindset.

12 MR. HARDIN: My objection is he shouldn't  
13 be talking about this at all based on the Court's ruling  
14 in the past.

15 MR. COGDELL: I'm talking about his --

16 MR. HARDIN: We are not -- we're not  
17 allowed to talk about it. How can he get up there in  
18 opening and give his version of it?

19 MR. COGDELL: I'm talking about General  
20 Paxton's mindset as to why these claims were resonating  
21 with him.

22 MR. HARDIN: He started talking about it,  
23 Judge. He's talking about the facts. I object.

24 PRESIDING OFFICER: Sustained.  
25 Continue.

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1 MR. COGDELL: Let me put it this way:  
 2 Ken Paxton was viewing things from a much different  
 3 viewfinder than you or I might have been viewing those  
 4 things through. And there's a reason why he was viewing  
 5 things differently through a different viewfinder than  
 6 you and I, because of what he had experienced. And it  
 7 wasn't what you and I have experienced for the last  
 8 eight years.

9 Let me get this through so I don't offend  
 10 Mr. Hardin any further. Sorry, Rusty.

11 Here is the difference between what the  
 12 House did and what you have to do. What you cannot do  
 13 is assume anything. What you must do is look through  
 14 the viewfinder of beyond a reasonable doubt.

15 Again, that is a much different process  
 16 than what the House did. Is there proof beyond all  
 17 reasonable doubt for you to convict Ken Paxton? And I  
 18 suggest to you it is crystal clear that there is not  
 19 evidence beyond a reasonable doubt.

20 I have one simple ask: Do the right  
 21 thing. I think the Senator that led us in prayer asked  
 22 for the Lord's help on that. Literally, do the right  
 23 thing. And the right thing is to vote not guilty.

24 Thank y'all for your time.

25 PRESIDING OFFICER: For the record, House

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1 Managers, you have 42 minutes and 34 seconds returned to  
 2 you.

3 And you have 1 minute and 17 seconds  
 4 returned to you.

5 Managers, before you call your first  
 6 witness, we need to deal with this motion with  
 7 Johnny Sutton.

8 Bailiff, will you bring Johnny Sutton  
 9 forward?

10 Members, we will resolve this motion, and  
 11 we'll take a short break after that.

12 Members, jurors, I'm going to let you  
 13 take your break now while we're handling this motion.  
 14 Be back at ten minutes before the hour of 3:00, 2:50.

15 Parties, I may be calling you to the  
 16 bench in a moment. I may be calling you to the bench  
 17 with Mr. Sutton in a moment.

18 Can we have silence? While you're moving  
 19 about is fine, if you can be silent, please.

20 (At the bench, off the record.)  
 21 (Recess from 2:36 p.m. to 3:15 p.m.)

22 PRESIDING OFFICER: Is Mr. Sutton still  
 23 here?

24 Bailiff, can you bring Mr. Sutton back?  
 25 (Mr. Sutton entered the chambers.)

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1 PRESIDING OFFICER: You can stop there.  
 2 I just wanted you to be in the room.

3 Counselor, Members, the Court received a  
 4 motion to quash a subpoena recently received by  
 5 Mr. Johnny Sutton, an attorney who represents several  
 6 potential witnesses in the case. Mr. Sutton filed a  
 7 motion to quash the subpoena so he may fulfill his legal  
 8 duties as an attorney representing the clients.

9 After considering the motion and  
 10 conferring with counsel for both parties, the Court  
 11 believes at this time Mr. Sutton's representation of his  
 12 clients would not prejudice his testimony, if any,  
 13 should he later be called a witness. Therefore, his  
 14 motion to quash is granted.

15 However, Mr. Sutton, the Court hereby  
 16 orders you to make a diligent search for any  
 17 non-privileged documents thorough, within the scope of  
 18 what was subpoenaed by the Attorney General to produce  
 19 those, if any. And the Court will want a response to  
 20 that search.

21 MR. SUTTON: Yes, Your Honor.

22 PRESIDING OFFICER: The Court will allow  
 23 a limited, limited, exception to the Rule, to the extent  
 24 necessary to represent your clients, including appearing  
 25 in the chamber during their testimony. You asked to be

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1 excluded from the Rule, but that would take a vote by  
 2 the entire body.

3 Though you may be present in the  
 4 courtroom for testimony of your clients, you may not  
 5 share information between clients. You may take your  
 6 designated seat.

7 Managers, please, call your first  
 8 witness.

9 MR. HARDIN: Your Honor, we call Mr. Jeff  
 10 Mateer.

11 PRESIDING OFFICER: Please bring  
 12 Mr. Mateer in.

13 (The witness entered the chambers.)

14 PRESIDING OFFICER: Mr. Mateer, I'll  
 15 remind you you're still under the oath you took earlier.  
 16 And to help the court reporters, clear yes and nos. No  
 17 head nods or uh-huh.

18 THE WITNESS: I'll do my best, sir.

19 PRESIDING OFFICER: Mr. Hardin, your  
 20 witness.

21 MR. HARDIN: Thank you.

22 Your Honor, before I start, could I ask  
 23 if it's permissible to ask the back of the room if they  
 24 can hear me? Since we've all had all these microphone  
 25 issues here, I want to make sure that -- that if I'm

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1 speaking into the microphone like this, can the rear of  
 2 the room hear me?  
 3 PRESIDING OFFICER: Can you hear,  
 4 Senators, jurors? Everyone can hear. Hands up.  
 5 They hear you clearly.  
 6 MR. HARDIN: All right. Thank you very  
 7 much.  
 8 JEFFREY MATEER,  
 9 having been first duly sworn, testified as follows:  
 10 DIRECT EXAMINATION  
 11 BY MR. HARDIN:  
 12 Q. State your name, please, sir.  
 13 A. I'm Jeff Mateer.  
 14 Q. Mr. Mateer, how old a man are you?  
 15 PRESIDING OFFICER: Hold on. That mic is  
 16 not on. You have to hit that button right there.  
 17 THE WITNESS: All right. Jeff Mateer.  
 18 Oh, gosh. I'm sorry. I apologize.  
 19 PRESIDING OFFICER: We heard you the  
 20 first and second time.  
 21 Go ahead.  
 22 A. I am 57.  
 23 Q. (BY MR. HARDIN) All right. Mr. Mateer,  
 24 you're somewhat a victim of my warning you to try to  
 25 speak up when we're talking privately. So I think the

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1 microphones have taken care of that. Okay?  
 2 A. Yes.  
 3 Q. And where do you live now?  
 4 A. I live in Rockwall.  
 5 Q. I'm going to ask you, in the interest of time,  
 6 if you would just give us maybe a minute and a half or  
 7 so, a little bit about your background, where you grew  
 8 up, family, professional career to where you got.  
 9 A. I actually grew up in central Pennsylvania.  
 10 And then I met a girl from Fort Worth and we were in DC  
 11 together when I was working on the Hill --  
 12 Q. You can go down a little bit, I think.  
 13 A. I'll pull back a little bit. How is that?  
 14 Q. That's good. All right.  
 15 A. We work -- I was working on the Hill for --  
 16 for first Tom DeLay and then Dick Armey. Met my wife.  
 17 She -- if we -- our relationship was going to continue,  
 18 it made it clear that our relationship was going to  
 19 continue in Texas. And so I went to SMU Law School. I  
 20 graduated from SMU Law School, and then after law  
 21 school, I went to Carrington Coleman for the first part  
 22 of my career.  
 23 Q. Carrington Coleman is a Dallas law firm; is  
 24 that right?  
 25 A. It's a large Dallas law firm, about 100

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1 lawyers when I was there, and that was approximately --  
 2 well, not approximately -- it was 1990.  
 3 Q. Stop there, and then I'll try to do a question  
 4 and answer now.  
 5 When you were at Carrington Coleman, were  
 6 you also involved in any kind of outside activities at  
 7 that time?  
 8 A. Yeah. I'd always -- since college, I'd always  
 9 been involved in Republican politics. And so I  
 10 started -- you know, did that in college. I was vice  
 11 president and treasurer of College Republicans. And  
 12 then even though -- I mean, anyone who's been an  
 13 associate at a law firm knows, at a large law firm, you  
 14 don't have a lot of time, especially if you have a  
 15 family, because I had a young family, but I still stayed  
 16 involved. And then I began to volunteer on religious  
 17 liberty cases.  
 18 Q. All right. Now, I'm going to ask you, we're  
 19 going to try to do kind of short answers. And I'll try  
 20 to jump in.  
 21 You're aware, as every witness is, that  
 22 we're working on a time clock here.  
 23 A. Okay. I'll do my best.  
 24 Q. That's -- that's just my fault. It's my job.  
 25 Don't you worry about it.

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1 A. Yeah.  
 2 Q. So any particular organizations from the time  
 3 of college or law school on that you belonged to?  
 4 A. Yeah. I was a member of Christian Legal  
 5 Society, starting in law school. And then in law school  
 6 also became a member of the Federalist Society.  
 7 Q. And very briefly, Federalist Society, how  
 8 would you describe it and what it is?  
 9 A. Federalist Society is predominantly  
 10 conservative and libertarian lawyers or -- or law  
 11 students who care about the rule of law and conservative  
 12 and libertarian policies.  
 13 Q. In addition to your political views on legal  
 14 issues and others, without getting into much detail  
 15 about it, how would you describe your -- your life and  
 16 your religion?  
 17 A. I mean, I -- I would describe myself as an  
 18 evangelical Christian.  
 19 Q. All right. And do you belong to a particular  
 20 domination?  
 21 A. I'm a member of a Baptist church.  
 22 Q. Okay. Are you a RINO?  
 23 A. Am I a RINO?  
 24 Q. Are you? Are you a RINO? Do you know --  
 25 wait, slow down.

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1 You understand the term, do you not?  
 2 A. Republican in Name Only, is the term.  
 3 Q. Yes. Would you give the jury a benefit of  
 4 your background of your political views?  
 5 A. Well, I mean I'm certainly far from right of  
 6 center. I was nominated by President Trump to be a  
 7 federal judge that --  
 8 Q. And your nomination wasn't --  
 9 A. My nomination was not successful after --  
 10 there was opposition from -- well, some liberal  
 11 Republicans and all Democrats.  
 12 Q. And the relevance here, I want to ask you  
 13 about, have you heard the suggestion that this  
 14 impeachment is really the product of RINOs, Liberals,  
 15 Democrats, people that are opposed to the true  
 16 conservative views? You've heard that, have you not?  
 17 A. I've heard that said, yes.  
 18 Q. All right. How would you apply that  
 19 description to yourself?  
 20 A. I mean, that doesn't describe the men and  
 21 women that I worked with on the eighth floor at the  
 22 Office of Attorney General.  
 23 Q. We're going to get to that in a moment. But  
 24 as far as you, yourself, are concerned, was one of the  
 25 issues that defeated your nomination comments, whether

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1 you made or didn't make, that had to do with transgender  
 2 politics?  
 3 A. Yeah. And I mean the comments involved me  
 4 speaking at a Baptist assembly in which I was alleged to  
 5 make comments that -- that people on the left perceived  
 6 to be anti-transgender.  
 7 Q. All right. Now, at the --  
 8 A. Now, I should say I didn't make the comments  
 9 that they said that I made, but that was the allegation.  
 10 Q. Well, what I really am asking you, Mr. Mateer,  
 11 in your life, how would you -- when you went to the  
 12 attorney general's office, how would you describe what  
 13 you believed in your politics, the mission of the  
 14 attorney general's office, and the profession you had  
 15 chosen?  
 16 A. Well, look, I've always been, since law school  
 17 and throughout my career, I believe wholeheartedly in  
 18 the rule of law. I mean, that's something that the  
 19 Federalist Society I think instills in people who are  
 20 members. But I believe in the rule of law, and I  
 21 believe in conservative policies and conservative  
 22 practice.  
 23 Q. And have you always been conservative, without  
 24 going into specific this issue or that issue, have you  
 25 viewed yourself very conservative on church?

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1 A. My -- my faith --  
 2 Q. You have to let me finish. You have to let me  
 3 finish.  
 4 A. Sorry.  
 5 Q. That's okay. It's not often that people like  
 6 me get a chance to --  
 7 A. Well, I'm in a different --  
 8 Q. Wait a second. You have to wait.  
 9 It's not often people like myself get a  
 10 chance to correct people who have been a chief of staff  
 11 of some organization, so I'm taking liberties with it.  
 12 Okay? And I'll stop you if you volunteer. Just let me  
 13 finish, and I'll try to let you finish.  
 14 I'm really -- in terms of social issues  
 15 in the political world of the day, on a scale of 1 to  
 16 10, how would you rank yourself?  
 17 A. Ten or 11.  
 18 Q. Okay. Now, after you -- did you go somewhere  
 19 else after Carrington Coleman in Dallas?  
 20 A. Yes. After Carrington Coleman a group of us  
 21 who were Carrington Coleman lawyers formed our law firm  
 22 called Rosenthal, Reynolds, Mateer & Shaffer.  
 23 Q. Where are you practicing now?  
 24 A. It -- where am I practicing now? First  
 25 Liberty Institute.

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1 Q. And what is First Liberty Institute?  
 2 A. It's a national religious liberty law firm.  
 3 It's actually the largest religious liberty law firm  
 4 in -- in America that's dedicated to defending religious  
 5 liberty.  
 6 Q. And indeed have y'all since -- at some time  
 7 recently, have you participated in several Supreme Court  
 8 cases?  
 9 A. Yes. Since I've been back, I came back in  
 10 October of 2020, we've had four Supreme Court cases,  
 11 including three very important precedent-setting cases.  
 12 Q. Well, were all -- were all of those cases  
 13 oriented to what one might say the religious right?  
 14 A. Yeah, I mean, the -- probably the most  
 15 infamous or famous one is Coach Joe Kennedy, the praying  
 16 football coach, who the school district up in Washington  
 17 fired him because he was kneeling at the 50-yard line  
 18 after a game. That case took eight -- eight years. We  
 19 just celebrated him returning to the football field this  
 20 last Friday.  
 21 Q. Now, I want to ask you why did you -- and were  
 22 you at First Liberty at the time you joined the attorney  
 23 general's office?  
 24 A. I was. I started at First Liberty in 2010. I  
 25 started at the Office of Attorney General in March of

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1 2016.  
 2 Q. What was your job when you started with the  
 3 attorney general's office?  
 4 A. I was First Assistant Attorney General.  
 5 Q. Have you heard -- have -- when did you first  
 6 meet Ken Paxton?  
 7 A. I was trying to -- you know, in thinking about  
 8 that, I -- I would have met Mr. Paxton sometime prior to  
 9 probably starting at First Liberty. And I would have  
 10 been introduced by Kelly Shackelford.  
 11 Q. And at the time that you began with the  
 12 office, what time of year was it?  
 13 A. What time of year?  
 14 Q. What year?  
 15 A. That was March of 2016.  
 16 Q. And by that time, how long had you known  
 17 Mr. Paxton before you began?  
 18 A. I would guess it would have been probably  
 19 almost 10 years, certainly of him. I didn't know him  
 20 well, but I would have known of him those 10 years.  
 21 Q. Who hired you?  
 22 A. Mr. Paxton.  
 23 Q. In what way? Did you meet with him? Did he  
 24 call you? How did it happen?  
 25 A. He -- he actually approached me a few months

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1 before March and had asked me if I would consider coming  
 2 to -- to Austin. I told him I -- I didn't want to come  
 3 to Austin. Quite frankly I -- I had my dream job being  
 4 general counsel at First Liberty. Today I have my dream  
 5 job.  
 6 Q. So is the answer you -- he asked you to join  
 7 him in Austin?  
 8 A. He did.  
 9 Q. Okay.  
 10 A. Well, and we -- you know, I went home and --  
 11 and I agreed. He asked me to pray about it. And my  
 12 wife and I did pray about it. And we felt like we were  
 13 supposed to come down here.  
 14 Q. All right. And then have you ever heard him  
 15 suggest in public announcements and descriptions and  
 16 defenses of his -- of his charges or so that he hardly  
 17 knew you guys?  
 18 A. That he what?  
 19 Q. That he hardly knew you.  
 20 A. That he --  
 21 Q. If we were to say that he hardly knew you,  
 22 would that be accurate?  
 23 A. I think --  
 24 Q. You always, always, always have to let me  
 25 finish.

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1 A. I'm sorry.  
 2 Q. That's okay.  
 3 Would that be accurate or inaccurate?  
 4 A. It would be inaccurate.  
 5 Q. All right.  
 6 A. I think he knew me very well.  
 7 Q. All right. Now, after he hired you, when you  
 8 went on, I want to talk to you about the senior staff at  
 9 the attorney general's office. Okay? And I have a  
 10 diagram here I want to put up, and I want to try to do  
 11 this briefly. And that is a diagram of the --  
 12 MR. HARDIN: Would you put the exhibit up  
 13 for me, please? Thank you. I'll give it to the other  
 14 side. Thank you.  
 15 Q. (BY MR. HARDIN) Now, I'm going to try to go  
 16 briefly, real quickly through this.  
 17 PRESIDING OFFICER: Counselor?  
 18 Q. (BY MR. HARDIN) But what I'm after here is --  
 19 PRESIDING OFFICER: Counselor?  
 20 MR. HARDIN: Excuse me.  
 21 PRESIDING OFFICER: Are you offering this  
 22 as an exhibit to put in evidence --  
 23 MR. HARDIN: As a demonstrative --  
 24 PRESIDING OFFICER: -- to put in  
 25 evidence?

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1 MR. HARDIN: Excuse me. Just as a  
 2 demonstrative exhibit for him to just talk about.  
 3 PRESIDING OFFICER: Okay.  
 4 Q. (BY MR. HARDIN) If you could, would you tell  
 5 the jury -- and I want to try to do this briefly and  
 6 move pretty quickly. Okay?  
 7 If you could tell -- tell the jury how  
 8 this describes what the roles of each were. I want to  
 9 go -- for instance, your immediate below you was who?  
 10 A. Well, below -- below me, not to the side?  
 11 Q. Right.  
 12 A. Below me are the deputies.  
 13 Q. Yes.  
 14 A. So the way the Office of Attorney General was  
 15 organized when I was there and when I came in is there  
 16 were divisions. So it starts on the left with Ruth  
 17 Anne Thornton, who would have been director of child  
 18 support. And it goes all the way across to  
 19 Darren McCarty, who would have been the deputy attorney  
 20 general for civil litigation. And everybody in between,  
 21 Lacey Mase, deputy for administration; Mark Penley,  
 22 deputy for criminal justice.  
 23 Q. I think it will be important to understand  
 24 your testimony as we go along.  
 25 Do each of these division heads have

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1 particular responsibilities of their own?  
 2 A. They do. I mean, they -- they run a division  
 3 in the attorney general -- the attorney general's office  
 4 is 4,200 employees, approximately 800 lawyers. And so  
 5 spread out on this chart that's before us are the  
 6 various divisions of the office.  
 7 Q. All right. Thank you.  
 8 So over -- over to the right, or your  
 9 left as we look at this chart, but to the right on the  
 10 chart, Mr. Bangert, what was his responsibility?  
 11 A. So Ryan Bangert was the deputy first  
 12 assistant, so he --  
 13 Q. Now, let me ask you this: If one were to  
 14 describe where he comes down on the political scale --  
 15 liberal, moderate, conservative -- obviously each of  
 16 these are Republican, are they not?  
 17 A. As far as I know, each of them are  
 18 Republicans, yes.  
 19 Q. All right. And Mr. Bangert, how would you  
 20 describe his background and his views in terms of the  
 21 way he dealt with issues that affect people in this  
 22 country?  
 23 A. Mr. Bangert has similar views to mine.  
 24 Q. All right.  
 25 A. A person of faith who is also a very, very

1 good lawyer. He worked for Josh Hawley in Missouri. He  
 2 had been a partner at Baker Botts. That very much  
 3 aligns with me and, quite frankly, all of our  
 4 leadership.  
 5 Q. And then if you go to your -- to the right of  
 6 you on the chart, to the left of us as we look at it,  
 7 who is that?  
 8 A. That's Missy Cary, and she -- she is a career  
 9 OAG. Actually her father was a deputy attorney general.  
 10 And she -- the joke was Missy grew up at the Office of  
 11 Attorney General.  
 12 Q. Do you have any evidence that she's a member  
 13 of the deep state?  
 14 A. She's not a member of the deep state. She  
 15 cares deeply about the Office of Attorney General and  
 16 the State of Texas.  
 17 Q. Now, if we look at -- if we look at the  
 18 different persons here, there's been a lot of talk about  
 19 the whistleblowers, obviously. You would be one, are  
 20 you not?  
 21 A. I'm one of the eight who signed the letter.  
 22 Q. However, when we hear about the whistleblower  
 23 lawsuit, did you file a lawsuit?  
 24 A. I did not file a lawsuit.  
 25 Q. So as you sit there now, do you have any

1 litigation pending against the attorney general's  
 2 office?  
 3 A. I do not.  
 4 Q. Okay. Do you know whether Mr. Bangert filed a  
 5 lawsuit?  
 6 A. He did not.  
 7 Q. Are both of you among the eight that sent a  
 8 letter to the attorney general announcing what you had  
 9 done, and after you had been to the FBI on September  
 10 the 30th of 2020 -- 2020?  
 11 A. Yes.  
 12 Q. Pardon me?  
 13 A. Yes.  
 14 Q. Okay. Now, as we go forward real quick,  
 15 what's the background of Mr. Brickman?  
 16 A. Yeah. So Mr. Brickman, he served as Deputy AG  
 17 for policy and strategic initiatives. The attorney  
 18 general and I recruited him into the office. He had  
 19 been chief of staff for Governor Bevin, who is the  
 20 Republican governor in Kentucky. And he had lost --  
 21 Q. And excuse me, and widely known as a very  
 22 conservative governor of Kentucky?  
 23 A. Governor Bevin was one of the most  
 24 conservative governors in the country.  
 25 Q. All right. Go ahead.

1 A. And I had met Blake the first time at -- I had  
 2 mentioned Federalist Society. One of the things that  
 3 Federalist Society did is they brought together  
 4 leadership from governors' offices and AG offices.  
 5 Q. And, Mr. Mateer, were each of you very active,  
 6 not just in your states, but nationally, in conservative  
 7 Republican politics, many of which considered the  
 8 evangelical movement?  
 9 A. Yes, we were.  
 10 Q. All right. And then who hired Mr. Brickman?  
 11 A. Well, ultimately the attorney general hired  
 12 Mr. Brickman, but on my recommendation.  
 13 Q. All right. And then if we go further, we have  
 14 Mr. Maxwell there. Mr. Maxwell was there when you got  
 15 there, correct?  
 16 A. Yeah. Mr. Maxwell -- the way deputies is on  
 17 the eighth floor, there's a conference room.  
 18 Mr. Maxwell would sit to my right. He was the director  
 19 of law enforcement.  
 20 Q. And he -- and he actually had been there quite  
 21 some time and had a career before you ever arrived,  
 22 correct?  
 23 A. Yeah. I think he approaches 50 years of law  
 24 enforcement. He's actually in the Texas Ranger Hall of  
 25 Fame.



1 Q. Mark Penley, who is he?  
 2 A. So Mark Penley came in after I came in. We  
 3 had an opening for deputy attorney general of criminal,  
 4 and we -- we -- interviewed several people. Mr. Penley  
 5 had known Mr. Paxton for years. I think they had been  
 6 friends for over 20 years. They actually practiced  
 7 together at a Dallas law firm known as Strasburger &  
 8 Price.  
 9 Q. Excuse me. Mr. Penley was also a career  
 10 federal prosecutor?  
 11 A. He was, after he was -- I think he was an  
 12 associate at Strasburger & Price, and then he went to  
 13 the U.S. Attorney's Office in Dallas.  
 14 Q. On the scale of -- of 1 to 10, where would you  
 15 yourself write Mr. Penley in terms of conservative  
 16 versus moderate?  
 17 A. Again, I put him with as the same as me and  
 18 Bangert. I mean, he's at the end of the spectrum.  
 19 Q. Mr. Maxwell, who we talked about, is one of  
 20 the ones who filed a lawsuit, correct?  
 21 A. Right.  
 22 Q. And then Mr. Penley is one who did file a  
 23 lawsuit, correct?  
 24 A. That's my understanding, yes.  
 25 Q. So -- so thus far -- and Mr. Brickman filed a

1 lawsuit, right?  
 2 A. Yes.  
 3 Q. We've talked about five of the whistleblowers  
 4 so far. Two who had not -- did not file a lawsuit and  
 5 three who did; is that correct?  
 6 A. That's correct.  
 7 Q. And then to the right of Mr. Penley, who is  
 8 that?  
 9 A. That's my left, your right, Ryan Vassar.  
 10 Q. All right.  
 11 A. And --  
 12 Q. What do you know about the background of  
 13 Mr. Vassar?  
 14 A. Ryan Vassar was a protege of Brantley Starr,  
 15 now Judge Brantley Starr. Mr. Vassar had clerked for  
 16 Don Willett and came to the Office of Attorney General  
 17 after his clerkship. And he really, Brantley --  
 18 Judge Starr took him under his wing. And he quickly  
 19 established himself as one of the smartest go-to  
 20 hardworking young lawyers in the agency.  
 21 Q. And then Lacey Mase?  
 22 A. Yeah. Lacey is another person. She actually,  
 23 I think, started as an elementary schoolteacher and then  
 24 went to law school. She was identified by the former  
 25 deputy for civil litigation, Jim Davis, as a rising

1 star.  
 2 Q. And she had -- she had -- also did not join  
 3 the lawsuit?  
 4 A. She did not file a lawsuit, no.  
 5 Q. All right.  
 6 A. She's currently deputy attorney general of  
 7 Tennessee.  
 8 Q. She's the number two person in the State of  
 9 Tennessee now, is she not, in the Tennessee Attorney  
 10 General's Office?  
 11 A. She is sir, yes.  
 12 Q. Okay. After this is all over, were you aware  
 13 she could not find a job anywhere in government in -- in  
 14 Texas?  
 15 A. I had heard that, yes.  
 16 Q. All right. So to finish up with this  
 17 particular subject. Now that we've looked at who  
 18 everyone was, to your knowledge when each of these  
 19 people joined the attorney general's office here in the  
 20 State of Texas, how did they -- what would -- what  
 21 would -- how would you describe their mission in terms  
 22 of their devotion to the same things the attorney  
 23 general spoke very broadly or widely about?  
 24 A. Yeah. What all of these individuals have in  
 25 common -- again, I told you, I'm a Baptist. So I try --

1 I think of three Cs. Okay. And the three Cs are  
 2 calling, character, and competence.  
 3 Q. And what is calling? What do you mean by  
 4 that?  
 5 A. Calling, and I know that --  
 6 Q. Wait. I actually had just --  
 7 A. I'm sorry.  
 8 Q. -- two more words, if you just waited another  
 9 few seconds.  
 10 All right. But what do you mean by  
 11 "calling"?  
 12 A. Okay. I know calling sounds like a spiritual  
 13 term, but for me it's really mission. And it's  
 14 commitment to the mission. And so when you're looking  
 15 for people, certainly in leadership positions, whether  
 16 it's at the Office of Attorney General or my current job  
 17 at First Liberty, the first thing I want in someone is  
 18 someone committed to the -- committed to the -- to the  
 19 mission. They're passionate about the mission.  
 20 Q. And what were you committed to about  
 21 serving -- serving as the first assistant for  
 22 Ken Paxton's attorney general's office?  
 23 A. We were committed to the rule of law and to  
 24 conservative governance.  
 25 Q. What's the second C?

1 A. The -- the second C is competence. So it's  
 2 one thing to be passionate. Like, I'm passionate about  
 3 baseball, but I could never have played in the major  
 4 leagues. All right. But I'm passionate about it, but  
 5 I'm not competent. So in addition to having passion,  
 6 you've got to have competence. You've got to be the  
 7 best. And I always felt like, whether it's at First  
 8 Liberty, I want the best at the Office of Attorney  
 9 General. In senior leadership, you want lawyers who are  
 10 skilled. People who are the best in their profession.  
 11 Q. So the third C?  
 12 A. Is character. Because of the  
 13 responsibilities, you have to have men and women who  
 14 have integrity. And I actually would share this with  
 15 new employees at the office because this is what -- this  
 16 is what we wanted. You know, in someone at the Office  
 17 of Attorney General, you wanted -- you wanted passion.  
 18 You wanted competence, excel -- and you wanted  
 19 character.  
 20 Q. Mr. Mateer, in 2015, when you joined the Texas  
 21 Attorney General's Office, 2017, 2018, did you feel that  
 22 office was in sync with the views you've just been  
 23 expressing?  
 24 A. I think that -- I think it was.  
 25 Q. And in 2018 and 2019, did you think that

1 office was in sync with the values that you've been  
 2 describing?  
 3 A. I believe so, yes.  
 4 Q. All right. At that time did you believe in  
 5 Ken Paxton and all he was saying?  
 6 A. Absolutely. And I believed that  
 7 General Paxton also possessed these characteristics. I  
 8 wouldn't have come to Austin had I not believed he was a  
 9 true believer.  
 10 Q. All right. Did you ultimately change your  
 11 opinion? And all I want is a yes or no.  
 12 A. I did.  
 13 Q. All right. Let's take you on that road.  
 14 When is the first time that you ever  
 15 met -- and you will find me doing that a lot. I'm not  
 16 used to it, but I'm going to do it a lot.  
 17 When is the first time you met Nate Paul?  
 18 A. I've never met Nate Paul.  
 19 Q. Oh, never?  
 20 A. Never.  
 21 Q. When is the first time you heard his name?  
 22 A. I've been trying to think about that. It had  
 23 to have been sometime in 2020.  
 24 Q. Do you have any reason to believe when it was?  
 25 A. Well, I -- I've recently seen an e-mail

1 highlighting a public information request that I believe  
 2 was sent at the end of 2019. It's possible that in  
 3 early 2020, I heard the name the first time. But  
 4 sitting here, my best recollection is I don't recall  
 5 hearing his name until probably sometime in the  
 6 spring --  
 7 Q. All right.  
 8 A. -- of 2020.  
 9 Q. So there was a -- I think no one is going to  
 10 quarrel with the idea that on August the 14th, 2019,  
 11 this man that you still never met, Nate Paul, had a -- a  
 12 search warrant executed on his house and business, four  
 13 different locations, by a combined task force of -- of  
 14 different agencies: Department of Public Safety,  
 15 Securities, FBI, all on his house.  
 16 I don't think the -- there's going to be  
 17 any question that he strongly objected and vociferously  
 18 opposed what had happened and what he continued was the  
 19 way. Do you have any -- or did you have any memory of  
 20 noticing anything about that in the year 2019?  
 21 A. I -- I do not remember noticing that, no, sir.  
 22 Q. So let's go, then, to the circumstance in  
 23 which you would have first --  
 24 MR. HARDIN: If I could, let me -- if I  
 25 could, I -- I move to introduce Exhibit 628.

1 Do you have the ability to show it to the  
 2 president and the legal advisor? If not, you'll give a  
 3 hard copy?  
 4 Before I move to introduce it, I'm going  
 5 to ask if -- if you would look at it and see -- yeah,  
 6 you don't have it, so I'm going to move it to you.  
 7 May I give him a copy of this, Your  
 8 Honor, for him to look at?  
 9 PRESIDING OFFICER: Yes.  
 10 MR. HARDIN: A hard copy. I'm trying not  
 11 to put it on the screen for him.  
 12 MR. BUZBEE: I would like to have a copy.  
 13 PRESIDING OFFICER: Any objection?  
 14 MR. BUZBEE: I haven't seen it.  
 15 Q. (BY MR. HARDIN) I have -- I want you to look  
 16 at it and see, do you -- you receive fundraising e-mails  
 17 from the attorney general?  
 18 A. You know, I actually am on -- I think my  
 19 personal e-mail does get e-mails from Mr. Paxton.  
 20 Q. I want you to look at this very quickly and  
 21 see if you have received a fundraiser e-mail like this.  
 22 A. I believe I have, yes.  
 23 MR. HARDIN: I move -- I move to  
 24 introduce 628, Your Honor.  
 25 MR. BUZBEE: Objection. Relevance. This

1 appears to be from June 23 -- Your Honor, this is a --  
 2 it appears to be an e-mail from Ken Paxton in June of  
 3 2023, which would have no relevance to this proceeding.  
 4 MR. HARDIN: Oh, I -- I think we're now  
 5 into the month of September, so it's in the past. And  
 6 it's relevant as to who he says is behind all of why we  
 7 are right here, right this moment. And I just simply  
 8 want to ask this witness if he feels that he -- if this  
 9 would accurately describe him as somebody that is here  
 10 testifying about the attorney general.  
 11 MR. BUZBEE: Again, Your Honor, this man  
 12 left the office in October of 2020. This is years  
 13 later. Has no relevance.  
 14 PRESIDING OFFICER: Sustained.  
 15 MR. HARDIN: Excuse me?  
 16 PRESIDING OFFICER: I sustained his  
 17 objection.  
 18 MR. HARDIN: Okay.  
 19 Q. (BY MR. HARDIN) You can put that aside.  
 20 Thank you.  
 21 Now, let me ask you this: Are you  
 22 opposed to a radical transgender agenda?  
 23 MR. BUZBEE: Your Honor, objection from  
 24 reading from a document you just said was not to go into  
 25 evidence.

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1 MR. HARDIN: I'm just simply asking about  
 2 a phrase. It is free -- I got it from him, but I can  
 3 put this down and do it.  
 4 PRESIDING OFFICER: It's best you put it  
 5 down.  
 6 MR. HARDIN: Thank you very much.  
 7 Q. (BY MR. HARDIN) Do you find yourself an  
 8 advocate -- an advocate one way or the other of a  
 9 radical transgender?  
 10 A. Transgender -- I mean, we represented people  
 11 at First Liberty who have been persecuted because they  
 12 had views that are described as being anti-transgender.  
 13 Q. All right. Now, at the end of that, I want to  
 14 go to January of 2020. Did you receive at that time --  
 15 MR. HARDIN: I want to show Exhibit 559,  
 16 I move to introduce.  
 17 MR. BUZBEE: Your Honor, I think this  
 18 tees up the privilege issue right here. We're going to  
 19 have to decide it at some point.  
 20 MR. HARDIN: I have no idea what that  
 21 objection meant.  
 22 MR. BUZBEE: Objection. Privilege. I  
 23 mean, this is communications in the office between  
 24 lawyers, and the privilege is held by the attorney  
 25 general.

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1 MR. HARDIN: I would suggest it has  
 2 nothing to do with legal advice in any way. It doesn't  
 3 become magically a privilege just by the fact that two  
 4 lawyers are on the e-mail.  
 5 MR. BUZBEE: Actually, Your Honor, if you  
 6 look -- if you look carefully at the document, it's  
 7 absolutely related to the legal advice reconsideration  
 8 of -- of some sort of opinion.  
 9 MR. HARDIN: Your Honor --  
 10 MR. BUZBEE: That's right in the strike  
 11 zone of what legal advice is.  
 12 MR. HARDIN: Excuse me. Is he tendering  
 13 an objection, if I may ask, on behalf of the attorney  
 14 general's office? This is an exhibit submitted to us by  
 15 them.  
 16 PRESIDING OFFICER: Objection overruled.  
 17 Continue.  
 18 Q. (BY MR. HARDIN) All right. Now, if you  
 19 would, tell -- tell the Court real quickly what this is.  
 20 It should be on.  
 21 A. I'm not seeing it -- oh, now I see it.  
 22 Q. Yes.  
 23 A. This is an e-mail that was sent from me to  
 24 Ryan Bangert unfortunately on January 1st, 2020, at  
 25 9:01 a.m.

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1 Q. Yeah. Is that y'all's normal practice there,  
 2 when you were there to be working on the first day of  
 3 the year at 9:00 in the morning?  
 4 A. You know --  
 5 Q. Yes or no?  
 6 A. Yes.  
 7 Q. Okay. Now, did he have a little bit more  
 8 restraint and wait to respond to you the next day?  
 9 A. Yes.  
 10 Q. Okay. Now, in this particular -- in this  
 11 particular e-mail, did you do anything with this  
 12 afterwards? Did you just simply forward it to him and  
 13 that was it?  
 14 A. The issue apparently was highlighted to me,  
 15 something we need to take a look at, and I would have  
 16 sent it on to Mr. Bangert for him to -- to deal with.  
 17 Q. Do you know now from looking at it what the  
 18 issue was?  
 19 A. I mean, I do know the issue had to do with the  
 20 public information request made by Mr. Paul and/or his  
 21 attorneys.  
 22 Q. All right. And so do you -- but had you been  
 23 involved in that at all or -- hold on.  
 24 Would Mr. Bangert be the better person to  
 25 discuss that with?

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1 A. Mr. Bangert would be the better person.  
 2 Q. As you sit there now, was this something at  
 3 that time that you got involved in one way or the other?  
 4 A. It was not on -- no.  
 5 Q. Had the issue of the public information  
 6 request having to do with law enforcement exceptions,  
 7 had that worked its way to your desk yet at that time?  
 8 A. Not that I recall. I think this was the first  
 9 time.  
 10 Q. All right. So who would be -- at that time  
 11 who would have been responsible in the attorney  
 12 general's office for the issue of public information  
 13 requests?  
 14 A. Justin Gordon.  
 15 Q. Pardon me, Justin Gordon?  
 16 A. Justin Gordon.  
 17 Q. And then if we went up the chain, who was  
 18 above him? Do you recall?  
 19 A. Above him would have been -- I believe it goes  
 20 to -- memory test. I believe it goes to -- for me, it  
 21 would have been Ryan Bangert ultimately who is  
 22 overseeing it.  
 23 Q. And indeed so when you got that request, when  
 24 it says Aaron Borden, were you able to determine --  
 25 determine who that was, in terms of her position or

1 context of why you sent the e-mail?  
 2 A. Well, what I saw was Meadows Collier. And  
 3 based on upon the statement that I made, we've been  
 4 asked to take a closer look at this one. That means  
 5 someone asked me to take a closer look at this one.  
 6 Q. All right. And did you ultimately determine  
 7 it had to do with a public information request by  
 8 attorneys on behalf of Mr. Paul, Nate Paul?  
 9 A. Yeah.  
 10 Q. All right. Now, is all you did was just send  
 11 it on to Ryan Bangert? Was that all you did with it?  
 12 A. That's all I did.  
 13 Q. Does that help explain in your mind why you  
 14 don't really remember anything about it?  
 15 A. Until seeing this and getting ready for today,  
 16 I don't recall.  
 17 Q. Okay. All right. Now, when is the next time  
 18 that you remember ever hearing the name Nate Paul?  
 19 A. I really think it was June of 2020.  
 20 Q. All right. So we are in June of 2020, are we?  
 21 And what was the circumstance in which you did that?  
 22 A. I think that's when -- is -- is the first time  
 23 I was introduced to an entity called the Mitte  
 24 Foundation. I think that's the name, Mitte Foundation.  
 25 Q. All right.

1 MR. HARDIN: Now, I'm going to move to  
 2 introduce at this time, Your Honor, Exhibit 62.  
 3 PRESIDING OFFICER: Before you do that, I  
 4 want to admit Exhibit 559 that I ruled on into evidence.  
 5 MR. HARDIN: Thank you very much.  
 6 MR. BUZBEE: No objection to this  
 7 document.  
 8 PRESIDING OFFICER: It will be admitted  
 9 into evidence.  
 10 (HBOM Exhibit 559 admitted.)  
 11 MR. HARDIN: Thank you, Your Honor.  
 12 Q. (BY MR. HARDIN) What would you -- what do  
 13 you -- could you tell the jury very briefly what this  
 14 document is?  
 15 A. Okay. This is an executive approval memo  
 16 regarding -- and I think -- I can't move it. But I  
 17 think it's regarding a -- there we go. It's regarding a  
 18 request to intervene into a legal matter.  
 19 Q. All right. Now, let's -- I'm going to try to  
 20 move this -- through this quickly. If we -- can you  
 21 very briefly describe the process for a particular --  
 22 that would call for a litigation memorandum like this?  
 23 A. Yes. So anytime we're going to approve some  
 24 sort of action, if it's filing a lawsuit or it's  
 25 intervening into a lawsuit, we had in place a process in

1 which the -- a lawyer in a division -- so in this case  
 2 it looks like Mary Henderson, who it's from, would  
 3 request an action. And in this action we want to  
 4 intervene into this lawsuit.  
 5 So this memo sets forth the reasons why  
 6 the Office of Attorney General should intervene into a  
 7 matter. It then goes up the chain of command. So it  
 8 goes up to her division chief, which in this case would  
 9 have been Josh Godbey, who was chief of -- I think it  
 10 was financial trust and -- or financial transactions and  
 11 charitable trusts.  
 12 Q. And then it goes up to who?  
 13 A. And then it goes up to the deputy over civil  
 14 litigation, who is over all the -- the divisions of  
 15 litigation, and then ultimately would go up to me.  
 16 And the way the DocuSign system works is,  
 17 if Mary signs it, then it goes to Mr. Godbey. If  
 18 Mr. Godbey doesn't sign it, Mr. McCarty doesn't see it.  
 19 Once Mr. Godbey signs it, it goes to McCarty. Once  
 20 McCarty signs it, it would come to me.  
 21 Q. All right. So this is important, Mr. Mateer.  
 22 I want it because there would be another occasion for  
 23 this same process. How is the decision made as to who  
 24 all is on this executive -- this executive memorandum?  
 25 A. We actually have a signature matrix, and

1 depending on what the issue was --  
 2 Q. Okay.  
 3 A. -- we -- we had -- and these were in place  
 4 when I came in. And I -- and my understanding is they  
 5 date back to at least when Governor Abbott was attorney  
 6 general, maybe even further back.  
 7 Q. All right. Just this process that requires  
 8 everybody in the division and then up to you to pass off  
 9 on it, is designed to do what?  
 10 A. Well, I mean the policies and procedures are  
 11 there to actually protect us all, and ultimately protect  
 12 the agency, and also protect the attorney general.  
 13 Q. All right. So in this particular case,  
 14 Ms. Henderson is recommending the intervention in a  
 15 lawsuit; is that right?  
 16 A. That's correct.  
 17 Q. And what -- and the lawsuit says the public  
 18 interests in a charity, correct?  
 19 A. That's right.  
 20 Q. In that recommendation, what would have  
 21 happened if Joshua Godbey, the person right above her in  
 22 the DocuSign matrix, if he said no, does that kill it?  
 23 A. If he says no, it kills it. And I would only  
 24 hear about it if someone brought it to me.  
 25 Q. So are we to understand that if Mary Henderson

1 sent this recommendation above and it got to  
 2 Joshua Godbey, and if he said yes, then it would go to  
 3 Mr. McCarty. But if he said no, that's it?  
 4 A. That's correct.  
 5 Q. Okay. So in some actions that are being  
 6 recommended, how many people is your -- was your system  
 7 designed to work through before it got to you for  
 8 approval?  
 9 A. Well, in this case, three. In some other  
 10 situations, it's even more people.  
 11 Q. Okay. We're going to get to one that has to  
 12 do with hiring outside counsel in a while. That had a  
 13 lot more people that had to go through here, correct?  
 14 A. That's correct, because we were spending  
 15 money.  
 16 Q. All right. That's adding people?  
 17 A. Yes. One of the reasons, yes.  
 18 Q. And it would also add people across two  
 19 different divisions' jurisdiction?  
 20 A. Correct.  
 21 Q. All right. So here on this one, at the time  
 22 of this one, you signed off and approved it, did you  
 23 not?  
 24 A. I did.  
 25 Q. So you approved -- put your approval on here

1 meant, though, your people were given permission to do  
 2 what in a lawsuit involving this charity?  
 3 A. It gave permission for them to intervene in  
 4 that lawsuit on behalf of the charity.  
 5 Q. At this moment on June 6th -- or is that 8? I  
 6 didn't put my glasses on. Is that 6/8?  
 7 A. I think it's -- it looks like the 8th.  
 8 Q. All right. At that time on June 8th of 2020,  
 9 what was the extent of your knowledge about the  
 10 particular issuing lawsuit that you were approving an  
 11 intervention on?  
 12 A. It is possible that Mr. McCarty had told me  
 13 about it, that -- and sometimes deputies would give me  
 14 heads-up that something was coming. And so I -- what  
 15 I -- what -- the best recollection is I probably  
 16 would've gotten that heads-up -- yeah, I would have  
 17 gotten the heads-up.  
 18 Q. Would you be aware that the line people in the  
 19 past had waived intervention and made an affirmative  
 20 decision not to intervene in that lawsuit?  
 21 A. I don't think I was aware of that at this  
 22 time.  
 23 Q. All right. Were you aware that the lawsuit  
 24 was a lawsuit between the charity and an entity  
 25 controlled by Nate Paul?

1 A. You know, I don't know if I -- I don't  
 2 remember.  
 3 Q. At this time, in June of 2020, had you become  
 4 aware at any level of consciousness in your mind of  
 5 Nate Paul?  
 6 A. Not in early June. I don't think so.  
 7 Q. All right. So we can safely rest assured that  
 8 whatever you're going to tell this jury today is based  
 9 on information that you got after June 8th of 2020?  
 10 A. I think -- that's correct, sir.  
 11 Q. All right. So were you aware of any issue at  
 12 the time you approved the intervention yourself at this  
 13 time that would have clued you to how strongly opposed  
 14 to this intervention the people who represented the  
 15 charity were?  
 16 A. I -- I don't recall any of that, no.  
 17 Q. All right. Now, you see that this -- I don't  
 18 want to go into it, but you'll see there are multipages  
 19 here. Do you recall you would have -- whether or not  
 20 you would have read through these, or would you have  
 21 simply relied on the line worker that recommended it?  
 22 A. Well, actually two answers. I would have  
 23 relied on the people, but I also did read it.  
 24 Q. Okay. Now, what did you think that y'all were  
 25 doing in this and why you were intervening in this

1 lawsuit?

2 A. I thought, based upon Ms. Henderson,

3 Mr. Godbey, and Mr. McCarty's recommendation, this was

4 in the interest of the State of Texas to intervene into

5 this lawsuit.

6 Q. Did you have any idea at that time whether

7 Mr. McCarty thought it was a good idea?

8 A. I assumed since he sent this memo he did.

9 Q. Were you aware one way or the other as to

10 whether Mr. Paxton had any input in this decision?

11 A. I was not aware, no. And that wouldn't be

12 uncommon.

13 Q. It wouldn't be. That would what?

14 A. It would not be -- because the Office of

15 Attorney General, when I was there it was over 30,000

16 litigation matters, cases, civil matters.

17 Q. Mr. --

18 A. I didn't know about every one, and there's no

19 way the attorney general could.

20 Q. So let me ask you: At this time were you

21 aware one way or the other whether Mr. Paxton was in

22 contact with both Mr. Godbey and Mr. McCarty urging this

23 intervention?

24 A. In June I don't think I was aware of that.

25 Q. Okay. Did you later become aware --

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1 A. In July, I became aware of that.

2 Q. All right. But at this time no, correct?

3 A. Not in -- not in early June, no, I don't

4 believe so.

5 Q. All right. Now, are you aware -- have you

6 ever dealt with a charitable trust to understand what

7 the obligation of the attorney general's office was

8 towards a charitable trust?

9 A. I mean, I came to learn of it, yes.

10 Q. But you had not --

11 A. I am not a charitable trust lawyer.

12 Q. Okay. And at June 6th or June 8th of 2020,

13 were you familiar with the Mitte Foundation one way or

14 the other?

15 A. I don't think so.

16 MR. HARDIN: Okay. Now, let's go, if we

17 can, to Exhibit 67.

18 I move to introduce Exhibit 67, Your

19 Honor.

20 MR. BUZBEE: No objection.

21 Q. (BY MR. HARDIN) Can you tell us what this is,

22 please?

23 PRESIDING OFFICER: It's admitted into

24 evidence.

25 (HBOM Exhibit 67 admitted.)

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1 MR. HARDIN: Excuse me. I'm sorry. I

2 apologize. I jumped the gun.

3 PRESIDING OFFICER: No problem.

4 Q. (BY MR. HARDIN) Can you tell us what this

5 exhibit is, please?

6 A. It is another executive approval memorandum

7 for civil litigation. And this one is a request to

8 investigate, not -- so contrary -- not the same as

9 intervening, but to investigate a -- a charitable trust,

10 the Mitte Foundation.

11 Q. Do you have any personal memory or anything

12 about this event or why this one was done?

13 A. Other than it has my initials on it, I do not.

14 Q. And it's a little later, is it not?

15 A. That's correct. It's, I think, the next day,

16 June 9th --

17 Q. Looks like --

18 A. -- and I signed it on June 11th.

19 Q. Okay. Now, did you ultimately -- I want to

20 go, if I can.

21 Were you having contact -- but you've

22 talked about Darren McCarty. We have Joshua Godbey.

23 Were you at this time having any contact with the line

24 lawyers on this case?

25 A. Not with the line lawyers. My contacts would

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1 have been with Mr. McCarty. He had a one-on-one every

2 week with me.

3 Q. All right. Now, what was Mr. McCarty's

4 primary duties at this time in the overall scheme of the

5 office?

6 A. He was in charge of all the civil litigation.

7 So all of those 30,000 cases, they would be at Darren.

8 However, his number one job in addition to leading that

9 was -- we had two major pieces of litigation. One

10 against Google, and one -- well, one, that was a big

11 litigation against the opioid manufacturers and

12 distributors.

13 Q. All right. And how many -- how much money

14 potentially was involved in that?

15 A. Oh, billions of dollars.

16 Q. All right. So let me ask you this:

17 Mr. McCarty, how much of his time would you estimate he

18 was spending on the Google case?

19 A. I mean, a fair amount of his time. I would

20 say over 50 percent, because that was a major piece of

21 litigation for the office.

22 Q. Ordinarily would he be pulled in to -- to

23 managing or doing anything of a lawsuit this size?

24 A. You -- you -- we have 30,000 cases. I can't

25 be involved in every case. The deputy for civil

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1 litigation, one that is not -- I mean, obviously  
 2 significant to the parties, but in the scheme of things  
 3 for the State of Texas, that's very unusual.  
 4 Q. Did you have any idea at that time why  
 5 Mr. McCarty kept getting -- getting involved in this  
 6 case?  
 7 A. In June, no.  
 8 Q. All right. When did you become aware?  
 9 A. Mid-July.  
 10 Q. All right. At this time we've got -- we  
 11 haven't really mentioned the fact that we're talking  
 12 about the era of COVID, are we not?  
 13 A. We are. And --  
 14 Q. We're in -- we're in the month of June. COVID  
 15 is roughly -- as far as the governor's proclamation and  
 16 everybody running around on it trying to figure out  
 17 policy, that was the middle of March, right?  
 18 A. Yeah. I mean, COVID took up -- I mean, the  
 19 whole COVID effort took a lot of my time and  
 20 Mr. Bangert's time and Mr. Vassar's time, quite frankly.  
 21 Q. Do you have any explanation as to why people  
 22 such as he and y'all were being involved in this kind of  
 23 case?  
 24 A. I mean, we just normally wouldn't have been  
 25 involved in this type of case.

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1 MR. HARDIN: All right. Now, I want to,  
 2 if I can, to go to Exhibit 147.  
 3 PRESIDING OFFICER: Any objection?  
 4 MR. HARDIN: I move to introduce it. I'm  
 5 sorry, Your Honor.  
 6 MR. BUZBEE: No objection.  
 7 MR. HARDIN: All right.  
 8 PRESIDING OFFICER: Admit Exhibit 147  
 9 into evidence.  
 10 (HBOM Exhibit 147 admitted.)  
 11 Q. (BY MR. HARDIN) It's up on your screen now.  
 12 What is this?  
 13 A. This is an e-mail exchange between me and  
 14 Mr. Nate Paul.  
 15 Q. Well, how did it come about that you and  
 16 Mr. Nate Paul were having e-mail exchanges about --  
 17 A. I don't know because it came -- for me, it  
 18 came out of the blue. He's -- in this e-mail he's  
 19 asking to meet with me in person. As I testified to  
 20 earlier, I had never met Mr. Paul. I've never talked to  
 21 him on the phone.  
 22 At some point in July, I became aware of  
 23 him. That must have been through the attorney general,  
 24 who would have alerted me about -- about him.  
 25 Q. All right. So now this is dated on July the

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1 17th, is it not?  
 2 A. It is.  
 3 Q. Do you have any idea why Mr. Paul would feel  
 4 so -- so comfy asking you for an appointment that he's  
 5 calling you "Jeff," if neither one of you have ever met  
 6 each other?  
 7 A. I -- I can only speculate.  
 8 Q. Were you aware by that time he was friends  
 9 with the attorney general?  
 10 A. I don't know if I knew what the extent of the  
 11 relationship was. I knew they had a relationship by  
 12 then, I think.  
 13 Q. And so this -- this idea that he would -- you  
 14 would talk to him on the 17th, what was your three or  
 15 four words -- three-word answer?  
 16 A. I'm a Baptist, so I'm not available.  
 17 Q. All right. And why did you say you were not  
 18 available?  
 19 A. Well, I knew at this time that there was  
 20 litigation involving Mr. Paul. I mean, I -- I would  
 21 have known that. And it would not be my practice to  
 22 meet with someone who is represented by counsel who  
 23 is -- I mean, they're not -- it's an opposing party.  
 24 It's just -- they're involved in litigation that the  
 25 State is involved in. That would just -- I mean, beyond

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1 that as a lawyer, that's -- I mean, you just don't do  
 2 things like that.  
 3 Q. But put another way, you guys were in  
 4 litigation with Mr. Paul as one of the parties. Would  
 5 you ever meet with him without his lawyer?  
 6 A. We had intervened into the lawsuit.  
 7 Q. Right.  
 8 A. And so we were -- I mean, we were in the  
 9 middle of the V, so to speak.  
 10 Q. All right. So is that why you showed -- told  
 11 him you would not talk to him?  
 12 A. That is right.  
 13 Q. All right. Now, I want -- if I can, I'm going  
 14 to -- well, let's -- let's go now, if we can, to  
 15 Exhibit 87. This last one we just looked at was July  
 16 the 18th, right? Do you remember that?  
 17 A. July 17th and 18th, correct.  
 18 PRESIDING OFFICER: Any objection?  
 19 MR. BUZBEE: Hearsay, Your Honor. This  
 20 document is hearsay.  
 21 MR. HARDIN: I wasn't finished with the  
 22 question. Let's just -- I haven't asked him -- I  
 23 haven't asked to admit it yet. I will.  
 24 MR. BUZBEE: I just thought he had  
 25 forgotten, but it's hearsay.

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1 Q. (BY MR. HARDIN) So the two documents, one is  
2 July 18th, and the one you're being shown now is  
3 July 22nd; is that correct?  
4 A. I'm not seeing it yet, but I do know I got it  
5 in the file on July 22nd.  
6 Q. All right. Let me just walk up with you, show  
7 you the hard copy to identify it. It's not in evidence  
8 yet so don't testify from it.  
9 A. Okay.  
10 Q. Without -- without testifying to the contents,  
11 can you tell me whether you recognize that as a memo of  
12 yours?  
13 PRESIDING OFFICER: Mr. Hardin, give me a  
14 moment. I want to look through this. Just one second.  
15 MR. HARDIN: Sir?  
16 PRESIDING OFFICER: Give me a moment. I  
17 want to read through this on his objection.  
18 Are you submitting it?  
19 MR. HARDIN: Not yet.  
20 PRESIDING OFFICER: Okay.  
21 MR. HARDIN: I will, but not yet, if  
22 that's okay.  
23 Did -- did the Court have something on  
24 your mind you wanted to --  
25 PRESIDING OFFICER: Move on.

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1 MR. HARDIN: Thank you.  
2 Q. (BY MR. HARDIN) That -- I want to ask you  
3 now, back on that earlier e-mail, Mr. -- Mr. Paul asked  
4 you for a meeting on a particular date, did he not?  
5 A. Right. I think he wanted to meet the  
6 following week, that -- that Monday.  
7 Q. Well, let's do -- let's do -- for the record  
8 and the Court real quickly, July 17th --  
9 MR. HARDIN: Let's go back if we could to  
10 147, Stacey.  
11 A. Yeah. I've seen it.  
12 Q. (BY MR. HARDIN) The memo says, does it not --  
13 go ahead and read it out loud for the jury.  
14 A. It says, I hope all is well. Are you  
15 available for an in-person meeting on Monday?  
16 Q. Oh.  
17 A. Which would have been the 20th, I believe.  
18 Q. Let's -- yes. That's what I want to do.  
19 Let's figure out the dates for the jury.  
20 Up above we know when you said, I'm not available, it  
21 was July 18th on Saturday, correct?  
22 So Monday would have been the 20th of  
23 July; is that correct?  
24 A. That is correct.  
25 Q. Did you later discover there was any

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1 significance to meeting on Monday in terms of anything  
2 else that was supposed to happen that week?  
3 A. Well, I found out on the morning of July 22nd  
4 that there was a hearing involving the Mitte Foundation  
5 case.  
6 Q. And on July the 22nd, that would have been a  
7 Wednesday, would it not?  
8 A. That would have been Wednesday, yes, sir.  
9 Q. What time that day did you find out that there  
10 was a hearing scheduled for that day?  
11 A. It must have been pretty early because I  
12 normally arrived at the office 7:00, 7:15. And I got a  
13 call that morning before I left for the office from  
14 Darren McCarty.  
15 Q. Did -- did you later go back, Mr. Mateer, and  
16 figure out that the meeting Mr. Paul wanted on Monday  
17 the 20th concerned this hearing on -- on the 22nd?  
18 A. I -- I believe that was the case.  
19 Q. All right. But not having met with him on the  
20 20th, until you got to the office that morning, or  
21 whenever you were contacted, were you aware before the  
22 morning of the 22nd that there was a hearing scheduled  
23 for that day?  
24 A. I was not aware.  
25 Q. How did you become aware of that hearing?

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1 A. Mr. McCarty, the deputy for civil litigation,  
2 called me. And I remember being at my condo in downtown  
3 Austin. Again, it had to have been sometime -- the  
4 6:00 o'clock hour. And he had advised me --  
5 MR. BUZBEE: Objection. Hearsay.  
6 MR. HARDIN: Yeah. He's right. It is.  
7 PRESIDING OFFICER: Sustained.  
8 Q. (BY MR. HARDIN) So after -- did you and --  
9 and the others become concerned about what was about to  
10 happen -- what was about to be proposed that morning?  
11 A. I was concerned that the attorney general was  
12 going to appear in Travis County District Court and  
13 argue a motion on behalf of the Office of Attorney  
14 General.  
15 Q. Well, why would that concern you?  
16 A. Well, I mean at the time I couldn't remember a  
17 sitting attorney general actually going in to a district  
18 court to argue anything. I mean, the last one was  
19 probably Dan Morales.  
20 Q. What was your fear?  
21 A. My fear -- I mean, General Paxton has some  
22 wonderful qualities, but he is not a litigator. And --  
23 and to think that he would go into court arguing a  
24 motion just made absolutely no sense. And especially on  
25 a matter -- I mean, this isn't the Google case. This

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1 wasn't a Supreme Court argument. This was, with all  
 2 respect to those who practice in Travis County District  
 3 Court, it was Travis County District Court.  
 4 Q. All right. Mr. Mateer, as a result of your  
 5 concern, did you organize a meeting?  
 6 A. I -- I did organize a meeting that morning.  
 7 Q. That's all I'm asking right now.  
 8 All right. And who all did you have at  
 9 that meeting?  
 10 A. Well, I had Mr. Paxton, and I had  
 11 Blake Brickman, and I had Marc Rylander, who was the  
 12 deputy of communications.  
 13 Q. Okay. And at that meeting --  
 14 A. Director of communications.  
 15 Q. -- what was your intent for that meeting  
 16 initially?  
 17 A. I mean, I wanted to find out what Mr. Paxton  
 18 was thinking, because, I mean, just -- it was  
 19 inconceivable to me that he would want to go to district  
 20 court to argue something.  
 21 Q. Did you know at that time on whose behalf the  
 22 argument would have in effect been?  
 23 A. I think Mr. McCarty -- I would have -- yes, I  
 24 would have known.  
 25 Q. And who was that?

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1 A. Well, it would have been -- it would have been  
 2 in the Mitte Foundation at the urging of Mr. Paul.  
 3 Q. All right. And when you -- when you had the  
 4 meeting, before you started talking about other things  
 5 with the attorney general, what did you discover in  
 6 terms of whether somebody had changed his mind?  
 7 A. Well, I did learn that actually Mr. Paxton --  
 8 that Mr. McCarty was successful in having the attorney  
 9 general not go to that hearing. He -- he was persuaded  
 10 not to go.  
 11 Q. So then what did you -- what did you move --  
 12 that meeting of July the 22nd, what subject did you move  
 13 it to?  
 14 A. Well, it had to involve Nate Paul. I mean,  
 15 just that the attorney general being involved in matters  
 16 like the Mitte Foundation, things, again, that were not  
 17 significant litigation matters at the Office of Attorney  
 18 General.  
 19 Q. By that time, by talking to other deputies and  
 20 information, had you become concerned about the attorney  
 21 general's relationship with Nate Paul?  
 22 A. I was starting to become concerned.  
 23 Q. So during that meeting, did you take any  
 24 position and urge him in any way concerning Nate Paul?  
 25 MR. BUZBEE: Objection. Hearsay. And

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1 also it's privileged, Your Honor.  
 2 MR. HARDIN: I think we're about --  
 3 PRESIDING OFFICER: Sustained.  
 4 MR. HARDIN: Yes.  
 5 PRESIDING OFFICER: Move on.  
 6 MR. HARDIN: What I'm about to offer,  
 7 Your Honor, is party -- admissions by a party opponent,  
 8 comments that Mr. Paxton made at that meeting is the  
 9 reason for it. I think that comes in under admission by  
 10 the party opponent.  
 11 PRESIDING OFFICER: Move on.  
 12 MR. HARDIN: Sure. You say, Move on?  
 13 PRESIDING OFFICER: Move on.  
 14 Q. (BY MR. HARDIN) Okay. Now, in that meeting,  
 15 did you, yourself, make any particular urging of the  
 16 attorney general?  
 17 MR. BUZBEE: Objection. Hearsay. And  
 18 also privilege.  
 19 MR. HARDIN: I object on both grounds. I  
 20 haven't asked him for --  
 21 PRESIDING OFFICER: Overruled.  
 22 MR. HARDIN: Thank you.  
 23 Q. (BY MR. HARDIN) Did you?  
 24 A. I did.  
 25 Q. And what did you urge him as it regarding

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1 Nate Paul?  
 2 MR. BUZBEE: Again, Your Honor, this is  
 3 hearsay. And also it's him advising the attorney  
 4 general, which is privileged communication.  
 5 MR. HARDIN: First of all, the attorney  
 6 general is not here, and he doesn't have the right to  
 7 claim an attorney-client privilege. There is no  
 8 personal attorney-client privilege for him on this. The  
 9 only question would be as to whether the attorney  
 10 general's office had the right to invoke it, and I  
 11 respectfully suggest they do not.  
 12 PRESIDING OFFICER: Overruled.  
 13 Move along.  
 14 MR. HARDIN: Thank you.  
 15 Q. (BY MR. HARDIN) So what did you urge him?  
 16 A. I urged him not to have any further dealings  
 17 with Nate Paul; to let the lawyers, the professionals in  
 18 the Office of Attorney General, handle these matters as  
 19 they saw fit.  
 20 Q. What was the Attorney General's response?  
 21 A. He committed to the --  
 22 MR. BUZBEE: Objection. Hearsay. Also  
 23 it's a communication, Your Honor.  
 24 MR. HARDIN: And I think this comes out  
 25 of the party admission, Your Honor. This is, I think,

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1 clearly admissible in terms of the attorney general.  
 2 He's a party, and this is an admission being offered as  
 3 an admission by him.  
 4 PRESIDING OFFICER: Overruled.  
 5 Q. (BY MR. HARDIN) Go ahead.  
 6 A. The -- the attorney general committed to me,  
 7 with Mr. Rylander and Mr. Brickman in the room, that he  
 8 would have no further dealings, that he would allow the  
 9 office -- the professionals in the office to handle the  
 10 matter.  
 11 Q. How long was this meeting that y'all were in?  
 12 A. I guess 30 minutes or so. Maybe 45 minutes.  
 13 Q. Now, I'm asking you demeanor and manner as  
 14 opposed to actual words. How would you describe how  
 15 insistent you were in your urging of him to have minimal  
 16 contact with Mr. Paul?  
 17 A. It was very troubling to me that the attorney  
 18 general would be willing to appear in Travis County  
 19 District Court. So I -- I was very concerned that why  
 20 he would want to do that, when we have, again, 800  
 21 attorneys at the Office of Attorney General who are very  
 22 capable.  
 23 Q. My question is: How insistent were you?  
 24 A. I was pretty insistent.  
 25 Q. Obviously you recognized he had the right to

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1 talk to anybody or help anybody you thought, right?  
 2 A. Well, and I wanted in this meeting -- that's  
 3 why I had Marc Rylander there. Because Marc Rylander,  
 4 his title was director of communications, but the joke  
 5 in the office was I was first assistant and he was first  
 6 friend.  
 7 Q. All right. So in this meeting how would you  
 8 describe the demeanor or earnestness or lack of or  
 9 whatever the attorney general's outward response when he  
 10 told you he would not do it anymore?  
 11 A. He seemed sincere to me.  
 12 Q. When you left that meeting, what did you  
 13 believe in terms of the attorney general's conduct in  
 14 the future or contact or attempts to help Mr. Paul?  
 15 A. I was hopeful that he would allow the  
 16 professionals in the Office of Attorney General to do  
 17 their jobs, and he wouldn't be involved anymore.  
 18 Q. All right. Were you surprised to discover  
 19 later that the very next day he's contacting other  
 20 assistants on other matters to help Mr. Paul?  
 21 A. Surprised and disappointed, yes.  
 22 Q. All right. During the time from July  
 23 the 22nd, from then on after his assurance that he would  
 24 have nothing more to do with Mr. Paul, did you become  
 25 aware that his contacts with Mr. Paul had become even

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1 more frequent?  
 2 A. I did.  
 3 Q. Did you become aware that those contacts that  
 4 were much more frequent also touched a broader variety  
 5 of activities --  
 6 A. I did.  
 7 Q. -- than just charity?  
 8 A. Yes.  
 9 MR. HARDIN: At this time, Your Honor, I  
 10 will move to introduce what my number was. I don't have  
 11 it here. Do you remember the last exhibit number?  
 12 PRESIDING OFFICER: Is that Exhibit  
 13 No. 87?  
 14 MR. HARDIN: Thank you so much.  
 15 PRESIDING OFFICER: Exhibit 87 admitted.  
 16 (HBOM Exhibit 87 admitted.)  
 17 MR. HARDIN: I move to introduce  
 18 Exhibit 87, Your Honor.  
 19 MR. BUZBEE: We object. First off,  
 20 hearsay, Your Honor.  
 21 Second off, it's clearly he's -- he even  
 22 expressed concern for the attorney general, that was his  
 23 client. This talks about communications between client  
 24 and lawyer. This is a privileged issue, square and  
 25 away.

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1 PRESIDING OFFICER: I already admitted --  
 2 I already admitted 87. Overruled.  
 3 Q. (BY MR. HARDIN) Now, if I could, I want to  
 4 ask you to move on to another exhibit. But let me ask  
 5 you something before I go there.  
 6 That meeting was on the 22nd, and I  
 7 apologize. I think when you and I were talking, I may  
 8 be dropping my voice some here. I'm hoping people in  
 9 the back can still hear, but let me -- let me make sure  
 10 they can at this tone of voice.  
 11 And I -- did you ultimately respond to --  
 12 back when you and I were before, to anyone about the  
 13 particular request that had been made of you by Mr. Paul  
 14 to meet back on that Monday? Remember on the 17th he  
 15 asked to meet you on the 20th, correct?  
 16 A. I think -- I think at some point Mr. Paul's  
 17 lawyers sent me either a letter or an e-mail, which I  
 18 respond to, again, I think by e-mail.  
 19 Q. All right. What I want to do is let me -- if  
 20 I may step over briefly, if I may have your permission  
 21 to get the number.  
 22 THE WITNESS: Exhibit 161.  
 23 Q. (BY MR. HARDIN) I asked you -- I'm going to  
 24 come up and give you a copy of it so that you can look  
 25 to see what I mean when I ask you a question before I

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1 offer to introduce it.  
 2 I've been corrected by somebody who knows  
 3 much more than I. I really should be talking about 161.  
 4 It's the same document, but I gave it the wrong number  
 5 in my questions. Now --  
 6 PRESIDING OFFICER: Do you have it?  
 7 MR. HARDIN: Stella, Stella, did we --  
 8 Stella, excuse me. Did we give him a copy?  
 9 If we can just find one in another book.  
 10 I'll give him mine until we get it.  
 11 A. Mr. Hardin, if you want to look at it.  
 12 Q. (BY MR. HARDIN) You don't need it.  
 13 What I'm asking you, now that you've had  
 14 a chance to look at 161, does that refresh your memory  
 15 as to when you then responded to his request to have met  
 16 back on the 20th?  
 17 A. Yes, it does.  
 18 Q. All right. And when did you -- we've gone  
 19 through the meeting on July 22nd. You've had the  
 20 conversation we heard about with the attorney general.  
 21 And then now you've moved back to July 24th, two days  
 22 after the meeting with the attorney general, correct?  
 23 A. Correct.  
 24 Q. And so then did you sit down and draft a  
 25 memo -- and respond, rather, to whom?

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1 A. Well, to Mr. Paul's lawyers. And actually I  
 2 didn't really know who they were at this time. And so I  
 3 was asking for information so I could adequately  
 4 respond.  
 5 MR. HARDIN: Yeah, I got it. I got it.  
 6 Yeah.  
 7 Q. (BY MR. HARDIN) All right. So here's what I  
 8 want to do. The reason I stopped without giving the  
 9 name, I wanted you to give it.  
 10 At the time you received a letter from  
 11 Mr. Paul, did you even know who his lawyer was?  
 12 A. I did not, or didn't remember.  
 13 Q. All right. So then when you checked around,  
 14 did you become familiar with whom you were going to be  
 15 talking to?  
 16 A. I did.  
 17 Q. And who was that?  
 18 A. I probably -- sitting here, I don't remember.  
 19 I know Mr. Wynne was one of his lawyers.  
 20 Q. All right. Well, actually let me just ask you  
 21 to focus on that.  
 22 Did you become aware that a Mr. Michael  
 23 Wynne was representing him in some matters?  
 24 A. I did during that time period, yes.  
 25 Q. And -- and regardless of who he was, had you

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1 by the time of the 24th looked at the history of  
 2 correspondence with Mr. Paul in terms of the way he  
 3 talked to your people?  
 4 A. I mean, he attached in -- in his e-mail to me,  
 5 he attached --  
 6 Q. Is this -- excuse me.  
 7 Is this the e-mail back on the 17th?  
 8 A. I think it's a later e-mail.  
 9 Q. All right. And what did he attach for you?  
 10 A. He attached correspondence that he had with  
 11 primarily Mr. Godbey, in -- in which he's complaining to  
 12 Mr. Godbey.  
 13 Q. What -- exactly.  
 14 Was he complaining about the treatment he  
 15 was getting in the Mitte Foundation lawsuit from  
 16 Mr. Godbey?  
 17 A. Yes.  
 18 Q. Was he complaining that he kept writing  
 19 Mr. Godbey -- he, the party -- writing the lawyer for  
 20 the other side, was he complaining in constant e-mails  
 21 about Mr. Godbey?  
 22 A. That's exactly what he was doing, yes, sir.  
 23 Q. And Mr. Godbey, because he's not supposed to  
 24 talk to a representative person, had done what?  
 25 A. He -- he had not responded, which would be

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1 what any lawyer would do. You don't respond to the  
 2 client or -- of the potential opposing party. You  
 3 respond to their lawyers.  
 4 Q. When you looked at the letter -- or actually  
 5 when you were getting ready to write him on the 24th,  
 6 did you have occasion to review that -- that  
 7 correspondence?  
 8 A. I did, yes.  
 9 MR. HARDIN: And that's why I moved if I  
 10 could, Your Honor, to 161. I move to introduce 161.  
 11 PRESIDING OFFICER: Any objection?  
 12 MR. BUZBEE: Yes, Your Honor. This  
 13 privilege issue keeps coming up. As you can see on the  
 14 document itself, it says, This is attorney work product  
 15 communication regarding a pending litigation matter.  
 16 It's labeled as such.  
 17 And I would suggest to the Court that all  
 18 of these types of e-mails are, in fact, work product or  
 19 attorney-client privilege communications. And the only  
 20 individual in that office who holds that privilege and  
 21 who can waive that privilege is the elected attorney  
 22 general.  
 23 MR. HARDIN: I have to -- I'm sorry for  
 24 laughing. I have to -- so this is when -- sometimes we  
 25 might take positions that come back to bite us. This is

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1 actually his exhibit that we agreed to pre-admit, and so  
 2 I am offering an exhibit that was pre-admitted by us to  
 3 him because it was one of his exhibits.  
 4 MR. BUZBEE: Well --  
 5 MR. HARDIN: Well, hold on. I'm not --  
 6 I'm not quite sure how he can now turn around and make a  
 7 bunch of objections to an exhibit that he agreed to  
 8 pre-admit -- that we agree to pre-admit and he accepted.  
 9 It's his pre-admitted exhibit.  
 10 It's in evidence is my point.  
 11 MR. BUZBEE: I'm -- I'm very confused.  
 12 That was very confusing, but I would suggest this to the  
 13 Court. They marked -- they put 161 on this as if it was  
 14 their exhibit and moved it into evidence, and you asked  
 15 for my objection.  
 16 PRESIDING OFFICER: Yes.  
 17 MR. BUZBEE: 161 on their exhibit list is  
 18 not this.  
 19 MR. HARDIN: Oh.  
 20 MR. BUZBEE: So I mean, I'm trying --  
 21 first, I guess we need to figure out what exhibit he's  
 22 actually trying to offer. And if he's really trying to  
 23 offer this, it ain't the right number. And if it's --  
 24 he's offering something that's already in evidence, then  
 25 obviously I wouldn't object to it. But I'm very

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1 confused about what he's trying to do.  
 2 PRESIDING OFFICER: The Court is very  
 3 confused too.  
 4 MR. HARDIN: I was -- I was -- I still --  
 5 I suggest he talk -- like I did, talk to someone on his  
 6 side that knows more than he does about this. If he  
 7 notices, that exhibit that we introduced is AG 161.  
 8 That's the Attorney General 161.  
 9 I think if he checks with his people,  
 10 he's going to find that's their exhibit that we agreed  
 11 to pre-admit.  
 12 MR. BUZBEE: I didn't have any  
 13 discussions with Mr. Hardin. I mean, I know he's  
 14 accused me of being recalcitrant. I haven't had any  
 15 discussions about the exhibits, but my colleague,  
 16 Dan Cogdell, has. As I understood it, they weren't  
 17 going to object to any exhibits that we offered. They  
 18 have no objections.  
 19 But we certainly -- we had exhibits on  
 20 our list that we may not offer. So I think that's  
 21 probably the dilemma we have. But I'm going to turn it,  
 22 if you don't mind, since I didn't talk to Mr. Hardin  
 23 personally, maybe Mr. Cogdell can -- can enlighten me.  
 24 MR. HARDIN: I, again, suggest he talks  
 25 to someone that knows something about the subject. I've

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1 just been handed by Ms. Jares, and I'll be glad to  
 2 tender it to the Court, where they have written down  
 3 their exhibit number on this of 161.  
 4 MR. BUZBEE: That might be true, but you  
 5 need to let us know you're offering our exhibit. I  
 6 mean, when you say 161, that presupposes you're offering  
 7 your Exhibit 161. That's why we looked on your list,  
 8 and this ain't your Exhibit 161.  
 9 Now, with regard to whether these were  
 10 pre-admitted or not, I would turn it over to  
 11 Mr. Cogdell.  
 12 MR. HARDIN: In light of him objecting to  
 13 us at this extended time, this may be the first time I'm  
 14 asking the Court to take that into consideration.  
 15 They've been objecting to their own exhibit.  
 16 PRESIDING OFFICER: Mr. Cogdell?  
 17 MR. COGDELL: In my conversations with  
 18 Ms. Brevorka, both --  
 19 PRESIDING OFFICER: Speak into the  
 20 microphone, please.  
 21 MR. COGDELL: Yes, sir.  
 22 In my conversations -- and I understand  
 23 Mr. Hardin's heartburn that he didn't object to ours and  
 24 we're objecting to his, I get that. That  
 25 notwithstanding, in my conversations, both orally and in

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1 e-mail exchanges with Ms. Brevorka, I very clearly  
 2 stated that while I appreciate they're not objecting  
 3 all -- we did not intend to offer all of our exhibits.  
 4 Many of our exhibits were marked for  
 5 identification purposes only, for impeachment or  
 6 whatever. So I never said just because you didn't  
 7 object to them, we want to offer them all. That never  
 8 happened.  
 9 MR. HARDIN: Okay. I think we may be  
 10 raising gamesmanship to a new level. The fact is, it is  
 11 their exhibit. They asked if we would agree to  
 12 pre-admit. We agreed to pre-admit. That put it in  
 13 evidence. It's just simple as that.  
 14 MR. COGDELL: No, it doesn't. Just  
 15 because they didn't object to it, somebody has to offer  
 16 it. We never said all of our exhibits that we marked  
 17 are coming in. We never said that. I never said that.  
 18 I get his heartburn, but I never -- I'm  
 19 happy to pull the e-mail up in my exchange with  
 20 Ms. Brevorka, but I clearly said in there we do not  
 21 intend to offer all of our exhibits that have been  
 22 marked.  
 23 MR. HARDIN: I'm glad we don't have to  
 24 poll the kids in the -- in the -- upstairs as to what  
 25 they think about this exchange. We've now used about

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1 eight or nine minutes, I think, on them objecting to  
 2 their own exhibit. I tender 161.  
 3 MR. COGDELL: I'm sorry. I couldn't  
 4 hear, Mr. Hardin. I couldn't hear the last part.  
 5 MR. HARDIN: I'm sorry. I said I'm glad  
 6 that we do not have to poll the kids in the balcony as  
 7 to whether this exchange makes any sense. I think we've  
 8 taken about eight or nine minutes now on something that  
 9 where y'all are objecting to your own pre-admitted  
 10 exhibit.  
 11 MR. COGDELL: Again, they're not  
 12 pre-admitted. They haven't been offered. We never said  
 13 if y'all don't object to them, we're offering all of  
 14 them. To the contrary.  
 15 PRESIDING OFFICER: I'll take a  
 16 five-minute break.  
 17 MR. HARDIN: Thank you.  
 18 (Recess from 4:30 p.m. to 4:55 p.m.)  
 19 PRESIDING OFFICER: Members, we're going  
 20 to go over a couple of issues to deal with. We've  
 21 worked with both parties. They're going to work on the  
 22 exhibits this evening, and then we're going to deal with  
 23 the privilege issue -- privilege issue in the morning  
 24 before we start trial. So we're going to adjourn for  
 25 the day now. You're to be back here at 9:00 a.m.

1 tomorrow morning, which means in the dining room at  
 2 8:45, ready to walk out at 8:55.  
 3 (Proceedings adjourned at 4:55 p.m.)  
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1 CERTIFICATE  
 2  
 3 STATE OF TEXAS )  
 4 COUNTY OF TRAVIS )  
 5  
 6 I, MARY ORALIA BERRY, Certified Shorthand  
 7 Reporter in and for the State of Texas, Registered  
 8 Diplomat Reporter, Certified Realtime Reporter, and  
 9 Certified Realtime Captioner, do hereby certify that the  
 10 above-mentioned matter occurred as hereinbefore set out.  
 11 I further certify that I am neither  
 12 counsel for, related to, nor employed by any of the  
 13 parties or attorneys in the action in which this  
 14 proceeding was taken, and further that I am not  
 15 financially or otherwise interested in the outcome of  
 16 the action.  
 17 Certified to by me this 5th day of  
 18 September, 2023.  
 19  
 20  
 21  
 22 /s/ **Mary Oralia Berry**  
 23 Mary Oralia Berry, Texas CSR #2963  
 24 Texas Certified Shorthand Reporter  
 25 CSR No. 2963 - Expires 10/31/24  
 email: maryoberry@gmail.com

THE SENATE OF THE STATE OF TEXAS  
SITTING AS A HIGH COURT OF IMPEACHMENT

IN THE MATTER OF §  
WARREN KENNETH §  
PAXTON, JR. §

TRIAL  
VOLUME 2 - AM SESSION  
SEPTEMBER 6, 2023

Stenographically Reported by  
Kim Cherry, CSR, RMR

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VOLUME 2 - AM SESSION

SENATE IMPEACHMENT TRIAL

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1 P R O C E E D I N G S  
2 WEDNESDAY, SEPTEMBER 6, 2023  
3 (Proceedings began at 9:46 a.m.)  
4 THE BAILIFF: All rise. The Court of  
5 Impeachment of the Texas Senate is now in session. The  
6 Honorable Lieutenant Governor and President of the Senate Dan  
7 Patrick now presiding.  
8 PRESIDING OFFICER: Good morning, everyone.  
9 The bailiff will bring in the jury.  
10 (Senate members enter the Senate chamber)  
11 PRESIDING OFFICER: We begin every day with a  
12 prayer.  
13 Senator Campbell, please come forward.  
14 SENATOR CAMPBELL: Let's go to the Lord in  
15 prayer. Gracious Heavenly Father, Lord God of Abraham,  
16 Isaac, and Jacob, bless this body, bless everybody in this  
17 chamber, for with your blessing we need nothing more. In  
18 Jesus' name, amen.  
19 PRESIDING OFFICER: Thank you, Senator.  
20 Y'all may be seated.  
21 House Managers and Paxton defense team, I  
22 understand you have come to an agreement on exhibits.  
23 MR. BUZBEE: That is true, Your Honor. Good  
24 morning.  
25 PRESIDING OFFICER: Good morning.

1 87, 90, 95, 100, 103, 105, 107, 108, 109,  
2 111, 112, 113, 121, 122, 127, 131, 134, 135,  
3 136, 139, 143, 144, 146, 147, 151, 154, 155,  
4 156, 164, 166, 169, 170, 174, 175, 182, 191,  
5 192, 193, 194, 198, 203, 205, 211, 216, 227,  
6 235, 241, 252, and 273 were admitted)  
7 MR. BUZBEE: Thank you.  
8 MS. BREVORKA: The House Board of Managers'  
9 exhibits to which the parties have both agreed to  
10 preadmission are 92, 126, 213, 291, 450, 457, 466, 516-A,  
11 558, 45, 39, 233, 90, 110, 614, 109, 51, 305, 319, 389, 565,  
12 134, 131, 130, 41, 145, 232, 210, 32, 36, 88, 162, 233, 239,  
13 306, 357, 308, 309, 314, 375, 317, 319, 423, 434, 472, 163,  
14 231, 227, 445, 71, 86, 77, 71, 62, 85, 67, 64, 91, 226, 90,  
15 74, 96, 97, 98, 223, 225, 230, 290, 372, 137, 142, 578, 30,  
16 115, 108, 104, 103, 293, 48, 376, 383, 565, 169, 131. That  
17 is the list.  
18 PRESIDING OFFICER: For the record, these  
19 exhibits are admitted into evidence.  
20 (House Managers' Exhibit Nos. 30, 32, 36, 39,  
21 41, 45, 48, 51, 62, 64, 67, 71, 74, 77, 85,  
22 86, 88, 90, 91, 92, 96, 97, 98, 103, 104,  
23 108, 109, 110, 115, 126, 130, 131, 134, 137,  
24 142, 145, 162, 163, 169, 210, 213, 223, 225,  
25 226, 227, 230, 231, 232, 233, 239, 290, 291,

1 MR. BUZBEE: We have a couple of our  
2 colleagues that would like to read into the record, I  
3 believe, the agreement, if we could do that.  
4 PRESIDING OFFICER: Yes. Yes.  
5 Please state your name.  
6 MS. BREVORKA: Jennifer Brevorka.  
7 PRESIDING OFFICER: Thank you, Jennifer.  
8 MS. BREVORKA: The first ones that I'll read  
9 are the Attorney General's exhibit numbers. And those that  
10 we have agreed to preadmission are 4, 5, 11, 17, 19, 20, 21,  
11 22, 24, 33, 37, 39, 40, 43, 44, 46, 47, 48, 56, 57, 69, 72,  
12 74, 75, 87, 90, 95, 100, 103, 105, 107, 108, 109, 111, 112,  
13 113, 121, 122, 127, 131, 134, 135, 136, 139, 143, 144, 146,  
14 147, 151, 154, 155, 156, 164, 166, 169, 170, 174, 175, 182,  
15 191, 192, 193, 194, 198, 203, 205, 211, 216, 227, 235, 241,  
16 252, and 273.  
17 I will now read the House Board of Managers  
18 exhibits to which both sides have agreed to preadmission.  
19 MR. BUZBEE: And, Your Honor, I'd like to  
20 formerly offer the exhibits that my colleague just read out  
21 into evidence and have them be accepted.  
22 PRESIDING OFFICER: Accepted. Thank you.  
23 (Attorney General Paxton Exhibit Nos. 4, 5,  
24 11, 17, 19, 20, 21, 22, 24, 33, 37, 39, 40,  
25 43, 44, 46, 47, 48, 56, 57, 69, 72, 74, 75,

1 293, 305, 306, 308, 309, 314, 317, 319, 357,  
2 372, 375, 376, 383, 389, 423, 434, 445, 450,  
3 457, 466, 472, 516-A, 558, 565, 578, 614 were  
4 admitted)  
5 MS. BREVORKA: I'm sorry, sir?  
6 PRESIDING OFFICER: I was -- just for the  
7 record.  
8 MS. BREVORKA: For the record?  
9 PRESIDING OFFICER: All of these exhibits are  
10 admitted into evidence.  
11 MS. BREVORKA: Thank you, sir.  
12 PRESIDING OFFICER: Thank you.  
13 Yes?  
14 SENATOR GUTIERREZ: We received the House  
15 Managers' response on privilege, and it seems the last page  
16 on several copies is missing on several of my colleagues'.  
17 PRESIDING OFFICER: Let me take a look at  
18 that.  
19 MR. BUZBEE: Your Honor, may I be heard on  
20 this?  
21 PRESIDING OFFICER: Yes.  
22 MR. BUZBEE: In the interest of time for Your  
23 Honor and for our jurors, and because Attorney General Ken  
24 Paxton has nothing to hide, we're going to withdraw our  
25 objection and save us all a lot of time.

1 PRESIDING OFFICER: Mr. Buzbee, are you saying  
 2 you're withdrawing your objection to all documents that will  
 3 be submitted, or just to this one?  
 4 MR. BUZBEE: We're withdrawing our privilege  
 5 objection, the one that's been briefed, the one that we were  
 6 going to argue. The Attorney General has nothing to hide.  
 7 We will be focused on hearsay. We'll raise  
 8 hearsay issues that will come up, you know, question by  
 9 question. But as far as the issue about who holds the  
 10 privilege, whether something the Attorney General said was  
 11 privilege, which we believe it is, obviously, but we're going  
 12 to withdraw that so we can proceed with this trial  
 13 PRESIDING OFFICER: So to be clear, there will  
 14 be no further objection on privilege?  
 15 MR. BUZBEE: Correct.  
 16 PRESIDING OFFICER: Okay.  
 17 MR. BUZBEE: Now, again, Your Honor, just so  
 18 we're clear, I don't want you to think that I'm playing games  
 19 with you, obviously. Anything that a witness said or claims  
 20 to have said to Attorney General Paxton would be hearsay. I  
 21 know there's issues with regard to what Mr. Paxton might have  
 22 said, and they're going to argue that's non-hearsay, but  
 23 we're not going to make a privilege objection.  
 24 MR. HARDIN: Your Honor, may I be briefly  
 25 heard when you get ready? Before you rule, if I could be

1 Office -- they do not have to worry about the Attorney  
 2 General's Office or Mr. Paxton individually claiming  
 3 privilege on any of their conversations.  
 4 PRESIDING OFFICER: Mr. Buzbee?  
 5 MR. HILTON: Your Honor, I don't think we can  
 6 comment on what other lawyers should advise their clients,  
 7 and we certainly can't make any representations on behalf of  
 8 the Attorney General's Office right now given the  
 9 constitutional suspension.  
 10 What we're saying is that we, on behalf of  
 11 Attorney General Paxton, will not assert privilege objections  
 12 in response to their attempts to admit exhibits or in  
 13 response to witness testimony. There may be other objections  
 14 that we have to raise through the course of this trial, but  
 15 we are not going to burden the Court and burden the jurors  
 16 with deciding these extremely complex legal issues related to  
 17 the privileges that we've been discussing and that we briefed  
 18 last night. So we're withdrawing the motion that we filed  
 19 last night, and we're not going to continue to assert those  
 20 privileges.  
 21 MR. HARDIN: My problem is -- I don't want to  
 22 be obstreperous here, but this is important for everybody to  
 23 understand. I think witnesses and we have a right to expect  
 24 that this issue of privilege is dead. And if they're going  
 25 to head off a ruling by the Senate at-large or by the

1 heard just -- I don't have to be right this second, but --  
 2 PRESIDING OFFICER: Pardon?  
 3 MR. HARDIN: I think you were about to address  
 4 him. I just wanted to make sure I make an observation before  
 5 you rule.  
 6 PRESIDING OFFICER: You may make an  
 7 observation, Counselor.  
 8 MR. HARDIN: Thank you. For clarification, I  
 9 want to make sure some witnesses --  
 10 PRESIDING OFFICER: Speak up if you can.  
 11 Speak a little louder.  
 12 MR. HARDIN: Pardon me?  
 13 PRESIDING OFFICER: Just speak a little  
 14 louder.  
 15 MR. HARDIN: Sure. Some witnesses and their  
 16 lawyers have been concerned in light of the fact they were  
 17 afraid that the privilege was going to be claimed, and that  
 18 it was yesterday. So if I could have a clarification from  
 19 Mr. Buzbee, are we to understand that those lawyers are free  
 20 to tell their clients that the Attorney General's Office nor  
 21 Mr. Paxton are claiming privilege on any conversations they  
 22 had?  
 23 And I understand him to say they may still  
 24 object to those conversations on hearsay but that the lawyers  
 25 are free to advise their clients that the Attorney General's

1 president in his capacity temporarily but those people -- but  
 2 everybody is still uncertain as to whether they intend to  
 3 assert it in the future, that's our problem.  
 4 And we would hope and want -- intend to ask  
 5 that there be a ruling definitively from the Senate that that  
 6 privilege, whatever basis that we've urged, whether it's been  
 7 waived or on the law itself, so that people go forth --  
 8 forward knowing they're not going to have grievances filed  
 9 against them claiming they violated the privilege; they're  
 10 not going to be accused of violating the privilege. We need  
 11 a determination as to whether or not those people are safe  
 12 for the future.  
 13 MR. BUZBEE: Your Honor, I don't know how much  
 14 clearer we can make it. We can think about future fights and  
 15 argue about things that I don't think we're arguing about.  
 16 Attorney-client privilege, we're not raising that with regard  
 17 to Attorney General Paxton and the witnesses that they're  
 18 going to bring. I don't know how much more clearer I can  
 19 make that.  
 20 PRESIDING OFFICER: I think the Court is  
 21 satisfied with their withdrawal of their motion. They're not  
 22 going to raise privilege. If they do, then I will stop that.  
 23 MR. HARDIN: Thank you.  
 24 PRESIDING OFFICER: Bailiff, call Jeff Mateer  
 25 back to the witness stand.



1 Mr. Mateer, you're still under oath that you  
 2 took yesterday.  
 3 JEFFREY MATEER,  
 4 having been previously duly sworn, testified as follows:  
 5 DIRECT EXAMINATION (CONTINUED)  
 6 BY MR. HARDIN:  
 7 Q. Good morning.  
 8 A. Good morning, sir.  
 9 Q. Mr. Mateer, since you and I had a partial trial run  
 10 yesterday dealing with the circumstances and the microphone,  
 11 I've been informed by numerous people that I would back up  
 12 sometime from the microphone and no matter how loud it  
 13 sounded to me here, some people couldn't hear. So I'm going  
 14 to stay here.  
 15 By the same token, I want to make sure that you are  
 16 allowed to finish your answers; and you, in turn, will try to  
 17 answer only that one and trust that we get to the points of  
 18 concern. Let me -- that you're concerned.  
 19 Let me back up a moment. Is one reason that you  
 20 wanted to make sure that everything you knew about the things  
 21 as I went along and asked you questions is because this is  
 22 the first time in three years you've been able to tell your  
 23 side to the world?  
 24 A. Yes, sir.  
 25 Q. What's that been like for you in terms of

1 frustration? And so as you read and heard the allegations  
 2 about you and the others and who you supposedly were and who  
 3 you -- what you supposedly did and why, what's that been  
 4 like?  
 5 A. Well, you know, I guess --  
 6 Q. You need to pull the microphone to you now.  
 7 A. Okay. Sorry. Is that better?  
 8 I guess at a core, I mean, I am an advocate, and I  
 9 think one of the things is I believe in truth. And when you  
 10 hear people saying things that you know that aren't true, I  
 11 mean, your tendency is you want to correct that, but I was  
 12 advised that I shouldn't say anything. And so for -- since  
 13 the events that we've been discussing the last day --  
 14 Q. Without going into details -- excuse me. I  
 15 interrupted you. Go ahead.  
 16 A. No, I mean, I finished. I was pausing.  
 17 Q. And without going into details, have you been  
 18 introduced -- have you been interviewed over the years by law  
 19 enforcement about some of these matters?  
 20 A. I have been, yes.  
 21 Q. And were you asked by law enforcement -- though  
 22 they couldn't order you, were you asked by law enforcement to  
 23 not talk publicly about the matters you talked to them?  
 24 A. Yes.  
 25 Q. And you have followed that request?

1 A. To the best of my ability.  
 2 Q. That request doesn't apply here today. Do you  
 3 understand that?  
 4 A. I do understand that, sir.  
 5 Q. All right. I want to go now to some dates, and I'm  
 6 going to try about a time line. You know, I -- like you, but  
 7 not quite the number of years, quite a number of years more,  
 8 but like you as a trial lawyer, I've always relied on some  
 9 type of whiteboard or something that was on the wall of  
 10 what -- and for those of us who are still technologically  
 11 challenged, I'm going to try as we go forward here, when we  
 12 hit dates that are important, I'm going to mention them and  
 13 Ms. Manela is going to try to use the equipment over there to  
 14 make an entry that it will be on the iPad.  
 15 And then at the end of your testimony, I want to  
 16 ask you to glance at the list of dates that we may put up  
 17 there and tell us whether those are true and accurate and  
 18 reflect your testimony about the events and dates that  
 19 occurred. Are you with me?  
 20 A. Okay. Yes, sir.  
 21 Q. Okay. Now, I want to apologize to you also in  
 22 asking these questions that one of the difficulties here is  
 23 about for every exhibit we show and discuss, it takes a  
 24 little bit of time, correct? And are you aware that we're on  
 25 some very strict time requirements here?

1 A. Yeah, I read the --  
 2 Q. You lost the microphone.  
 3 A. I've read the president's order.  
 4 Q. All right. If you pull it just a little bit  
 5 further, just the top of it, move that.  
 6 A. This way?  
 7 Q. There you go.  
 8 A. All right. Sorry.  
 9 Q. Right there. That's good.  
 10 All right. Now, for instance, we talked about the  
 11 date of July the 22nd of 2020 in which you had conversations  
 12 with the Attorney General. Do you recall?  
 13 A. Yes, I do recall.  
 14 Q. All right. And the original reason for that  
 15 meeting was what?  
 16 A. Well, the original reason was that the Attorney  
 17 General was going to appear in Travis County district court  
 18 on that day. And Darren McCarty, the deputy for civil  
 19 litigation, had advised me.  
 20 Q. All right. And so as the meeting started -- by the  
 21 time the meeting started, had you learned that Mr. McCarty, I  
 22 think you said yesterday, had already talked the Attorney  
 23 General out of it?  
 24 A. That is correct.  
 25 Q. Did you then still take the occasion of that

1 meeting to have several conversations with him?  
 2 MR. BUZBEE: Your Honor, I'm going to object.  
 3 Almost every question is leading, and I'm just going to ask  
 4 Mr. Hardin not lead this witness.  
 5 MR. HARDIN: I'll be glad not to.  
 6 PRESIDING OFFICER: Sustained.  
 7 MR. HARDIN: And I'll hopefully remember that  
 8 later.  
 9 Q. (BY MR. HARDIN) All right. Now, having said -- in  
 10 that particular meeting, what subjects did you want to make  
 11 sure that he understood what your position and concerns were?  
 12 A. I wanted to have a meeting with the Attorney  
 13 General to discuss why he was involving himself in the  
 14 affairs of Nate Paul; why would he, you know, an Attorney  
 15 General, want -- feel like he had to go to Travis County  
 16 district court on behalf of someone.  
 17 Q. All right. And by the time that July 22nd came  
 18 around of 2020, had you begun -- you, yourself, started to  
 19 have very much concerns about his relationship with Nate  
 20 Paul?  
 21 A. I had -- that memo reflects that I had already  
 22 raised concerns with the Attorney General. So this was  
 23 reiterating concerns that -- not only that I had, but all the  
 24 staff, all the senior staff had about being involved with  
 25 Mr. Paul and his companies.

1 MR. HARDIN: Can I have Exhibit 87 back up  
 2 please, Stella?  
 3 Q. (BY MR. HARDIN) Now, this is in evidence. It was  
 4 admitted yesterday. When did you prepare this memo that is  
 5 dated July the 22nd, 2020?  
 6 A. I prepared it that day.  
 7 Q. All right. I'm going to ask you to publish it to  
 8 the jury. And what I mean by that is I want you to read  
 9 relevant portions.  
 10 Well, first of all, the first two paragraphs talk  
 11 about what you have described, do they not, as the purpose --  
 12 the initial purpose of the meeting?  
 13 A. Correct.  
 14 Q. And in those two paragraphs, what is your testimony  
 15 as to whether it accurately describes your original concern?  
 16 A. It does.  
 17 Q. I would ask you then to read to the jury out loud  
 18 the last two paragraphs of this exhibit.  
 19 A. Okay.  
 20 MR. BUZBEE: Objection, Your Honor. The  
 21 document speaks for itself. It's on the screen of every  
 22 Senator here. I'm sure they can read it for themselves.  
 23 MR. HARDIN: That may be, but I'm allowed to  
 24 publish it and have the jury read it.  
 25 MR. BUZBEE: It is published because it's on

1 their screens.  
 2 PRESIDING OFFICER: Overruled. Continue.  
 3 MR. HARDIN: Thank you.  
 4 Q. (BY MR. HARDIN) Would you please.  
 5 A. Yes, sir. During the course of the meeting, I  
 6 relayed concerns that I previously raised to General  
 7 Paxton --  
 8 Q. Now, remember, I'm going to slow you down here for  
 9 her. She's got to get that.  
 10 A. That Yankee comes out in me occasionally. Let me  
 11 start again.  
 12 During the course of the meeting, I relayed  
 13 concerns that I had previously raised to General Paxton about  
 14 his personal involvement in any matters related to Mr. Paul.  
 15 General Paxton agreed that going forward, he would not have  
 16 any further personal involvement with any matters that this  
 17 office is handling that relate to Mr. Paul or his companies  
 18 and partnerships. Instead, as any -- as any other matter,  
 19 paren, civil or criminal, closed paren, our division  
 20 attorneys would handle as they deem appropriate with  
 21 oversight by their division chief and the appropriate  
 22 deputy.  
 23 Q. At the time you wrote that memo, had you become --  
 24 and had that conversation that you are memorializing, had you  
 25 become aware that he, in the Mitte Foundation case, had begun

1 going around the shop supervision and been dealing and  
 2 pressuring line employees?  
 3 A. I had.  
 4 Q. Is that, in fact, one of the things you're  
 5 referring to in the last sentence of that memo?  
 6 A. It is.  
 7 Q. And what's the problem with that?  
 8 A. Well, the problem is the office is being used for  
 9 the benefit of one person. It's not exercising its own  
 10 independent judgment. You have the Attorney General acting  
 11 on behalf of one person. And by this time I knew that he was  
 12 a campaign donor. And so that -- I mean that concerned me  
 13 because there have been allegations in the past made against  
 14 the office and against the Attorney General that he had taken  
 15 actions on behalf of campaign donors. So I was super  
 16 sensitive to that.  
 17 Q. If in fact -- in addition to being to the advantage  
 18 of a campaign donor, by definition, does that mean it was  
 19 also to the disadvantage of other citizens?  
 20 A. Absolutely.  
 21 Q. All right. Now, after July the 22nd, did you  
 22 discover whether or not he had kept -- let me back away. How  
 23 would you -- back up.  
 24 How would you describe his representation to you at  
 25 this meeting in terms of whether you considered it an actual

1 promise or commitment? How would you describe it?  
 2 A. I mean, I believed that he would allow the  
 3 professionals, the lawyers in the Office of Attorney General,  
 4 that they would do their jobs. And so I believed he would  
 5 commit -- I believed that he would do that as of July 22nd.  
 6 Let's say this, I hoped he would do that.  
 7 Q. Did you believe he had given you his word?  
 8 A. I did.  
 9 Q. And did you believe he would keep it?  
 10 A. I hoped he would keep it.  
 11 Q. Did you discover differently after that meeting?  
 12 A. I did.  
 13 Q. Do you recall the first time you became aware he  
 14 was continuing to pursue activities on behalf of Mr. Nate  
 15 Paul?  
 16 A. Yeah. What I recall is I think the first week in  
 17 August, I -- for the weekend, I rented a house out in east  
 18 Texas where I met my son and his wife, and we took the  
 19 weekend at a lake house. When I returned to the office on  
 20 Monday, I learned that the office had issued an opinion  
 21 letter with regard to foreclosures.  
 22 Q. Now, let me ask you, you were not involved in that  
 23 process, were you?  
 24 A. I was not involved at all and was not alerted to it  
 25 until after the fact.

1 Q. At the time that opinion was issued, what had the  
 2 unrelenting position of the Attorney General's Office been to  
 3 the public and anyone affected that asked for opinions as to  
 4 the issue of openness during COVID?  
 5 A. I was proud of the office and, quite frankly, proud  
 6 of the Attorney General. We were at the forefront of having  
 7 Texas reopen and to stop COVID restrictions. We did it with  
 8 regard to churches. We did it with regard to entertainment.  
 9 So we were the ones pushing to open Texas back up. That was  
 10 General Paxton's policy; that was the office's policy.  
 11 Q. What did you -- what was wrong, then, with this  
 12 opinion that -- wait a minute. You don't have to lean back.  
 13 A. I won't talk if I back up.  
 14 Q. Just bear with me. Okay?  
 15 What did you -- what was wrong, then, with this  
 16 opinion?  
 17 A. The opinion took the complete opposite view. It  
 18 was if Anthony Fauci had written it. And it was shut down,  
 19 you know, that you can't do outside foreclosure sales. I  
 20 remember coming back and talking to Mr. Bangert, like, what  
 21 was this? This is completely contrary.  
 22 Q. All right. So for those who believed that it  
 23 should shut down, that would have been a good opinion, right?  
 24 A. Well, I mean, but, again, this is August. This  
 25 isn't April. I mean, we've been through that. I mean, COVID

1 is March, the shutdown, the 14 days, we've been through that.  
 2 We had issued opinions with regard to churches that said, you  
 3 know, that no county judge can shut down a church, no  
 4 government can shut down a church. We had done that with  
 5 entertainment. I mean, this -- to me, this was in line with  
 6 all that.  
 7 Q. And my question is based no matter what side of  
 8 that issue a member of the public, Senate, or anyone else  
 9 came down on, are you testifying that to help Nate Paul,  
 10 Mr. Paxton directed an opinion that was totally contrary to  
 11 his and his administration's policy and his public statements  
 12 on a regular basis?  
 13 MR. BUZBEE: Your Honor, I'm sorry to  
 14 interrupt again, but that is leading, absolutely leading.  
 15 MR. HARDIN: I'll rephrase it.  
 16 PRESIDING OFFICER: Sustained. Please  
 17 rephrase.  
 18 MR. HARDIN: Thank you.  
 19 Q. (BY MR. HARDIN) Put it in your words as to  
 20 whether -- no matter which way one person came down on the  
 21 issue, what was the import of the seriousness of that  
 22 opinion?  
 23 A. Well, it was contrary to what I believed Attorney  
 24 General Paxton believed and what had been the office policy.  
 25 It was completely contrary. I mean, we were not for shutting

1 things down, certainly not shutting down outside foreclosure  
 2 sales.  
 3 Q. All right. Now, when the opinion on foreclosures  
 4 comes out, at that time were you aware of any -- any benefit  
 5 it might carry for Mr. Paxton -- I mean, for Mr. Paul?  
 6 A. That I do not remember.  
 7 Q. All right. So was your objection initially the  
 8 substance of what the opinion was?  
 9 A. That was my objection, the substance.  
 10 Q. And you were not aware one way or the other as to  
 11 whether it carried a side benefit to Mr. Paul?  
 12 A. Not during that week, which I guess was the first  
 13 full week of August.  
 14 Q. All right. Then after the August 1st, 2nd, 3rd  
 15 period of time, when is the next time you became concerned  
 16 about what Mr. Paxton was doing in terms of positions that  
 17 might aid a donor, Mr. Nate Paul?  
 18 A. Yeah. My wife and I went to Maine to visit my  
 19 daughter who works in Boston. On the first night there --  
 20 and we were at a cabin on Mount Desert Island. And sometime  
 21 during that evening, I got two texts from Mrs. Paxton,  
 22 Senator Paxton. And the first one was asking me --  
 23 MR. BUZBEE: Objection, Your Honor, hearsay.  
 24 MR. HARDIN: Let me -- let me -- let me try it  
 25 this way.

1 Q. (BY MR. HARDIN) Did you -- do you recall the date?  
 2 A. August 14th, 15th.  
 3 Q. August 14th, 15th. And did you get an inquiry from  
 4 anyone?  
 5 A. I did.  
 6 Q. And from whom was the inquiry from?  
 7 A. From Mrs. Paxton.  
 8 Q. From whom?  
 9 A. Mrs. Paxton.  
 10 Q. Mrs. Paxton. What was the nature of the inquiry?  
 11 MR. BUZBEE: Again, Your Honor, he's just  
 12 trying to get around what's clearly hearsay. He wants to  
 13 talk about what maybe Senator Paxton said to him via text.  
 14 That's hearsay.  
 15 PRESIDING OFFICER: Sustained.  
 16 Q. (BY MR. HARDIN) When you got that particular  
 17 message from her, did you become concerned about where --  
 18 MR. BUZBEE: Again, Your Honor --  
 19 MR. HARDIN: Let me just finish the  
 20 question.  
 21 Q. (BY MR. HARDIN) Did you become concerned about  
 22 where Mr. Paxton might be?  
 23 MR. BUZBEE: Again, Your Honor, I would object  
 24 to this as hearsay. He's trying it all different ways, but  
 25 it's still hearsay.

1 PRESIDING OFFICER: Sustained. Continue.  
 2 Q. (BY MR. HARDIN) Mr. Mateer, later did you get an  
 3 inquiry -- did you get a response that made you no longer  
 4 concerned?  
 5 A. Yes.  
 6 MR. BUZBEE: Again, Your Honor, I'm sorry to  
 7 keep interrupting. The witness knows this too. This is all  
 8 hearsay.  
 9 MR. HARDIN: That is not hearsay. I'm not  
 10 asking him for an answer on a matter trying to prove the  
 11 truth of the matter asserted outside of the courtroom, which,  
 12 of course, is what hearsay is. I've asked just simply about  
 13 his state of mind.  
 14 PRESIDING OFFICER: Overruled. Continue.  
 15 MR. HARDIN: Thank you.  
 16 Q. (BY MR. HARDIN) You can answer.  
 17 A. Yes, I was no longer concerned.  
 18 Q. But do you recall about what time that you got that  
 19 call?  
 20 A. I would have seen it the next morning, but in the  
 21 middle of the night.  
 22 Q. All right. Now, after that date, when is the next  
 23 time that you became concerned about Mr. Paxton's dealings  
 24 with Mr. Paul?  
 25 A. I think it then fast-forwards to sometime in

1 September.  
 2 Q. All right. Can you give me an idea -- by the way,  
 3 at the time that you were going through -- let's take the  
 4 first week in September. First week in September, can you  
 5 describe for the jury what your state of mind and concern was  
 6 by then in terms of Attorney General versus Mr. Nate Paul?  
 7 A. Well, the Attorney General had made a promise to  
 8 me --  
 9 Q. Keep your --  
 10 A. I'm sorry. The Attorney General had made a promise  
 11 to me and to other senior staff that he wouldn't have any  
 12 more dealings with Nate Paul. It became apparent by  
 13 September, in light of Mrs. Paxton's text, in light of the  
 14 foreclosures sale, that he wasn't -- he was not honoring that  
 15 commitment any longer.  
 16 Q. By that time, were you having any conversations  
 17 with -- without going into what was said at the time, were  
 18 you having any conversations with Mr. Penley about his  
 19 concerns over in the criminal justice area?  
 20 A. Yes.  
 21 Q. Without going into the conversations specifically,  
 22 what were your concerns?  
 23 A. The concerns were that Mr. Penley was attempting to  
 24 follow up on a request of Mr. Paul at the Attorney General's  
 25 urging to conduct an investigation with regard to Mr. Paul's

1 allegations that federal and state law enforcement had  
 2 engaged in improper conduct towards Mr. Paul.  
 3 Q. Now, we'll get to the facts of those kinds of  
 4 circumstances with other witnesses. But as of the time you  
 5 hit about the first week in September, had you had any --  
 6 were you involved in any of the details of investigating  
 7 Mr. Paul's allegations?  
 8 A. No.  
 9 Q. You, yourself?  
 10 A. I was not.  
 11 Q. All right.  
 12 MR. HARDIN: Your Honor, I left my glasses  
 13 over, if I could go get them.  
 14 Q. (BY MR. HARDIN) Let me ask you, if I can go back  
 15 to the latter part of August. In August of 2020, did you  
 16 have occasion to meet a man named Mr. Brandon Cammack?  
 17 A. I did.  
 18 Q. And what were the circumstances?  
 19 A. What I recall is I was in my office on the 8th  
 20 floor, probably with the door closed, probably working on  
 21 either Google or opioids, and either my assistant or actually  
 22 probably the Attorney General --  
 23 Q. I'm going to apologize. This is not your fault or  
 24 anything, but I need to kind of shorten --  
 25 A. I'm sorry.

1 Q. That's okay. So did you have occasion to meet him?  
 2 Where were you when you met him?  
 3 A. I was in my office on the 8th floor.  
 4 Q. All right. And how is it that you met Mr. Cammack?  
 5 A. The Attorney General brought him by my office.  
 6 Q. And I hope you understand, sir, going forward, I  
 7 really apologize when I interrupt you. Under the old days  
 8 without time limits, I would love to not have to do that,  
 9 okay? So I'm just apologizing --  
 10 PRESIDING OFFICER: Counselor, I remind you  
 11 that the parties agreed to the time limits. Continue.  
 12 MR. HARDIN: Thank you very much. I  
 13 appreciate it. And I want you to understand I'm not  
 14 complaining about them, I was just explaining them.  
 15 Q. (BY MR. HARDIN) All right. Now, how long did you  
 16 visit with him?  
 17 A. I mean, must have been 15, 20 minutes.  
 18 Q. Who brought him into your office?  
 19 A. The Attorney General, Mr. Paxton.  
 20 Q. And what -- do you recall what you talked to  
 21 Mr. Cammack about? Without saying what it was, do you recall  
 22 the conversation one way or another?  
 23 A. I mean, vaguely recall the conversation.  
 24 Q. Did you interview him at all?  
 25 A. It was not an interview.

1 Q. And did you offer him a job?  
 2 A. I did not offer him a job.  
 3 Q. And at that time did you have any idea that he was  
 4 going to later be employed by the Attorney General?  
 5 A. I did not.  
 6 Q. Okay. And so after that meeting, what was your  
 7 understanding as to whether Brandon Cammack was going to be  
 8 ultimately one day an employee of the Attorney General's  
 9 Office?  
 10 A. I had no expectation of that.  
 11 Q. All right. Now, after that meeting -- let's move  
 12 now into September. I want to -- at some time did you become  
 13 aware that the Attorney General wanted to hire Mr. Cammack?  
 14 A. I did become aware of that.  
 15 Q. How did you become aware?  
 16 A. I believe Mr. Penley told me and then sent me a  
 17 memo or an e-mail.  
 18 Q. All right. And did you, yourself, have a position  
 19 as to whether Mr. Cammack should be hired?  
 20 A. I supported Mr. Penley's position, which he did not  
 21 support him being hired.  
 22 Q. And the reason for not hiring Mr. Cammack was what?  
 23 A. Well, Mr. Cammack was a five-year lawyer who didn't  
 24 have any prosecutorial experience.  
 25 Q. And what was it the Attorney General wanted

1 Mr. Cammack to do?  
 2 A. He wanted him to, I guess, assist with or perhaps  
 3 lead an investigation into the allegations that Mr. Paul was  
 4 making against federal and state law enforcement.  
 5 Q. What was the position of your criminal justice  
 6 division as to whether they wanted Mr. Cammack hired? I  
 7 mean, more specifically, Mr. Penley, what was his position?  
 8 A. Mr. Penley's position was he did not want  
 9 Mr. Cammack hired because he felt like he could do the job.  
 10 Q. And Mr. Maxwell's position?  
 11 A. The same.  
 12 Q. All right. Had that position been made clear to  
 13 the Attorney General?  
 14 A. Yes.  
 15 Q. Were you aware one way or the other as to whether  
 16 the Attorney General was then contacting other deputy levels  
 17 to try to get them to agree that Mr. Cammack be hired?  
 18 A. I learned that after the fact that that was the  
 19 case.  
 20 Q. And what would you tell the jury unanimously was  
 21 the position of the deputies as to whether Mr. Cammack would  
 22 be hired to conduct an investigation?  
 23 MR. BUZBEE: Objection, Your Honor, hearsay.  
 24 We're going to hear from Penley and Maxwell. They can tell  
 25 us their position.

1 PRESIDING OFFICER: Sustained.  
 2 Q. (BY MR. HARDIN) Let me ask you this: Did you,  
 3 yourself, ever have conversations with the Attorney General  
 4 expressing your opposition to Mr. Cammack being hired?  
 5 A. Several.  
 6 Q. Do you recall when those conversations were?  
 7 And that last answer, I think the microphone  
 8 missed it. There you go.  
 9 A. Several.  
 10 Q. And do you know when they were and where they were?  
 11 A. They would have been in September, and they would  
 12 have been in various locations. They would have been --  
 13 Q. All right. Where was the first conversation you  
 14 remember having with Mr. Paxton expressing your opposition to  
 15 Mr. Cammack being hired?  
 16 A. I don't know if it was the first one, but the first  
 17 one that I -- sitting here right now that I recall was I  
 18 remember I was driving to Houston, actually to The Woodlands,  
 19 for a Federal Society Leadership event, and the Attorney  
 20 General called me. He was on an airplane; I was driving.  
 21 And we had a discussion about Mr. Penley not being for hiring  
 22 Cammack.  
 23 Q. And can you give us a date for that conversation?  
 24 A. Yes. It was Friday, September 25th.  
 25 Q. All right. And on Friday, September 25th, you were

1 in your car. Who was with you?  
 2 A. My wife.  
 3 Q. And were you informed very quickly in the  
 4 conversation who was accompanying the Attorney General for  
 5 this September the 25th conversation?  
 6 A. Well, I know that the Attorney General was in  
 7 Washington, D.C. with Mr. McCarty, the deputy for civil lit,  
 8 for a -- I believe it was a Google meeting. And they were on  
 9 a plane coming -- they were literally on a plane coming back  
 10 from D.C.  
 11 Q. What did Mr. Paxton tell you in that phone  
 12 conversation?  
 13 A. Well, he was upset at Mr. Penley because Mr. Penley  
 14 had expressed that he was not in favor of hiring Mr. Cammack,  
 15 but the Attorney General wanted Mr. Penley to sign the  
 16 contract.  
 17 Q. Do you recall what he said and what tone he said it  
 18 in?  
 19 A. You know, I -- in my time, you know, over four  
 20 years and -- over four and a half years with the Attorney  
 21 General, I think he only raised his voice to me and we had a  
 22 heated discussion on two occasions. This was the first  
 23 occasion. He was not happy.  
 24 Q. And what did you tell him?  
 25 A. I told him I would support Mr. Penley --

1 MR. BUZBEE: Objection, Your Honor, hearsay.  
 2 MR. HARDIN: This is a response not being  
 3 offered for the truth of the matter, but that he simply  
 4 stated this to the Attorney General.  
 5 PRESIDING OFFICER: Overruled.  
 6 MR. HARDIN: We're not seeking to prove the  
 7 truth one way or the other. So my argument is it is not  
 8 hearsay.  
 9 PRESIDING OFFICER: Overruled.  
 10 MR. HARDIN: Thank you, Your Honor.  
 11 Q. (BY MR. HARDIN) Go ahead.  
 12 A. Yeah. I mean, so the Attorney General was upset  
 13 that Mr. Penley wouldn't sign the outside counsel contract  
 14 for Mr. Cammack.  
 15 Q. What did he want you to do as it applied to  
 16 Mr. Penley?  
 17 A. Well, he wanted me to talk to Mr. Penley and have  
 18 him sign the contract on this conversation.  
 19 Q. And what did you tell him as to whether you would  
 20 do that or not?  
 21 A. I told him I would not do that.  
 22 Q. And why did you tell him you would not do that?  
 23 A. Because I was going to back my deputy. Mark Penley  
 24 is a 20-plus year law enforcement prosecutor, and he told me  
 25 he could do the job that he was being requested to do.

1 Q. And then how long did you say that conversation  
 2 lasted?  
 3 A. It couldn't have been that long because he was on  
 4 an airplane, and I think he was told to get off.  
 5 Q. And then when is the next -- when was the next  
 6 conversation that you had with Mr. Paxton again about whether  
 7 Mr. Cammack should be hired?  
 8 A. Now, this was a -- this was in my office on the  
 9 following Monday, so that would have been the 28th.  
 10 Q. And on the 28th when you had this conversation,  
 11 what was said there and what were the circumstances?  
 12 A. Well, the Attorney General came into my office --  
 13 and actually he came in and he -- he didn't raise Cammack or  
 14 Penley. Instead -- and, again, I don't have a strong  
 15 recollection other than it wasn't those issue. So it was  
 16 probably he was updating me on the Google meeting, for  
 17 instance. And I said, But I understand you've got a problem.  
 18 One thing that I didn't say --  
 19 Q. I didn't understand that part. What did -- you  
 20 said this to him?  
 21 A. I said this to the Attorney General. So he didn't  
 22 raise the issue. And then I said to him -- I probably said  
 23 Ken. Ken, I understand you're upset with me.  
 24 Q. And how did you understand that? Where did that  
 25 come from?

1 A. Mr. Penley had met with Mr. Paxton.  
 2 Q. Without going into what they said, let's try to do  
 3 it this way. Were you aware of a meeting that Mr. Paxton had  
 4 with Mr. Penley on Saturday the 26th in McKinney?  
 5 A. I was aware.  
 6 Q. That would have been two days before you having a  
 7 conversation with him, is that right --  
 8 A. Yes.  
 9 Q. -- in your office?  
 10 A. Yes.  
 11 Q. So if we have the sequence of these conversations,  
 12 on the 25th did you say that you were driving to Houston --  
 13 A. Yes.  
 14 Q. -- and had the conversation with Mr. Paxton on the  
 15 phone?  
 16 A. Yes.  
 17 Q. All right. And then were you aware -- did you  
 18 inform -- without going into what you told him, did you  
 19 inform Mr. Penley on the 25th after your conversation with  
 20 Mr. Paxton of the contact -- content of the conversation with  
 21 Mr. Paxton?  
 22 MR. BUZBEE: Again, Your Honor, I hate to keep  
 23 interrupting, but every question is leading this witness.  
 24 PRESIDING OFFICER: Sustained. Continue.  
 25 Q. (BY MR. HARDIN) Let me ask you this: After you

1 got through with the phone conversation with Mr. Paxton on  
2 the 25th that you've described, did you alert any member of  
3 your staff to that conversation?

4 A. Yes.

5 MR. BUZBEE: Again, Your Honor, leading. If  
6 he wanted to ask him, "What did you do thereafter," that  
7 would not be leading. But he's just basically telling the  
8 witness what he wants him to say. Leading.

9 MR. HARDIN: I don't know how that question  
10 alerts him to anything other than my question is, did you  
11 talk about that conversation with anyone else after you had  
12 it? That's my question.

13 MR. BUZBEE: That's a different question, and  
14 I have no objection to that one.

15 Q. (BY MR. HARDIN) Did you?

16 A. And the answer is yes.

17 Q. And whom did you talk to?

18 A. With Mark Penley.

19 Q. And when and where did you have that conversation  
20 with Mr. Penley?

21 A. I was at the meeting, the Fed Soc meeting in The  
22 Woodlands. It would have been that -- the evening, Saturday  
23 evening.

24 Q. All right. And as a result of that conversation or  
25 anything else, did you become aware that General Paxton had

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1 screen.

2 MR. HARDIN: Do we have a separate set of hard  
3 copy?

4 And also can I ask, Your Honor, permission --  
5 Ms. Brevorka, is 240 one of those that you agreed to,  
6 exhibit? Okay. Ms. Brevorka, the question has been answered  
7 by Stella. Thank you. All right. Thank you. Would you  
8 provide a copy, please, to the President, please.

9 Q. (BY MR. HARDIN) All right. I'm going to ask you,  
10 first of all, to look at these documents real quickly. We're  
11 not going to talk about what's in the contents of them. I'm  
12 going to ask you to look and, first of all, authenticate them  
13 for me. Are these notes that you, yourself, prepared?

14 A. Yes.

15 Q. Keep your voice and microphone --

16 A. Yes.

17 Q. Okay. And when you did -- when did you prepare  
18 these notes?

19 A. I prepared these notes on the Sunday after I  
20 resigned.

21 Q. All right. And so this is after you had left; is  
22 that correct?

23 A. That is correct, but I resigned -- I'm sorry.

24 Q. Go ahead.

25 A. I resigned on Friday the 2nd.

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1 arranged a meeting with Mr. Penley that was scheduled to  
2 happen the next day?

3 A. Actually, I believe it happened that day. This was  
4 after that meeting.

5 Q. You were aware he had one conversation?

6 A. Yes.

7 Q. And then after Mr. Penley had the conversation with  
8 the Attorney General on the 25th, which followed your earlier  
9 plane conversation with Mr. Paxton, did you become aware of a  
10 meeting that Mr. Penley was to have with Mr. Paxton the next  
11 day on Saturday the 26th?

12 MR. BUZBEE: Your Honor, objection, leading.  
13 He's suggesting the answer to the question in the question,  
14 which is classic leading, and I object to it.

15 PRESIDING OFFICER: Rephrase, please.

16 MR. HARDIN: Thank you.

17 Q. (BY MR. HARDIN) Do you have any knowledge from any  
18 source of whether or not on Saturday the 26th --

19 A. Mr. Hardin, I took notes.

20 Q. Pardon me?

21 A. I took some notes --

22 Q. I know that.

23 A. -- that maybe would help refresh my memory, that I  
24 made. So I think I provided those to everyone.

25 Q. I'm going to show you -- I can't put them on the

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1 Q. Let's talk -- the 2nd. All right.

2 A. And these were written on Sunday morning the 4th.

3 Q. Now, I'm asking you to look and see if these notes  
4 truly and accurately reflect the events that you were  
5 recording as you remembered them on that Sunday over several  
6 days. Do they?

7 And do these notes -- I want you to look at what we  
8 were talking about. We were on the period of the 25th and  
9 the 26th. I don't want you to tell me what your notes say.  
10 I want you to read and see if that helps refresh your  
11 recollection and then I may ask you some questions, but not  
12 you reading the notes or anything. I'm going to ask you  
13 about your memory.

14 Would you briefly read and review your memory?

15 A. Yes.

16 Okay. Mr. Hardin.

17 Q. All right. Does that help refresh your memory?

18 A. It does, sir.

19 Q. All right. I want to go back, then, to your -- you  
20 put the notes -- just keep them there, but testify from what  
21 you remember.

22 During your conversations with Mr. Paxton on the  
23 25th, was there -- did you alert him to your feeling -- or  
24 let me put it another way. Was there any contention by  
25 Mr. Paxton that you had approved the hiring of Mr. Cammack?

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1 A. Mr. Paxton said that -- Mr. Paxton said that to me  
 2 during that phone conversation.  
 3 Q. He said what?  
 4 A. He said, Well, you approved the hiring of Cammack.  
 5 And I said, Absolutely not.  
 6 Q. And has it been your contention from the very  
 7 beginning always that you did not approve of the hiring of  
 8 Mr. Cammack?  
 9 A. I never approved the hiring of Mr. Cammack.  
 10 Q. Was that -- how would you describe that part of  
 11 your conversation with Mr. Paxton when he suggested you had?  
 12 A. I think it's probably the first time I ever raised  
 13 my voice to the Attorney General in response to him raising  
 14 his voice to me.  
 15 Q. So we've got two raised voices, one on a plane and  
 16 one in a car?  
 17 A. Correct.  
 18 Q. Who was driving?  
 19 A. I was driving unfortunately.  
 20 Q. All right. Now, have you had a chance to look at  
 21 your notes and refresh your memory as to whether or not --  
 22 when and where, if you did, call Mr. Penley after that call?  
 23 A. Yes. I spoke to Mr. Penley twice, once on the 25th  
 24 and then I spoke to him again on the 26th.  
 25 Q. All right. And when you talked to him the 25th,  
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1 what -- do you have any memory as to whether or not you  
 2 learned he was going to meet with Mr. Paxton on the 26th?  
 3 A. I learned that he was going to meet with Mr. Paxton  
 4 on the 26th.  
 5 Q. And did you have concerns about that meeting?  
 6 A. I did, because my concern was -- my concern was  
 7 that General Paxton was going to fire Mr. Penley.  
 8 Q. So what did you urge Mr. Penley?  
 9 A. I told Mr. Penley, Do not --  
 10 MR. BUZBEE: Objection, hearsay.  
 11 MR. HARDIN: Okay. That's fair enough. I'll  
 12 withdraw it, Your Honor.  
 13 PRESIDING OFFICER: Sustained.  
 14 MR. HARDIN: I'll withdraw it. Thank you.  
 15 Q. (BY MR. HARDIN) And during the call, did you and  
 16 Mr. Paxton have any further conversation concerning why in  
 17 the world y'all were involved -- he was involved with  
 18 Mr. Paul?  
 19 A. During that conversation and then just briefly, but  
 20 certainly on the meeting the following Monday.  
 21 Q. On the 28th?  
 22 A. On the 28th.  
 23 Q. All right. So -- but in the call in the airport --  
 24 I mean, on the airplane, what I call the airplane call, did  
 25 you express any concern about why y'all were -- why he was  
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1 involved with Mr. Paul?  
 2 A. I mean, I recall that I, again, asked him -- this  
 3 wasn't the first time -- but, Ken, why are we involved in  
 4 this? What -- I mean, it just didn't -- it just didn't make  
 5 sense to me. Of all the things going on, why was -- why were  
 6 we involved?  
 7 Q. What do you mean with all this going on? What are  
 8 you talking about?  
 9 A. Well, by this time -- this is the end of September.  
 10 So by this time, we knew about -- we knew a lot more about  
 11 Nate Paul. We had learned a lot more about who he was, what  
 12 was being alleged against him. I mean, he was not a good guy  
 13 and had a lot of concerns about that. We knew about the  
 14 Attorney General wanting to appear in court on behalf of Nate  
 15 Paul by that time. We knew that he -- by that time, I knew  
 16 he had been pressuring the other deputies and actually other  
 17 line lawyers to do more on behalf of Nate Paul. So all this  
 18 was starting. By the end of September, all this is coming to  
 19 fruition.  
 20 And of course, this with Penley, Penley just simply  
 21 saying, I want to investigate it. I've asked him for -- Mark  
 22 Penley was a loyal person. I mean, he was Mr. Paxton's  
 23 friend for decades. And during one of these -- this call,  
 24 Ken actually says that Mark's lying, that Mark Penley is  
 25 lying. Well, I mean, that to me -- and sort of like the fact  
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1 that the Attorney General wanted to appear in court, hearing  
 2 Mr. Paxton saying that Mark Penley of all people was lying, I  
 3 mean, I just -- I mean, you have to know Mark Penley.  
 4 Q. Why -- why was that such an a-ha moment for you?  
 5 A. He --  
 6 Q. Hold on. What was that such an a-ha moment for  
 7 you?  
 8 A. Because my experience had never been Mark Penley --  
 9 I mean, he was -- he is honest to the fault, just absolutely  
 10 honest to the fault. And so when General Paxton says that  
 11 Mark Penley is lying, I just -- I mean, you know, bells and  
 12 whistles are going off that this is not good. This is bad.  
 13 Q. Did you become aware during -- after that  
 14 conversation -- do your notes help refresh your memory as to  
 15 whether you knew that Mr. Penley was then going to meet with  
 16 the Attorney General on the 26th?  
 17 A. I did know that.  
 18 Q. Without going into what Mr. Penley told you after  
 19 that meeting, did you have a conversation with Mr. Penley in  
 20 which he fills you in on the conversation with Attorney  
 21 General Paxton?  
 22 A. After Mr. Penley met with the Attorney General,  
 23 Mr. Penley called me.  
 24 Q. All right. Now, then after that Saturday the 26th,  
 25 what happened in terms of conversations with Mr. Paxton after  
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1 the -- on the morning of the 28th?  
 2 A. On the morning of the 28th, I was in my office, and  
 3 the Attorney General came in to meet with me.  
 4 Q. What did he want?  
 5 A. He -- my best recollection is the first part of the  
 6 conversation was about other cases, probably about Google  
 7 because he had just been in D.C. He was as friendly as ever.  
 8 I mean, it was the Ken Paxton that I had known for four-plus  
 9 years; very friendly, very communitive. And I was  
 10 actually -- I mean, I was actually surprised by that because  
 11 our last discussion had been so heated and then I knew about  
 12 what had occurred during the weekend. And I asked him --  
 13 because he had told Mr. Penley that he was frustrated with me  
 14 and compared -- compared me to my predecessor who had been  
 15 very frustrated at one time. And so I brought that up. The  
 16 Attorney General didn't bring it up in that meeting.  
 17 Q. What did you say?  
 18 A. I said --  
 19 MR. BUZBEE: Objection, hearsay.  
 20 MR. HARDIN: No, it's with Mr. Paxton. This  
 21 is a conversation between the two. There's really no hearsay  
 22 here with an admission against interest of Mr. Paxton that's  
 23 about to follow. It's a conversation the two of them had.  
 24 PRESIDING OFFICER: Overruled. Go ahead.  
 25 Q. (BY MR. HARDIN) Go ahead.

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1 A. He doesn't -- he didn't address whether he was  
 2 frustrated with me. Instead, he expressed that he was  
 3 frustrated with Penley.  
 4 Q. What was he upset about again?  
 5 A. It was almost a replay of the conversation that we  
 6 had on Friday, the Friday before, except this one was -- it  
 7 was not a heated discussion. This was, you know, General  
 8 Paxton one-on-one, just the two of us. And he was -- he was  
 9 what I would say normal Ken Paxton. Just, I don't  
 10 understand, why won't Penley sign this?  
 11 Q. What did he want you to do?  
 12 A. Well, he -- during -- during the conversation, I  
 13 attempted to explain to him something that I thought he  
 14 already understood, which is we have policies and procedures  
 15 at the Office of the Attorney General. We have an executive  
 16 approval memo process. And I tried to explain to the  
 17 Attorney General that, you know, that was there -- that  
 18 process is to protect him; it's to protect the agency. And  
 19 so the hire-an-outside-counsel contract where we're going to  
 20 spend money that the State has given us, that we have to go  
 21 through a formal process, part of that process has several  
 22 steps to it. And the Attorney General acted as if he didn't  
 23 understand that process.  
 24 Q. Was all of these conversations of these about  
 25 wanting Penley to sign the contract so that Mr. Cammack could

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1 be an official employee on a mission for -- as outside  
 2 counsel to investigate things, complaints brought by  
 3 Mr. Paul?  
 4 A. Well, actually, what he wanted to do was Mr. Penley  
 5 to sign the memo, which Mr. Penley is just one of the persons  
 6 in the chain of command.  
 7 Q. We'll get to that. But was this a memo that would  
 8 authorize the outside-counsel contract for Mr. Cammack?  
 9 A. It would. And eventually it would be actually the  
 10 first assistant who would sign that contract under normal  
 11 procedures.  
 12 Q. All right. You mentioned earlier yesterday your  
 13 process for different hirings and things like that. Would  
 14 this have been a contract that had to go through about eight  
 15 of you to be approved?  
 16 A. I think that's correct. The memo would show that.  
 17 It went through several layers.  
 18 Q. And at that time -- what was your understanding as  
 19 to where the approval rested at that time? How far down the  
 20 chain or up the chain had it gotten?  
 21 A. It stopped at Mr. Penley.  
 22 Q. Had it gotten to you at all?  
 23 A. It had not gotten to me.  
 24 Q. Had you seen the contract?  
 25 A. I had not.

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1 Q. Did you know whether or not a contract had already  
 2 been signed?  
 3 A. Signed, no, I had no idea.  
 4 Q. Did you know that it was pending and it had been  
 5 approved by certain levels until it got to Mr. Penley?  
 6 A. I mean, it would have to have been approved before  
 7 it got to Mr. Penley.  
 8 Q. All right. Now, when you had this conversation  
 9 with him, when it ended, how would you describe what the tone  
 10 was?  
 11 A. I mean, again, it was normal Ken Paxton. He asked  
 12 for copies of our policies and procedures. And so I asked  
 13 Lacey Mase, who is the deputy for administration, to gather  
 14 those for him. And at the end of the day, we provided them  
 15 to him. Actually, I think I gave it to his travel aide,  
 16 Mr. Wicker, and gave them to General Paxton.  
 17 Q. Did you have -- did he in that conversation tell  
 18 you what he wanted you to do with Mr. Penley and Mr. Maxwell?  
 19 A. I assumed -- in that conversation, no. I assumed  
 20 that we were back to Penley and Maxwell involved and  
 21 certainly Penley involved in the investigation.  
 22 Q. The conversation on the 28th, at any time did he  
 23 ever take the position that he wanted you to fire Mr. Penley  
 24 and Mr. Maxwell?  
 25 A. Not in the morning meeting.

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1 Q. All right.  
 2 A. That was later.  
 3 Q. Okay. You've referred now to a later. So did you  
 4 have a second conversation on the 28th with Mr. Maxwell --  
 5 excuse me, with Mr. Paxton?  
 6 A. Yes, I did.  
 7 Q. And what was the occasion of that conversation?  
 8 A. It was -- my best guess is it was sometime after  
 9 9:00 p.m., because I was in my condo. And this was  
 10 completely contrary to the morning's conversation.  
 11 Q. In what way? How was it different?  
 12 A. This was the second time that Attorney General  
 13 Paxton was very upset, very angry.  
 14 Q. Did you form any opinion in your own mind in terms  
 15 of how he was acting as to what was going on here?  
 16 A. I believed he had been -- I believed he had been  
 17 drinking.  
 18 Q. All right. Did he sound like that to you?  
 19 A. I mean, again, the best you can tell over the  
 20 phone. It was so unlike any conversation I've ever had with  
 21 him.  
 22 Q. How would you characterize the conversation?  
 23 A. I mean, he was angry; he was upset. I felt like  
 24 perhaps there was someone else with him because he was  
 25 literally saying the same things that we now had discussed

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1 two times before, repeating the same things but in an  
 2 agitated -- I thought maybe he was recording the  
 3 conversation. I mean, it was a horrible, horrible feeling,  
 4 especially for someone that --  
 5 Q. How long did that conversation last?  
 6 A. I mean, 10, 15 minutes.  
 7 Q. And in your situation, what was your response?  
 8 A. I mean, I didn't -- I was -- I did not get angry  
 9 with him. I was really confused. I was troubled because he  
 10 kept pressing the same things over and over again.  
 11 Q. And what were those things over and over again?  
 12 A. It was -- it all dealt with the hiring of  
 13 Mr. Cammack.  
 14 Q. And what did it have to do with Mr. Penley and  
 15 Mr. Maxwell?  
 16 A. Well, he -- at one point in that conversation he  
 17 wants me to fire them. And he says he's reviewed the  
 18 policies and procedures, and the first assistant can sign the  
 19 contract.  
 20 Q. I want to ask you about that. So did he suggest --  
 21 what did he suggest, if anything, about whether you could or  
 22 should sign the contract?  
 23 A. He suggested that I could and I should sign the  
 24 contract.  
 25 Q. And what did you say?

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1 A. I said I would not sign the contract.  
 2 Q. Did you tell him why?  
 3 A. I said because I -- I'm a rule of law guy. I  
 4 believe in those -- those policies and procedures.  
 5 Q. And a schedule for that, if the contract would have  
 6 been approved, if Mr. Penley had approved, where would it go  
 7 next?  
 8 A. I think it goes up -- and we'd have to look at the  
 9 memo, but I think Ms. Mase has to approve it. I think it  
 10 then either goes up to either Missy or Ryan. It's a couple  
 11 before it reaches me, but the memo would be the best.  
 12 Q. Would it have to work its way up to Mr. Bangert for  
 13 sure before it got to you?  
 14 A. I believe so.  
 15 Q. All right. At the end of the day, did he -- do you  
 16 recall whether he ever said anything to you about whether --  
 17 ask you a question about anything having to do with what  
 18 if -- about him signing?  
 19 A. Yeah. He asked -- you know, now in retrospect I  
 20 think I understand why he asked it, but we had this  
 21 discussion about the policies and the procedures again. This  
 22 would have been at least the third time that we had it. He  
 23 urges me to sign it. And then at one point near the end of  
 24 the conversation he asks me the question, Well, what if I've  
 25 signed it? And I --

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1 Q. What if he signed it?  
 2 A. Yeah. He asked me -- he asked me, Well, what if I  
 3 signed it already?  
 4 Q. Right. What if I've signed it?  
 5 MR. HARDIN: Stella, what if -- what if I  
 6 signed it. Thank you. Thank you. If you would put  
 7 that on --  
 8 Q. (BY MR. HARDIN) It would be the evening -- the  
 9 evening of 9-28, in that conversation he says to you, What if  
 10 I had already signed it?  
 11 A. What if I had already signed it.  
 12 Q. And you're certain of that?  
 13 A. Yes.  
 14 Q. All right. What did you tell him?  
 15 A. I told him that I would consider the contract void.  
 16 Q. Did he say to you he had already signed it?  
 17 A. He did not say that.  
 18 Q. Now, how much -- why would you consider a contract  
 19 void if the Attorney General signed it even if you were  
 20 opposed to it?  
 21 A. Because the policies and procedures were in place  
 22 in such a way to protect him and to protect the agency. If  
 23 he had gone so far outside our policies and procedures on  
 24 behalf of one person against the whole -- against your whole  
 25 staff pursuing -- pursuing a private matter using public

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1 resources, I mean, to me that's just -- that has to be a void  
 2 contract.  
 3 Q. Well, do you think he had the authority to sign a  
 4 contract hiring Mr. Cammack?  
 5 A. I think the Attorney General has the authority to  
 6 sign contracts. I will say, however, that the policies and  
 7 procedures of the office, the Attorney General did not sign  
 8 many contracts.  
 9 Q. All right. Had you ever known him to sign one of  
 10 these types of contracts before?  
 11 A. Not an outside-counsel contract.  
 12 Q. But more to the point, do you think it was illegal  
 13 under any circumstances for him to do it or did you think it  
 14 was a violation of policy that had been running the  
 15 department since you were there?  
 16 A. Well, I thought it was wrong in this case knowing  
 17 everything I knew. That doesn't mean I don't believe the  
 18 Attorney General can't sign contracts, but I think --  
 19 MR. BUZBEE: Objection, nonresponsive. He  
 20 asked him whether it was legal for the Attorney General to  
 21 sign contracts. We would like to have an answer to that  
 22 question.  
 23 MR. HARDIN: He's giving his answer. There's  
 24 cross-examination for him to explore, in all due respect.  
 25 MR. BUZBEE: Nonresponsive, Your Honor.

1 PRESIDING OFFICER: Sustained.  
 2 MR. HARDIN: Thank you.  
 3 Q. (BY MR. HARDIN) Well, let me ask you this --  
 4 MR. BUZBEE: Your Honor, we'd like an answer  
 5 to the question then. Is it legal for the Attorney General  
 6 to sign a contract? That was the question.  
 7 MR. HARDIN: You know, as much as -- I've made  
 8 it this far in life without advice from Mr. Buzbee. I'm  
 9 going to try to make it the rest of my life. I'll ask my  
 10 questions; and if he objects, that's fine.  
 11 PRESIDING OFFICER: I believe you asked the  
 12 question.  
 13 MR. HARDIN: Yes, I'll be glad to. I was in  
 14 the process of trying to.  
 15 PRESIDING OFFICER: I believe you asked it.  
 16 Let me go look at the transcript.  
 17 MR. HARDIN: Thank you very much.  
 18 Q. (BY MR. HARDIN) When do you --  
 19 PRESIDING OFFICER: Hold on one second,  
 20 counsel, I'm looking at the transcript.  
 21 MR. HARDIN: Sure, sure.  
 22 PRESIDING OFFICER: You asked the question,  
 23 the witness can answer. Is it illegal for him to sign a  
 24 contract?  
 25 Q. (BY MR. HARDIN) Now, let me ask you this.

1 MR. BUZBEE: Actually, he needs to answer.  
 2 PRESIDING OFFICER: Counselor, you asked the  
 3 question. We've confirmed it on the transcript. The witness  
 4 will answer the question.  
 5 MR. HARDIN: Thank you very much.  
 6 A. Can you -- can you restate it? Because if the  
 7 question is can the Attorney General sign a contract, is that  
 8 illegal, and that's what I understand the question to be --  
 9 PRESIDING OFFICER: Counselor, restate the  
 10 question. You've asked it once. Restate the question.  
 11 MR. HARDIN: Thank you, Your Honor. I was  
 12 looking back to see what I asked.  
 13 PRESIDING OFFICER: It was line 21.  
 14 Q. (BY MR. HARDIN) I think the question that I see  
 15 that I asked through all that exchange was, do you think it  
 16 was illegal under -- was it a violation of policy that had  
 17 been running the department since you were there?  
 18 But my question -- let me try to break it down.  
 19 Did you have an opinion that it was --  
 20 MR. BUZBEE: Your Honor, I'm sorry to  
 21 interrupt. I'd like the witness to answer the question.  
 22 MR. HARDIN: I've withdrawn the question. I  
 23 will proceed to the next, with permission, of course, of the  
 24 Court.  
 25 PRESIDING OFFICER: You asked the question,

1 the witness hasn't answered.  
 2 MR. HARDIN: We don't know what the question  
 3 was anymore. I'm sorry.  
 4 MR. BUZBEE: Your Honor, he suggested that  
 5 it's illegal for the Attorney General of the State of Texas  
 6 to sign a contract. This witness knows it's not and he  
 7 should say so.  
 8 MR. HARDIN: And I have -- I'll be glad to ask  
 9 that question my way. I'll withdraw the question before and  
 10 with the Court's permission, proceed.  
 11 PRESIDING OFFICER: You may withdraw the  
 12 question.  
 13 MR. HARDIN: Thank you, Your Honor.  
 14 Q. (BY MR. HARDIN) Now, but I do want to proceed with  
 15 the topic. And that is did you believe -- or what was your  
 16 belief as to whether it was legally unlawful for him to sign  
 17 a contract and hire Mr. Paxton [sic] unilaterally, or did you  
 18 think it was a violation of your policy? Just explain to us  
 19 what your thought process was.  
 20 A. And I believe you mean Mr. Cammack.  
 21 Q. Pardon me?  
 22 A. You said Mr. -- hiring Mr. Paxton instead of  
 23 Mr. Cammack.  
 24 Q. I'm glad you're following me. You're right. With  
 25 that correction, Mr. Paxton. Back into the microphone so

1 that both of us -- there you go. What's your answer?  
 2 A. So I believed at that time in that conversation  
 3 with the Attorney General on the evening of September 28th  
 4 that not only did signing that contract -- if in fact the  
 5 Attorney General had signed it, I believed that it violated  
 6 our policies and procedures. But I also believed in the  
 7 circumstances of Mr. Cammack, knowing everything that we  
 8 knew, that it was unlawful.

9 Q. And why did you mean -- why did you think it was  
 10 unlawful in light of all the circumstances?

11 A. Because Mr. Cammack was being hired to do something  
 12 that I did not believe was in the interest of the State and  
 13 that there wasn't a -- I mean, the Attorney General is not  
 14 above the law. He has to comply with the law like all of us.  
 15 And so, again, knowing the whole circumstances at this point  
 16 in time, that's what I believed.

17 Q. What was your opinion, one way or the other, as to  
 18 whether -- if that signing of that contract was in pursuit of  
 19 an unlawful purpose, was it in your opinion, therefore,  
 20 unlawful?

21 A. Correct.

22 Q. All right. Now -- and the purpose in this matter,  
 23 were you aware of what your staff, meaning Mr. Penley and  
 24 Mr. Maxwell, believed as to whether what they were being  
 25 asked to do --

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1 not what the Attorney General and Mr. Paul were asking them  
 2 to do was lawful? Just whether you were aware of what their  
 3 opinion was. I'm not asking you if you were -- what it was.

4 MR. BUZBEE: Your Honor, I object to that.  
 5 He's suggested Mr. Paul was somehow talking about this  
 6 contract. There's no evidence of any of that. And the --  
 7 and, therefore, the question is vague and assumes facts that  
 8 certainly are not in evidence.

9 PRESIDING OFFICER: You can ask the question,  
 10 was he aware.

11 MR. HARDIN: That's all. Was he aware and not  
 12 what it was. I haven't asked him what it was.

13 A. I was aware.

14 Q. (BY MR. HARDIN) All right. And did that have  
 15 anything to do with your opinion as to what you were telling  
 16 the Attorney General and how resistant you were to what he  
 17 wanted to do?

18 A. Yes, it did.

19 Q. By the way --

20 A. Yes, it did.

21 Q. Thank you very much.

22 All right. Now, how did that conversation end?

23 A. It ended abruptly.

24 Q. And then I want to -- I want to try to move pretty  
 25 quickly here through these last matters. That was Monday the

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1 MR. BUZBEE: Objection, Your Honor, hearsay.  
 2 We're going to hear from both Mr. Maxwell and Mr. Penley.

3 Q. (BY MR. HARDIN) Whether what they were being -- do  
 4 you have an opinion or were you aware of one way or the  
 5 other --

6 PRESIDING OFFICER: Sustained.

7 Q. (BY MR. HARDIN) -- as to what their position was.  
 8 That's all I'm asking.

9 PRESIDING OFFICER: Repeat that question.

10 MR. HARDIN: Thank you.

11 Q. (BY MR. HARDIN) Were you aware at this time as to  
 12 what position Mr. Penley and Mr. Maxwell had taken as to  
 13 whether what they were being asked to do was unlawful?

14 MR. BUZBEE: Your Honor, can we hear from  
 15 Mr. Penley and Mr. Maxwell about their belief of this  
 16 contract rather than hear him tell us what they told him?  
 17 This is hearsay.

18 MR. HARDIN: I'm not asking for communication.  
 19 Excuse me. I think she was talking, I apologize.

20 PRESIDING OFFICER: Restate the question.

21 MR. HARDIN: Thank you.

22 Q. (BY MR. HARDIN) Were you aware at that time -- and  
 23 we are in September of -- 9-28 of 2020. Were you aware at  
 24 that time one way or the other as to whether -- what  
 25 Mr. Penley and Mr. Maxwell's position was as to whether or

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1 28th, was it not?

2 A. Correct.

3 Q. On Tuesday the 29th, did you learn any new  
 4 information that concerned you greatly?

5 A. Yeah. I was in a conference call, a Zoom meeting  
 6 actually, involving all the chief depts across the country,  
 7 bipartisan meeting. We were dealing with opioids. And I got  
 8 an urgent message first from my assistant and then from  
 9 Ms. Mase, the deputy for admin, that there was an emergency.

10 Q. All right. And what did you do when you got that  
 11 call -- that message, excuse me?

12 A. I excused -- I think I was leading the meeting and  
 13 I excused myself from the meeting because Ms. Mase and  
 14 Ms. Hornsey wouldn't interrupt me unless it were really  
 15 something important because they knew I was on an important  
 16 call.

17 Q. What did you learn?

18 A. I learned that -- that a bank had called Ms. Mase  
 19 and informed her that --

20 MR. BUZBEE: Objection, hearsay.

21 MR. HARDIN: All right.

22 PRESIDING OFFICER: Sustained.

23 Q. (BY MR. HARDIN) You don't need to tell what you  
 24 did, but what did -- as a result of the phone call or the  
 25 conversation, did you talk to Ms. Mase or how did you find

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1 out?  
 2 A. I talked to Ms. Mase.  
 3 Q. All right. And what were you concerned about then?  
 4 A. I was concerned that someone was -- that  
 5 Mr. Cammack was saying that he was working for the Office of  
 6 the Attorney General and was engaged in activities.  
 7 Q. What kind of activities?  
 8 A. He was serving subpoenas.  
 9 Q. What type of subpoenas?  
 10 A. He was serving -- seeking information from banks  
 11 that appeared to be related to Mr. Paul and his activities.  
 12 Q. And were they grand jury subpoenas?  
 13 A. They were grand jury subpoenas.  
 14 Q. Did you have any idea how or why he was obtaining  
 15 grand jury subpoenas?  
 16 A. Not on September 29th.  
 17 Q. All right. And at that time what did you do as a  
 18 result of getting that information?  
 19 A. I -- I debriefed with Ms. Mase. I believe at a  
 20 certain point Mr. Bangert, perhaps Mr. Brickman and some of  
 21 the other deputies were actually over here at the capitol  
 22 meeting with either the Governor's Office or the Lieutenant  
 23 Governor's Office. I don't remember.  
 24 Q. And so what -- and what did you do as far as them?  
 25 A. I called them back.

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1 Q. All right. So when you called them back, where did  
 2 you call them back to?  
 3 A. Back to the 8th floor.  
 4 Q. And then was there a meeting?  
 5 A. There was a meeting.  
 6 Q. And as best you remember, who all did you have in  
 7 that meeting?  
 8 A. I know it was Mr. Bangert, Ms. Mase --  
 9 Q. And we're September the 29th?  
 10 A. September the 29th.  
 11 Q. Okay.  
 12 A. It was Mr. Bangert, Ms. Mase, Mr. Penley.  
 13 Mr. Maxwell was out of town. Ms. Cary was out of town.  
 14 Mr. Vassar, Mr. Brickman. I may be missing someone, but  
 15 that's the best of my recollection.  
 16 Q. And what was purpose of this meeting?  
 17 A. We were trying to figure out what was going on.  
 18 Q. What was your concern?  
 19 A. My concern was we had somebody out there that  
 20 wasn't part of our organization representing that he was an  
 21 official with the Attorney General's Office.  
 22 Q. Now, did you have any idea at that time whether or  
 23 not there was a signed contract between Mr. Paxton and  
 24 Mr. Cammack?  
 25 A. I had no idea.

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1 Q. All right. Had you ever seen such a contract?  
 2 A. Not at that time.  
 3 Q. Had everybody ever suggested to you there was such  
 4 a signed contract?  
 5 A. Not at that time.  
 6 Q. All right. Now, what -- can you describe sort of  
 7 the atmosphere of this group? I mean, what's happening? I  
 8 want you to try to describe it for me without going into what  
 9 each person was saying.  
 10 A. I mean, we considered it sort of a crisis moment.  
 11 I mean, everything regarding Mr. Paul was kind of coming to a  
 12 head. And so at some point Mr. McCarty joined. I don't  
 13 think I had mentioned Mr. McCarty. And he wasn't in the  
 14 original meeting, but eventually he joins. And so it's  
 15 really the first time that each of the deputies started to  
 16 share -- and without getting into what they shared, but  
 17 started to share information concern -- each bits and pieces  
 18 about Mr. Paul and his activities with the Attorney General.  
 19 Q. What is your testimony, Mr. Mateer, as to whether  
 20 or not in many ways people shared different things that you  
 21 had never heard before?  
 22 A. I mean, I learned things in that meeting that I  
 23 hadn't known before.  
 24 Q. In terms of relationships with the Attorney General  
 25 and Mr. Paul?

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1 A. Correct.  
 2 Q. All right. Do you have any explanation as to how  
 3 you, the first assistant, would not know what all had been  
 4 going on over the last nine months or so?  
 5 A. I mean, you know, quite frankly I beat myself up a  
 6 little bit. I felt like I probably should have known more.  
 7 But in my defense, we had a lot going on and the way -- I  
 8 mean, we believed, and I believe General Paxton believed, we  
 9 believed in letting our leaders lead. And so they were each  
 10 handling and managing their various divisions. And so I  
 11 would only know what I'm told. And this was really the first  
 12 time, with everybody in a room together, folks began to  
 13 share.  
 14 Q. How would you describe in terms of their alarm one  
 15 way or the other?  
 16 A. I mean, we were -- very serious.  
 17 Q. I want to go back to a subject and you know that  
 18 the allegations here -- and all this has been public -- about  
 19 an affair that Mr. Paxton had with another person.  
 20 A. Yes.  
 21 Q. When did you first -- before I go into questions  
 22 about it, I want you to explain or express in your own way  
 23 why that is relevant to the bigger picture of Mr. Paxton and  
 24 Mr. Paul in your mind, if it is.  
 25 A. No, it -- unfortunately, it is relevant.

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1 Q. Stay with the microphone, please.  
 2 A. I'm sorry. Unfortunately, it is relevant. During  
 3 that week, the last week in the office -- and I have to wind  
 4 back, if I can, a little bit. I have to wind back a little  
 5 bit, if I can, Mr. Hardin.  
 6 I first became -- I, and other senior leadership in  
 7 the Office of the Attorney General, became aware that  
 8 Mr. Paxton was involved in an extramarital relationship  
 9 sometime in 2016.  
 10 Q. In when?  
 11 A. In 2016.  
 12 Q. All right.  
 13 A. Prior to -- that's incorrect. No, that is --  
 14 Q. And then --  
 15 A. I've got to get my -- it was before his -- I have  
 16 to think back to his reelection. It's his second -- his  
 17 first reelection.  
 18 Q. My question is: Did you become aware of it for the  
 19 first time in 2018?  
 20 A. 2018, that's when he was reelected. He was elected  
 21 in 2014 the first time, 2018 the second time. So it would  
 22 have been in August/September time period of 2018, before his  
 23 fall election.  
 24 Q. How did you become aware?  
 25 A. I think the first person I heard was someone in

1 D.C. that actually mentioned it.  
 2 MR. BUZBEE: Objection, hearsay, Your Honor.  
 3 And I'm also -- this was a prime example of counsel  
 4 suggesting the date to this witness. The witness -- and this  
 5 demonstrates the witness --  
 6 MR. HARDIN: The way -- pardon me. The way  
 7 this should work is simply state an objection. It is --  
 8 MR. BUZBEE: Objection to this is hearsay.  
 9 MR. HARDIN: Thank you. Let me --  
 10 PRESIDING OFFICER: Sustained.  
 11 MR. HARDIN: Thank you very much, Your  
 12 Honor.  
 13 Q. (BY MR. HARDIN) So let's go back. Were you  
 14 present at an occasion when Mr. Paxton confessed the affair  
 15 to members of his staff?  
 16 A. Yes. Mr. Paxton, Mrs. Paxton, Senator Paxton,  
 17 gathered senior staff from the Office of the Attorney General  
 18 and senior staff from the campaign. We had a meeting at the  
 19 campaign office in which Mr. Paxton revealed that he had been  
 20 engaged in an extramarital affair and asked for our  
 21 forgiveness.  
 22 Q. And was it a very emotional, sympathetic meeting?  
 23 A. It was a very emotional meeting, yes.  
 24 Q. And that was with both Mr. and Senator Paxton; is  
 25 that correct?

1 A. They were both in attendance, yes.  
 2 Q. And at that -- would it have been a general moment  
 3 of sympathy for the whole event?  
 4 A. Absolutely.  
 5 Q. All right. After that -- were there any assurances  
 6 and so made by Mr. Paxton at that time?  
 7 A. Yeah. I mean, Mr. Paxton apologized and then, you  
 8 know, using Christian terminology, I would say, he, you know,  
 9 repented. And I know that's a Christian term, but from my  
 10 perspective, that's what I believed.  
 11 Q. And was that really the tone and the way the whole  
 12 encounter --  
 13 A. It actually was. And, you know, then we moved on  
 14 and obviously with the expectation that that -- he had -- he  
 15 had made a mistake, he had apologized, and we were moving on  
 16 from it.  
 17 Q. When that meeting was over, did you -- what was  
 18 your assumption going forward as to whether that event was  
 19 over, the affair?  
 20 A. I mean, I assumed it was over because that's what  
 21 he said.  
 22 Q. When did you first become aware that it was not  
 23 over and how? Without what somebody told you, was there any  
 24 other personal -- I'm only asking you for a time, dates or  
 25 years, that you became aware that it was not over.

1 A. It wasn't until --  
 2 MR. BUZBEE: Your Honor, this is -- unless  
 3 Mr. Paxton told him something after that meeting, this is all  
 4 based on rumor or hearsay.  
 5 PRESIDING OFFICER: Sustained. Continue.  
 6 Q. (BY MR. HARDIN) In your own mind, did you  
 7 ultimately believe that it had resumed?  
 8 A. All during that --  
 9 MR. BUZBEE: That would be based on hearsay,  
 10 and it's not relevant what he believed about Mr. Paxton --  
 11 PRESIDING OFFICER: Just state your objection.  
 12 What is your objection?  
 13 MR. BUZBEE: Objection, hearsay and  
 14 relevance.  
 15 PRESIDING OFFICER: Sustained.  
 16 Q. (BY MR. HARDIN) All right. Why did you think, if  
 17 you believed the affair had resumed, that was relevant to be  
 18 of concern about the lieutenant -- about the Attorney General  
 19 and Mr. Paul?  
 20 A. Because it answered one of the questions that I  
 21 kept struggling with, is why would General Paxton jeopardize  
 22 all this great work that we had been doing in the Office of  
 23 the Attorney General? Why would he be engaged in these  
 24 activities on behalf of one person? I mean, all these  
 25 different things. And by this time we knew he had hired

1 Mr. Cammack. Why would he do this against his advice of  
 2 his -- the people who he trusted to run his office, including  
 3 me? And it answered that why question.  
 4 Q. Had you become aware by that time that the woman he  
 5 was having the affair with had been hired by Mr. Paul?  
 6 MR. BUZBEE: Objection, hearsay, Your Honor.  
 7 PRESIDING OFFICER: Overruled. You can  
 8 continue.  
 9 MR. HARDIN: Thank you.  
 10 A. I learned that -- that this person had been hired  
 11 by Mr. Paul that week.  
 12 Q. (BY MR. HARDIN) And why was that relevant to you?  
 13 A. Because it answered the question why is he engaging  
 14 in all these activities. And it was like --  
 15 Q. On behalf of Mr. Paul?  
 16 A. On behalf of Mr. Paul. Why is he engaged in this?  
 17 I mean, it seemed to me he was under undue influence. At  
 18 one -- at times I thought is he being blackmailed? I mean,  
 19 this was so unlike what I experienced with him for four  
 20 years. Like -- and this was part of it. There may have been  
 21 more, there may have been others, but this was certainly part  
 22 of it.  
 23 Q. Mr. Mateer, did you ultimately resign?  
 24 A. I did.  
 25 Q. When did you resign?

1 A. I resigned on that Friday, October 2nd.  
 2 Q. And I believe we have asked before, but let me make  
 3 sure I'm right. You did not sue and you do not have any suit  
 4 pending against either the Attorney's General's Office or  
 5 Mr. Paxton or anyone out of this; is that correct?  
 6 A. I do not.  
 7 Q. If you go back to the things -- what is your  
 8 testimony as to whether you learned a lot more that gave you  
 9 concern? Without going into what it was, on the 29th as all  
 10 of these deputies began to compare notes, what is your  
 11 testimony as to the very reluctant conclusion you came to?  
 12 A. I mean, by that time, the 29th -- because the next  
 13 day is when we go to the FBI and DOJ. By that time, I had --  
 14 I concluded that, you know, Mr. Paxton was engaged in conduct  
 15 that was immoral, unethical, and I had a good faith belief  
 16 that it was illegal.  
 17 Q. What did you -- what was your thought process as to  
 18 what you believed would happen if you did this? What do you  
 19 believe might happen to you and the others if you did come  
 20 forward?  
 21 A. I mean, I knew by that time that my tenure as first  
 22 assistant was coming to a quick end. So I knew that there  
 23 would be -- I mean, any time someone stands up, that there  
 24 could be consequences. So I knew I was in the process of  
 25 leaving the office.

1 Q. You, of course, were not here and did not hear the  
 2 opening statements in this case, did you?  
 3 A. I did not.  
 4 Q. Let me ask you this: How long by the September  
 5 29th and 30th had -- by then had you become aware that  
 6 different members of the top-level administrators in this  
 7 department had, in different ways, been trying to stop the  
 8 Attorney General from helping Mr. Paul?  
 9 MR. BUZBEE: Objection, leading.  
 10 PRESIDING OFFICER: Sustained.  
 11 Q. (BY MR. HARDIN) Did you have a thought process in  
 12 your own mind as to why you needed to go finally to law  
 13 enforcement?  
 14 A. I felt like we had been trying to protect  
 15 Mr. Paxton. On several occasions I had gone to him and,  
 16 really, my -- he had become -- I mean, he was my boss. He  
 17 had become a friend. I cared for him; I cared for Senator  
 18 Paxton. And I wanted him -- I wanted him -- I mean, I think  
 19 in one of the memos I say, Come clean. I mean, I wanted to  
 20 help --  
 21 Q. Come what?  
 22 A. Come clean.  
 23 Q. Microphone.  
 24 A. Come clean. I wanted to -- I mean, my job -- I  
 25 feel one of the jobs of the first assistant is to protect --

1 in addition to running the office was to protect the Attorney  
 2 General. And quite frankly, I obviously failed at that.  
 3 And -- but I came to the conclusion that Mr. Paul had enabled  
 4 Mr. Paxton, and despite my efforts, the other deputies'  
 5 efforts, we couldn't protect him because he didn't want to be  
 6 protected.  
 7 Q. As you ultimately made your decisions and as you  
 8 have learned and things that have happened soon, did you  
 9 change your mind as to whether or not General Paxton was  
 10 simply being blackmailed or something else? Did you  
 11 ultimately make a conclusion of what you believed,  
 12 reluctantly, about the conduct of the Attorney General?  
 13 A. Again, I -- in the end, I reached the conclusion  
 14 that Mr. Paul enabled him to engage in the conduct that  
 15 Mr. Paxton engaged in.  
 16 Q. What is your opinion as to whether or not a level  
 17 of responsibility the Attorney General had?  
 18 A. I mean, ultimately, the Attorney General was  
 19 responsible for his conduct.  
 20 MR. HARDIN: I'll pass the witness.  
 21 PRESIDING OFFICER: We'll take a ten-minute  
 22 break here.  
 23 (Break taken at 11:21 a.m. to 11:36 a.m.)  
 24 THE BAILIFF: All rise. The Texas Senate is  
 25 now in session.

|    |  |    |   |
|----|--|----|---|
| 1  | PRESIDING OFFICER: Please be seated. We'll                   | 1  | Q. The next day you went to the FBI?                          |
| 2  | have to wait until all the jurors get here.                  | 2  | A. We did, yes, sir.  |
| 3  | Members, will all the jurors in the back                     | 3  | Q. Did you after your meeting talk to Ken Paxton?             |
| 4  | please come forward immediately.                             | 4  | A. I did not talk to Ken Paxton.                              |
| 5  | We're missing one juror. Senator Miles and                   | 5  | Q. Okay. So in order to help your friend, a guy that          |
| 6  | Senator Kolkhorst. Okay.                                     | 6  | had given you a really plum of a job, instead of asking him   |
| 7  | Members of the jury, just a reminder, if we                  | 7  | some questions, you instead circled up and decided to go to   |
| 8  | take a ten-minute break, be here in ten minutes. Even if I'm | 8  | the FBI. That's what happened, right?                         |
| 9  | not here, I need the jury to be here because I don't like    | 9  | A. I did have conversations with General Paxton.              |
| 10 | walking out and not having the jury here, so just moving     | 10 | Q. Not after that meeting, right?                             |
| 11 | forward as best we can.                                      | 11 | A. Not after the meeting on the 29th, correct, sir.           |
| 12 | Mr. Buzbee?  | 12 | Q. You had no clue that Brandon Cammack had received a        |
| 13 | MR. BUZBEE: Yes, sir.  | 13 | second referral from the DA's Office, did you?                |
| 14 | CROSS-EXAMINATION  | 14 | A. I did not.   |
| 15 | BY MR. BUZBEE:   | 15 | Q. You were wondering why they were serving subpoenas         |
| 16 | Q. Mr. Mateer, you told us Ken Paxton was your friend?       | 16 | on a bank when the complaint that you knew about had to do    |
| 17 | A. He became my friend, yes.                                 | 17 | with the FBI and the magistrate judge, right?                 |
| 18 | Q. And you were trying to protect him?                       | 18 | A. That's correct.  |
| 19 | A. That's correct, sir.                                      | 19 | Q. You had no clue that there had been a second               |
| 20 | Q. And you were trying to protect him from himself?          | 20 | referral from the DA's Office directly to Brandon Cammack;    |
| 21 | A. Correct.  | 21 | isn't that right?   |
| 22 | Q. And when you found out that this young man, Brandon       | 22 | A. That's right. No one had shared that with us.              |
| 23 | Cammack, had sent a subpoena to a bank, you guys sent        | 23 | Q. So you thought this Cammack fellow is sending -- is        |
| 24 | everybody on the 8th floor home and had a meeting, right?    | 24 | sending subpoenas to banks related to some FBI thing, right?  |
| 25 | A. I don't recall sending everybody home. I do recall        | 25 | A. I didn't know what he was doing.                           |
|    | 73   |    | 75  |
| 1  | we had a meeting.  | 1  | Q. You know how you could have found out? Do you know         |
| 2  | Q. And in order to protect Ken Paxton, what you did          | 2  | how you could have found out? You could have picked up the    |
| 3  | was then call the FBI, right?                                | 3  | phone and called your boss and said, Hey, boss, what's up     |
| 4  | A. That's --   | 4  | with this Brandon Cammack? He's sent a subpoena to a bank.    |
| 5  | Q. That's how you protected your friend?                     | 5  | And he could have told you, Well, I have the authority to     |
| 6  | A. That's not correct, sir.                                  | 6  | sign a contract because I am the elected AG, and he's sending |
| 7  | Q. Did you not go to the FBI thereafter?                     | 7  | subpoenas based on a second referral. You could have done     |
| 8  | A. Not that day, sir.  | 8  | that, right?  |
| 9  | Q. What day?   | 9  | A. I could have done that.                                    |
| 10 | A. The next day, sir.  | 10 | Q. But instead what you did -- instead what you did           |
| 11 | Q. Okay. Did you talk to Ken Paxton before you went          | 11 | was rally your troops, get your stories together, and go to   |
| 12 | to the FBI?  | 12 | the FBI; isn't that right?                                    |
| 13 | A. General Paxton was out of state.                          | 13 | A. That's not how I would characterize it.                    |
| 14 | Q. Did you talk to Ken Paxton before you went to the         | 14 | Q. Did you also talk to Dick Trabulsi?                        |
| 15 | FBI?   | 15 | A. Not at that time, no.                                      |
| 16 | A. I talked to him on the 28th, yes.                         | 16 | Q. How soon after that did you talk to Dick Trabulsi?         |
| 17 | Q. After -- sir, listen, you found out about -- you          | 17 | You know who I'm talking about, don't you?                    |
| 18 | found out that Brandon Cammack had served a subpoena on a    | 18 | A. It's the --  |
| 19 | bank, right? Right?  | 19 | Q. Tell us who he is.   |
| 20 | A. That is correct, yes.                                     | 20 | A. I believe he's the leader of Texans for Lawsuit            |
| 21 | Q. You thought it was a crisis situation, right?             | 21 | Reform.   |
| 22 | A. That is correct, sir.                                     | 22 | Q. Oh. He sent you a text, didn't he?                         |
| 23 | Q. You rallied the troops together and had a meeting,        | 23 | A. He sent me a text after I resigned.                        |
| 24 | right?   | 24 | Q. A text of support?   |
| 25 | A. We had a meeting, yes, sir.                               | 25 | A. I got many texts of support. He was one of them,           |
|    | 74   |    | 76  |



1 yes.  
 2 Q. Where are your texts by the way?  
 3 A. I don't keep texts.  
 4 Q. What do you mean by that, you don't keep texts?  
 5 You deleted your texts?  
 6 A. After I left the Attorney General's Office, when  
 7 I'm no longer employed at the Attorney General's Office, I  
 8 didn't keep texts.  
 9 Q. You didn't think anybody might want to look at your  
 10 texts?  
 11 A. I adhere to zero -- excuse me, zero inbox policy,  
 12 and I think anybody who has ever worked for me knows that.  
 13 Q. Is that right?  
 14 A. That's right.  
 15 Q. So just so we're all clear and everybody that's  
 16 watching is clear, you were having conversations with the  
 17 leader of Texans for Lawsuit Reform who was showing support  
 18 for you after you had went to the FBI and resigned, right?  
 19 A. I had one text message that I received from  
 20 Mr. Trabulsi after I resigned.  
 21 Q. How did he have your phone number? I thought you  
 22 weren't the kind of person that would talk to people like  
 23 that. How did he have your phone number?  
 24 A. A lot of people have my phone number. Probably  
 25 General Paxton gave it to him at one time.

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1 Q. You know we do have some of your texts, don't you?  
 2 A. I mean, I assume you do if others produced them,  
 3 yes, sir.  
 4 Q. Yeah, we don't have any from you because you say  
 5 that you delete them. Tell me how you delete them, by the  
 6 way, because that seems like a challenge. Do you delete  
 7 every text that's sent to you?  
 8 A. I look at e-mail, I look at text every day, okay,  
 9 within a 24-hour time period. If it requires an action, I  
 10 then note it as a to-do item. If it's unrelated to anything,  
 11 then I delete. That's just my -- that's been my policy for  
 12 years, sir.  
 13 Q. Wow. You're -- you worked for the government,  
 14 right?  
 15 A. Well, this was after I worked for the government.  
 16 Q. Right. After you had no longer -- you were no  
 17 longer working for the government, you deleted your texts, is  
 18 that what you're telling me? Or you delete them real time?  
 19 A. I delete them basically real time within a period  
 20 of time.  
 21 Q. Did anybody else in the office do that or was that  
 22 just your practice?  
 23 A. The other person that probably did that was the  
 24 Attorney General.  
 25 Q. You think so?

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1 A. Yeah, I think so.  
 2 Q. Did he have a burner phone, by the way?  
 3 A. No. Someone mentioned that to me at one time.  
 4 Q. Who mentioned that? You read about that in the  
 5 newspaper?  
 6 A. No, I don't think I read about it in the newspaper.  
 7 It would have either been Mr. Wicker or Mr. Rylander.  
 8 Q. Mr. Wicker didn't mention it to you because he was  
 9 questioned. He said he didn't know what a burner phone was.  
 10 Who told you that he had a burner phone?  
 11 A. Again, my best recollection would have been  
 12 Mr. Wicker or Mr. Rylander.  
 13 Q. Did you ever see a burner phone?  
 14 A. I know the Attorney General had several phones. I  
 15 don't know, you know, a burner phone.  
 16 Q. You know what a burner phone is. This would be a  
 17 burner phone. You can go to 7-Eleven, you can buy it, use it  
 18 for a certain amount of minutes, you throw it in the trash.  
 19 That's called a burner phone.  
 20 A. Okay.  
 21 Q. Did you ever see Ken Paxton with a burner phone?  
 22 A. He had a flip phone.  
 23 Q. Did you ever see a burner phone, one that he bought  
 24 at 7-Eleven so he could do some sort of illicit business?  
 25 A. I don't know, sir.

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1 Q. Okay. How about a secret e-mail address? Did you  
 2 ever see him with a secret e-mail address?  
 3 A. He had a Proton e-mail address.  
 4 Q. Didn't you have a Proton e-mail address?  
 5 A. I sure did, yes.  
 6 Q. Oh, goodness gracious. So he had the same kind of  
 7 e-mail address that you had?  
 8 A. Okay.  
 9 Q. We've been told that's a secret e-mail address, but  
 10 you had the same kind of e-mail address, didn't you?  
 11 A. I think a lot of people had them.  
 12 Q. Sure.  
 13 A. I think your co-counsel has one.  
 14 Q. They do have it. Do you know why people use the  
 15 Proton e-mail address?  
 16 A. Because -- well, I know why we did. Because we  
 17 were concerned that Google might be monitoring our  
 18 conversations. We were investigating Google.  
 19 Q. Right. And also Ken Paxton and several others went  
 20 to China, and they wanted to make sure that their e-mail did  
 21 not get hacked, right?  
 22 A. Okay. Correct.  
 23 Q. But yet this Board of Managers -- the House of  
 24 Managers claims that that's some kind of secret, weird thing  
 25 to do when everybody in the office was doing it; isn't that

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1 right?  
 2 A. Well, I don't think everybody in the office was  
 3 doing it, but there were some, yes.  
 4 Q. Sure. Now, back to your texts. Just so the Court  
 5 is clear and the jurors are clear, your testimony is when you  
 6 receive a text, if it needs action, you note it, and  
 7 otherwise you delete it?  
 8 A. That's correct.  
 9 Q. And you still do that now?  
 10 A. I do.  
 11 Q. Well, the good news is Mr. Brickman didn't have  
 12 that same practice. Let's look at what is marked and in  
 13 evidence, AG 170.  
 14 MR. BUZBEE: And, Eric, if you don't mind, go  
 15 to -- the page is Brickman 187. Let's put it on the screen  
 16 so the jurors can see it.  
 17 Q. (BY MR. BUZBEE) What we're going to look at, sir,  
 18 is a text stream that you were on with Brickman and several  
 19 others, okay?  
 20 A. Okay.  
 21 Q. I need you to speak into the mic, please.  
 22 A. Yes, sir.  
 23 Q. Okay.  
 24 MR. BUZBEE: Eric, let me know when you're  
 25 ready. Go to 187, Eric. We were looking at AG Exhibit 170.

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1 187.  
 2 Q. (BY MR. BUZBEE) All right. Here's a text you sent  
 3 at 3:02 p.m. on 9-29-2020; is that right?  
 4 A. That appears to be correct, sir.  
 5 Q. You said, We have a major problem. The kid has  
 6 served a subpoena on a bank. Showed up there in person at  
 7 the bank. Right?  
 8 A. That's what it says, sir.  
 9 Q. And you were thinking in your mind, why in the  
 10 devil is he serving a subpoena on the bank? Nate Paul's  
 11 complaint has to do with the FBI, right?  
 12 A. That was one of the things I was thinking, sir.  
 13 Q. Because you had no clue that there had been a  
 14 second referral, true?  
 15 A. I did not know there was a second referral at this  
 16 time.  
 17 Q. Now, is this the first time that you had found out  
 18 that the kid -- you're referring to Brandon Cammack, right?  
 19 A. I am referring to Mr. Cammack there.  
 20 Q. And you didn't say, hey, Brandon Cammack. You said  
 21 the kid. Everybody knew who you were talking about, right?  
 22 A. That's right.  
 23 Q. All right. So Cammack wasn't a surprise, was he?  
 24 A. Cammack wasn't a surprise in the sense that we knew  
 25 who he was, that's correct.

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1 Q. Sure. And you actually got a copy of his contract  
 2 too, didn't you?  
 3 A. At some point I got a copy of the contract, but not  
 4 through the DocuSign, no, sir.  
 5 Q. Right. I mean, I know -- and we're going to talk  
 6 about your bureaucratic procedures. What did you call it,  
 7 your executive action memo? What do you call it?  
 8 A. Executive approval memo.  
 9 Q. Executive approval memo.  
 10 A. Uh-huh. Yes, sir.  
 11 Q. Some procedure in writing put in place of how  
 12 things should work at the AG's Office?  
 13 A. That's what it was, yes.  
 14 Q. Right. In some policy manual?  
 15 A. It's a policy, yes.  
 16 Q. Okay. It ain't the law, though, is it?  
 17 A. No, it's not the law.  
 18 Q. No. The power of the Attorney General derives from  
 19 the Texas Constitution; is that not true?  
 20 A. From the Texas Constitution and Texas law,  
 21 statutes.  
 22 Q. The Constitution is what gives the Attorney General  
 23 the power to act; isn't that right?  
 24 A. The Constitution and the statutes passed by the  
 25 legislature, yes.

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1 Q. Your power to act, if any, derives directly from  
 2 the AG; isn't that right?  
 3 A. It's derived from the AG, but it's also  
 4 derived from the statutes.  
 5 Q. You're not authorized to take his name off his  
 6 letterhead, are you?  
 7 A. Am I authorized to take his name off the  
 8 letterhead?  
 9 Q. I'm sorry, is that a question or are you --  
 10 A. I'm repeating your question to make sure I  
 11 understand it. Could you restate it?  
 12 Q. I can absolutely restate it. You, as deputy, as  
 13 first assistant, are not authorized to remove your boss's  
 14 name from his letterhead, are you?  
 15 A. I don't know if that's true or not.  
 16 Q. Did you not look? I mean, aren't you a lawyer?  
 17 Isn't that something you better look at before you do it?  
 18 A. I don't recall doing it, sir.  
 19 Q. You don't recall sending correspondence with the  
 20 Attorney General's name removed?  
 21 A. I do not.  
 22 Q. You wouldn't have done that, would you?  
 23 A. By implication of your question, it must have  
 24 happened, but I don't remember.  
 25 Q. Oh, it happened. My question is, is that legal?

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1 A. I don't -- I don't know it's illegal.  
 2 Q. Well, did you check before you guys were sending  
 3 correspondence without your boss's name on it?  
 4 A. I didn't personally check, no.  
 5 Q. Well, I thought you were a rule of law guy. Isn't  
 6 that what you told us, I'm a rule of law guy?  
 7 A. I am a rule of law guy.  
 8 Q. Okay. Rule of law guy, is it legal to send out  
 9 correspondence without your boss's name on it, official  
 10 correspondence from the AG's Office?  
 11 A. I don't think it's illegal, no.  
 12 Q. You don't think it's illegal?  
 13 A. I do not.  
 14 Q. Is that how you decide your legal analysis is by  
 15 just whether you think it is or not?  
 16 A. No. It would be based upon what I believed and  
 17 what I know about the law.  
 18 Q. Well, what do you base that on? What don't you --  
 19 A. What I believe is -- what I do recall is before I  
 20 became first assistant, the prior first assistant --  
 21 actually, one of the complaints that the Attorney General had  
 22 with the prior first assistant was that the original  
 23 letterhead didn't have Mr. Paxton's name on it.  
 24 Q. So you knew that the official letterhead, according  
 25 to General Paxton, had his name on it. That was his --

1 that's what he insisted upon, right?  
 2 A. Well, he insisted on it. I don't know about the  
 3 word "official."  
 4 Q. And yet you were party to correspondence where his  
 5 name was removed?  
 6 A. That I don't know, sir; but if you're saying that,  
 7 then I must have been.  
 8 Q. Well, let's make sure we're all clear that you did  
 9 get the contract because it's in the text even.  
 10 MR. BUZBEE: Eric, turn to same exhibit, AG  
 11 170, go to Brickman 180.  
 12 Q. (BY MR. BUZBEE) Vassar texted you a copy of the  
 13 executed contract, didn't he?  
 14 A. Looks like on October 1st.  
 15 Q. Yep. Did you go back then -- was that the same day  
 16 you met with the FBI?  
 17 A. No.  
 18 Q. What day did you meet with the FBI?  
 19 A. I believe we met with the FBI on the 30th, sir.  
 20 Q. Okay. So you -- did you go back to the FBI and  
 21 say, Hey, you know what? I made a mistake. There actually  
 22 is a contract. My boss signed it, and there's a second  
 23 referral. Did you do that?  
 24 A. Not on October 1st.  
 25 Q. You went to the FBI uninformed; isn't that true?

1 A. No, I wouldn't say that, sir.  
 2 Q. I just want to try to get the time line because the  
 3 jurors may wonder. You spoke to the FBI about -- what did  
 4 you call it, a good faith belief that a crime had occurred?  
 5 Is that what you said? Did you -- did you go to the FBI with  
 6 a good faith belief that a crime had occurred? Is that what  
 7 you told us?  
 8 A. That's correct.  
 9 Q. Okay. And that was on October the 1st?  
 10 A. No, sir.  
 11 Q. What day?  
 12 A. That was on the 30th.  
 13 Q. September the 30th?  
 14 A. Yes.  
 15 Q. Okay. That's when -- you called Mr. Sutton before  
 16 that, right?  
 17 A. I didn't, no.  
 18 Q. What --  
 19 A. I had not, no.  
 20 Q. One of you did?  
 21 A. I believe that's true, yes.  
 22 Q. One of the group called Mr. Sutton before that,  
 23 right?  
 24 A. I believe that's true.  
 25 Q. Okay. We'll get to that in a minute.

1 So on September 30th, you went to the FBI and you  
 2 made your good faith complaint, right?  
 3 A. We told the FBI the knowledge that we had.  
 4 Q. Did you then go back and give them a copy of the  
 5 actual signed contract from the duly elected Attorney  
 6 General?  
 7 A. I did not.  
 8 Q. You did not?  
 9 A. I did not.  
 10 Q. Did you go back and tell them, Hey, you know what?  
 11 There was actually a second referral that didn't even come  
 12 into our office. It in effect went directly from the DA's  
 13 Office of Travis County directly to Brandon Cammack. Did you  
 14 tell them that?  
 15 A. Not on October 1st.  
 16 Q. Did you tell them at some point?  
 17 A. I think at some point we did tell them that, yes.  
 18 Q. Did they indict Ken Paxton?  
 19 A. As far as I know, they have not.  
 20 Q. Okay. Let's see. Let's try to get our time line  
 21 right. That was September of 2020, and this is September of  
 22 2023. It's been three years?  
 23 A. Your math is correct.  
 24 Q. So in three years they've done nothing with the  
 25 information that you provided them that's the subject of this

1 impeachment, right?  
 2 A. I don't know what they've done, sir. You can ask  
 3 them.  
 4 Q. Well, they certainly are pretty good about letting  
 5 us know if somebody's been indicted, aren't they?  
 6 A. That's your area. I would assume we would -- well,  
 7 actually, I don't know.  
 8 Q. Okay.  
 9 MR. BUZBEE: Your Honor, I know you were  
 10 concerned about timing. This might be a good break for me if  
 11 you want to do it. It's up to you, though, of course. It's  
 12 noon. I'm getting ready to go into another topic, and it's  
 13 going to take some time.  
 14 PRESIDING OFFICER: You have a good half hour,  
 15 45 minutes.  
 16 MR. BUZBEE: Okay. I'm all for it.  
 17 PRESIDING OFFICER: Keep going.  
 18 Q. (BY MR. BUZBEE) You know, before I get into some  
 19 of these others areas like the Mitte Foundation, which you  
 20 approved of the intervention, right?  
 21 A. I did approve, yes, sir.  
 22 Q. The Mitte Foundation where you approved to  
 23 investigate them, right?  
 24 A. I did sign that memo, yes.  
 25 Q. I mean, let's just make sure we're all clear here.

1 One of the Articles of Impeachment -- in fact the very first  
 2 Article of Impeachment has to do with the -- the AG's Office  
 3 intervening in the Mitte Foundation lawsuit, right?  
 4 A. If you say so, I'll accept that.  
 5 Q. Well, I know you're a rule of law guy. Let's look  
 6 at Article I, make sure we're all clear. Article I of the  
 7 impeachment, first article. Just confirm with me, if you  
 8 would, Mr. Mateer, that that is, in fact, the very first  
 9 Article of Impeachment that we're here arguing about.  
 10 A. Correct, sir.  
 11 Q. And just so we're all clear for our jurors, you,  
 12 Jeffrey Mateer, approved, along with multiple other people in  
 13 the office, of that particular intervention; is that true?  
 14 A. Yes, sir.  
 15 Q. Okay. We're going to come back to that.  
 16 I believe you have said that you resigned and it  
 17 was on October 2nd, 2020, right?  
 18 A. That's correct, sir.  
 19 Q. You resigned because there was no longer a trust  
 20 between yourself and General Paxton?  
 21 A. That is true, sir.  
 22 Q. And we know that on September 30th, after talking  
 23 to -- or at least some of you talking to a lawyer, you went  
 24 to the FBI to make a good faith report that you thought a  
 25 crime had been committed?

1 A. Yes, we went to the FBI on September 30th. That is  
 2 correct, sir.  
 3 Q. Where else did you go? Who else did you talk to?  
 4 A. Later that day we had a meeting with the Office of  
 5 the Governor.  
 6 Q. Wait a minute. So we're all clear about this,  
 7 you -- you had a meeting with the Office of the Governor? Is  
 8 that what you just told us?  
 9 A. Yeah. We had -- we met with the Office of the  
 10 Governor sometimes weekly, sometimes every other week, but  
 11 that was normal course. The Governor was our largest client.  
 12 Q. Right. I'm just trying to figure this out. You  
 13 didn't talk to -- after your meeting, you didn't talk to Ken  
 14 Paxton. You instead spoke to, one, the FBI; two, the Office  
 15 of the Governor. Who else did you speak to?  
 16 A. I'm not recalling anyone else.  
 17 Q. Well, we know you got a text of support from TLR,  
 18 right?  
 19 A. That was after I resigned, sir.  
 20 Q. Did you talk to George P. Bush?  
 21 A. I've never talked to George P. Bush.  
 22 Q. Never?  
 23 A. Never.  
 24 Q. Can you tell us why he just recently -- or I guess  
 25 sometime in May applied to renew his law license?

1 A. I have no idea. I've never talked to George P.  
 2 Bush.  
 3 Q. Okay. We'll come back to that too.  
 4 Do you recall that at some point after you resigned  
 5 that they did an inventory of your office?  
 6 A. I -- yes.  
 7 Q. And you're a guy that keeps journals, aren't you?  
 8 A. I keep notes, yes.  
 9 Q. Okay. Where are your notes in the time frame that  
 10 you're here to testify about?  
 11 A. At some point I began using a program called  
 12 OneNote. I had gotten -- the office had provided me with an  
 13 iPad with a -- the pencil, Apple pencil. And I started --  
 14 from my one-on-one meetings I started a practice that  
 15 actually I do even through today, although I now use a  
 16 different program, but I used a program called OneNote. I  
 17 mean, whenever my written notes end, that's when I started  
 18 using OneNote. And those were on my iPad that I turned in  
 19 when I resigned. And I think it's a Microsoft -- I'm not a  
 20 tech guy either. I think it's a Microsoft Word -- Microsoft  
 21 product that was part of the Word suite. And so when I  
 22 turned in -- and it did link to my computer and my iPad, sir.  
 23 Q. I don't really understand anything you just said.  
 24 I'm trying to figure out where your notes are.  
 25 A. Well, you're -- well, you're not representing the

1 Office of Attorney General. The Office of Attorney General  
2 would have those notes.  
3 Q. No.  
4 A. They're on OneNote.  
5 Q. Sir, sorry to interrupt you.  
6 A. I'm sorry.  
7 Q. You wiped it clean.  
8 A. I wouldn't know how to wipe something clean, sir.  
9 Q. Well, you know how to delete texts. That's for  
10 sure, right?  
11 A. That's just hitting delete and having automatic  
12 delete on your device.  
13 MR. BUZBEE: Eric, let's look at AG Exhibit  
14 127 and go to Exhibit 36 within that exhibit. I hope that's  
15 not too confusing.  
16 Q. (BY MR. BUZBEE) This document is in evidence, and  
17 we're going to look at what was found in your office and what  
18 was not found after you left.  
19 MR. BUZBEE: Eric, we're going to Exhibit 36  
20 within that exhibit. Almost there. Now, go to the fourth  
21 page of that exhibit. We're looking at Exhibit 127, Exhibit  
22 36 to that exhibit, page 3.  
23 Q. (BY MR. BUZBEE) Now, you can see that in your  
24 office there was an inventory made, right?  
25 A. Correct.

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1 Q. And we can see that you're a guy that kept a  
2 journal, right?  
3 A. I kept notes, yes, sir.  
4 Q. And we can see that these notes --  
5 MR. BUZBEE: If you flip back to the page  
6 prior, Eric.  
7 Q. (BY MR. BUZBEE) You can see they go from 2018  
8 January and they go all the way to June of 2020, right? June  
9 of 2020. That's where they stop; isn't that right?  
10 A. That's what that reflects, yes.  
11 Q. Where are they?  
12 A. Where are what, sir?  
13 Q. The notes that are missing.  
14 A. Again, sir, I began using a program called OneNote.  
15 And OneNote, what it does -- I know you don't understand.  
16 But OneNote, what it does is it's an electronic note-taking  
17 system. And you can do it by -- and what I had -- the way I  
18 had it organized was, I had civil lit, I had child support, I  
19 had admin, I had criminal justice, I had law enforcement.  
20 And so that was a tab. And so it let me more effectively  
21 organize my notes by deputy. When I turned in my machines,  
22 OneNote was there. It may still be there. I don't know.  
23 When I turned in, I lost access.  
24 Q. Who is Jordan Berry?  
25 A. Jordan Berry is a political consultant who is a

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1 political consultant for Mr. Paxton, among others.  
2 Q. Among who others?  
3 A. Good question. Probably some individuals in this  
4 room. I don't know all his clients, so I would be guessing.  
5 Q. You don't know who Jordan Berry represents?  
6 A. I don't know all of his clients. I mean, in this  
7 room, maybe Senator Middleton, I think.  
8 Q. I don't want to talk about the Senators. I'm  
9 talking about other entities that Jordan Berry may represent.  
10 Do you know of any?  
11 A. Other entities that Jordan Berry may represent. I  
12 know he represents members of the House.  
13 Q. Entities.  
14 A. Entities. I don't know, sir.  
15 Q. Don't know. Okay.  
16 So I just -- I guess we kind of all got to know,  
17 when you went to the FBI, what crime did you have this  
18 so-called good faith belief had occurred?  
19 A. The good faith belief that we believed had occurred  
20 was I believed that he potentially could have been subject to  
21 blackmail. And as a result, he was taking illegal actions on  
22 behalf of what we then knew was a campaign donor, but he was  
23 taking actions on behalf of Mr. Paul.  
24 Q. You believed he was being blackmailed?  
25 A. At one point I actually believed he was being

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1 blackmailed, sir.  
2 Q. So you didn't think he was committing a crime; you  
3 thought somebody was committing a crime against him?  
4 A. At one point in time I believed that, yes, sir.  
5 Q. And that's why you went to the FBI?  
6 A. Well, eventually we went because I had tried on  
7 several occasions to have -- as I think in one of my memos  
8 says you probably have on here, I said -- I asked him -- I  
9 mean, I really wanted him to come clean. I even said, Are  
10 you under undue influence, sir?  
11 Q. And he said no.  
12 A. He did say no, yes.  
13 Q. He never said, Oh, I'm being blackmailed. I'm  
14 under undue influence.  
15 A. But his actions didn't reveal that. I mean, when  
16 we found out that this woman that he had had the affair with  
17 from years ago that had moved up to Austin and was now  
18 employed by Mr. Paul and that he was taking these unusual  
19 actions --  
20 Q. Did you --  
21 A. -- it just didn't make sense to me, Mr. Buzbee.  
22 Q. I hear you. You made some assumptions, did you  
23 not? You made some assumptions?  
24 A. I made some reasonable assumptions, yes, sir.  
25 Q. You made some assumptions, right?

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1 A. I made some -- yes.  
 2 Q. Okay. And you know that sometimes assumptions are  
 3 wrong, right?  
 4 A. I remember that Odd Couple episode. We're probably  
 5 similar age. Probably no one else gets that, Mr. Buzbee.  
 6 Q. You believed he may have a potential conflict of  
 7 interest. That's what you said at some point, right?  
 8 A. You'd have to refresh my memory on that, sir.  
 9 Q. You said, I do not have any specific evidence,  
 10 right?  
 11 A. You'd have to refresh my memory, sir.  
 12 Q. Let me ask you something. When you -- do you  
 13 remember there was a hearing in Travis County district court  
 14 where you testified?  
 15 A. That by Zoom, I believe, yes.  
 16 Q. Yeah.  
 17 A. I was subpoenaed.  
 18 Q. And you were asked point-blank -- let me make sure  
 19 I get this exactly right because this might be something  
 20 that's important to our jurors. You were asked under oath  
 21 whether you believed the AG was engaged in ongoing criminal  
 22 activity in connection with Nate Paul. Do you remember being  
 23 asked that question?  
 24 A. I don't think that's the question I was asked, sir.  
 25 Q. You don't think that was what was asked?

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1 A. I do not think that was the question that was  
 2 asked.  
 3 Q. Okay. Do you remember -- what question do you  
 4 think was asked? Just so we can -- maybe we can refresh your  
 5 recollection.  
 6 A. I'd love to see the transcript. That would be the  
 7 best evidence.  
 8 Q. Were you ever asked whether you believe that Ken  
 9 Paxton was engaged in criminal activity?  
 10 A. I don't believe I was ever asked that question  
 11 during that hearing.  
 12 Q. Okay. You believe you were asked about the AG's  
 13 Office itself?  
 14 A. The best -- again, if I could look at the  
 15 transcript, that would tell us all what was asked.  
 16 Q. Let's do that. We're going to look at the  
 17 transcript from Travis County district court, the 250th  
 18 Judicial District, a hearing that was held on the 1st day of  
 19 March, 2021.  
 20 MR. BUZBEE: We're going to turn to page 189  
 21 of that transcript, Eric.  
 22 Q. (BY MR. BUZBEE) You were asked point-blank under  
 23 oath, six months after you had went to the FBI, this  
 24 question.  
 25 MR. BUZBEE: Line 15, page 189, Eric.

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1 Q. (BY MR. BUZBEE) I'm going to read it. You make  
 2 sure -- tell me if I read it right. And did you come to  
 3 believe that the Office of Attorney General was being engaged  
 4 in ongoing criminal activity in connection with Nate Paul?  
 5 That was the question, correct?  
 6 A. Which is different than the question you asked me.  
 7 Q. That's why we're looking at it.  
 8 A. I know.  
 9 Q. That was the question you were asked, true?  
 10 A. That is true. Yes, sir, you read it correctly.  
 11 Q. Let's look at what your answer was, page 190, line  
 12 15. You said -- tell us what you said. If you don't want me  
 13 to read it, you can read your testimony yourself.  
 14 MR. HARDIN: Objection. I don't believe this  
 15 is in evidence, Your Honor. I stand to be corrected. If so,  
 16 I'll withdraw the concern, but I don't believe it's in  
 17 evidence.  
 18 MR. BUZBEE: This is House Board of Managers'  
 19 Exhibit 466 that was offered and received by this Court.  
 20 We're looking at page 190, line 15.  
 21 Q. (BY MR. BUZBEE) You said: And I know it called  
 22 for yes or no, but it's a question that it's hard to give a  
 23 yes or no. So that makes it difficult for me as -- as -- as  
 24 the witness. But I would say it is -- it could have led to  
 25 that. Certainly, it's -- did I have concerns? I had --

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1 MR. HARDIN: Pardon me. I apologize again,  
 2 Mr. Buzbee. Excuse me, please. I think this comes under the  
 3 heading of -- it is one, of course, of our exhibits. I don't  
 4 object to it being introduced, but I don't believe it has.  
 5 It is not one of those that was agreed to by the parties. If  
 6 you recall, they wouldn't originally agree to any of our  
 7 exhibits and then we reached agreements we read in this  
 8 morning. I don't think it's one of them. So if he wants to  
 9 offer it, I'm not going to object, but I don't believe this  
 10 document is in evidence.  
 11 PRESIDING OFFICER: Would you like to offer  
 12 it?  
 13 MR. BUZBEE: Well, first, it's in evidence.  
 14 But just to satisfy my co-counsel or a colleague over there,  
 15 I'll offer it again.  
 16 PRESIDING OFFICER: He did not object.  
 17 MR. BUZBEE: Yeah.  
 18 PRESIDING OFFICER: It's admitted into  
 19 evidence.  
 20 (House Managers' Exhibit No. 466 was  
 21 admitted)  
 22 MR. HARDIN: Thank you.  
 23 Q. (BY MR. BUZBEE) Now, let's focus on this document  
 24 that's in evidence. You were asked point-blank -- and this  
 25 is six months -- I mean, come on, six months after you left

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1 the office, six months after you had went to the FBI. This  
 2 is -- this is after some of your colleagues had filed a very  
 3 public lawsuit, right?  
 4 A. Correct.  
 5 Q. And this is even after that you had been  
 6 interviewed in the press, right?  
 7 A. I believe one time, yes.  
 8 Q. Yeah. And all kinds of things were going on in the  
 9 press about these so-called whistleblowers and crimes and all  
 10 kinds of things. And then here you are placed under oath in  
 11 March of 2021. And you were asked point-blank whether you  
 12 believed the Office of the AG was engaged -- had been engaged  
 13 in ongoing criminal activity in relation to Nate Paul, and  
 14 you couldn't even give an answer, could you?  
 15 A. With regard to the Office of Attorney General,  
 16 correct.  
 17 Q. You're making some distinction between the Office  
 18 and the AG himself?  
 19 A. Yes, sir.  
 20 Q. Okay. Because you didn't want to say that you had  
 21 been engaged in criminal activity, right?  
 22 A. I don't believe -- no.  
 23 Q. I mean, part of the so-called criminal activity is  
 24 the Mitte intervention, isn't it? And you were dead and in  
 25 the middle of that, weren't you?

1 A. I approved the executive memorandum.  
 2 Q. Isn't it ironic that the first witness called in  
 3 this case for the House on the first Articles of Impeachment  
 4 that was passed, that this witness, you, approved that  
 5 intervention? Isn't that ironic?  
 6 A. I don't know, sir.  
 7 Q. Don't you think that really reflects -- kind of  
 8 reflects the whole House's case, that they put you up here as  
 9 the witness to tell us how bad Ken Paxton was, and on the  
 10 very first Article, you approved it? Isn't that ironic?  
 11 A. The irony I guess is lost on me, sir.  
 12 Q. Is it?  
 13 A. It is.  
 14 Q. Before I get to some of these other more difficult  
 15 topics, would you help us -- and we have people watching and,  
 16 of course, some of our jurors are not lawyers. I want to  
 17 talk to you about the burden of proof. You know what the  
 18 burden of proof is, right? You know what that concept means?  
 19 A. I do, yes.  
 20 Q. Okay. There's one burden called more likely than  
 21 not. You understand that concept?  
 22 A. Okay. Yes.  
 23 Q. What does that mean?  
 24 A. Whether a fact is more likely than not, like the  
 25 preponderance of the evidence.

1 Q. Yep. And that's the easiest standard of proof if  
 2 you're somebody advocating for something, right?  
 3 A. That's the normal standard in a civil court.  
 4 Q. Okay. Let's focus --  
 5 A. With some exceptions.  
 6 Q. Sure. There are --  
 7 MR. HARDIN: Objection.  
 8 PRESIDING OFFICER: Turn your microphone on,  
 9 please.  
 10 MR. HARDIN: There we go. Thank you. I'm  
 11 sorry.  
 12 He's not being offered as an expert on the  
 13 burden of proof, and that's something for the jury to decide  
 14 in their own mind. His view of what it is or not, he didn't  
 15 bring these charges. The House Managers did. He's not here  
 16 for that purpose. It's unfair for him -- and irrelevant for  
 17 him to be being asked what his definition of the burden -- in  
 18 fact I must say I've never heard that done before. And so I  
 19 object to it as being totally irrelevant and improper for  
 20 this witness to be even cross-examined about it. What  
 21 difference does it make what he thinks the burden of proof  
 22 is? It's what they think the burden of proof is.  
 23 MR. BUZBEE: Wait a minute, Your Honor. With  
 24 all due respect, this counsel asked this man many times about  
 25 his opinion on whether a law has been broken, many times.

1 And so I'm entitled to ask him about the burden of proof,  
 2 especially on illegality which, remember, he stood up  
 3 there -- or sat up there and said that Ken Paxton signing a  
 4 contract was illegal. So you can't open the door and then  
 5 close it now.  
 6 MR. HARDIN: He has not testified as to what  
 7 this jury ought to do or how they ought to look at the burden  
 8 of proof. He was asked whether or not he thought the conduct  
 9 was unlawful. He said he did, but the burden of proof has  
 10 nothing to do with it. Those are two different things. The  
 11 burden of proof is decided by the jurors out there, not this  
 12 man or any other witness.  
 13 MR. BUZBEE: I'm entitled to explore why he  
 14 would say something like that, like in his -- what is the  
 15 burden of proof? And I'm going to get to that if I quit  
 16 being interrupted.  
 17 PRESIDING OFFICER: Overruled. You opened  
 18 that door.  
 19 Q. (BY MR. BUZBEE) Now, let's talk about the burden  
 20 in this case for the Senators, our jurors. Beyond a  
 21 reasonable doubt, what does that mean?  
 22 A. It means what it says. It means that you don't  
 23 have any reasonable doubt.  
 24 Q. In other words, any doubts I have are not  
 25 reasonable?

1 A. I'm not a criminal lawyer, but that's, you know,  
2 beyond a reasonable doubt.

3 Q. When you went to the FBI and you offered up a good  
4 faith belief that Ken Paxton had been engaged in criminal  
5 activity, in your mind, was that beyond a reasonable doubt?

6 A. I didn't think about that at all, sir.

7 Q. You just suspected; isn't that true?

8 A. I didn't think about the burden of proof at all in  
9 those conversations.

10 Q. You know, I would think that you, if you're --  
11 you've portrayed yourself, and I'm not challenging that, that  
12 you were a good and trusted friend, a good and trusted  
13 advisor, a good and trusted confidant in some cases, right,  
14 to Ken Paxton?

15 A. I don't know about confident.

16 Q. Well, you -- confidant.

17 A. Confidant. Sorry about that. Sometimes my speech  
18 impediment comes through. I apologize.

19 Q. No worries. I'm not picking on you. I just want  
20 to make sure you understand the concept.

21 I mean, you've told us, the entire public, that you  
22 had a meeting with Ken Paxton and he talked about his  
23 marriage. Told us that, right?

24 A. Well, Mr. Paxton and Mrs. Paxton had a meeting with  
25 senior staff and talked about their marriage, yes.

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1 Q. Okay. So I guess it brings me to the point,  
2 wouldn't you want to make sure that you are absolutely sure  
3 that Ken Paxton was doing something untoward and illegal  
4 before you went to the FBI? Wouldn't that be what a trusted  
5 confidant would do? Somebody who's a trusted friend,  
6 somebody who's been trusted to run the office, at least you  
7 should make yourself sure. You know what, before I do  
8 this -- because when I pull that trigger, when I do that, all  
9 bets are off. You even said, I knew when I did that, I  
10 wouldn't be the first deputy again, right?

11 A. First assistant, yes.

12 Q. First assistant. So wouldn't -- shouldn't you be  
13 sure before you do that?

14 A. Sir, we were very -- we were confident.

15 Q. You were confident?

16 A. Yes, sir.

17 Q. You thought that Nate Paul had made repairs on his  
18 home?

19 A. I had been told that, yes.

20 Q. Who told you that?

21 A. I believe, again, it was either Mr. Wicker or  
22 Mr. Rylander.

23 Q. You think that Mr. Wicker said that to somebody?

24 A. Yeah. I -- again, it was either Mr. Wicker or  
25 Mr. Rylander.

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1 Q. Seems to me that would be so important you would  
2 remember who told you that. I mean, you're telling me  
3 somebody told me my boss was having a campaign donor pay for  
4 renovations of his house, and you can't even tell us who told  
5 you that?

6 A. Well, I said I believe it's Mr. Wicker or  
7 Mr. Rylander, sir.

8 Q. So if it's not Mr. Wicker, because it wasn't,  
9 you're saying it would be Mr. Rylander?

10 A. Yes, sir.

11 Q. Okay. You ever play the telephone game with your  
12 kids?

13 A. I played the telephone game in youth group, yes,  
14 sir, not with my kids.

15 Q. Okay. Well, how many kids you got?

16 A. I've got three.

17 Q. I've got four, so sometimes I play the telephone  
18 game. And you know what that is, right?

19 A. I do, yes, sir.

20 Q. Okay. That's the game where somebody whispers  
21 something to somebody else, and then they turn around and  
22 whisper something to somebody else, and then they turn around  
23 and whisper something to somebody else, and so on and so on,  
24 and then they let the last person repeat what they think they  
25 were told.

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1 A. Yes, sir.

2 Q. And sometimes it's comical how different the story  
3 is that's been passed from person to person to person and  
4 person, right?

5 A. Yes, sir.

6 Q. Yeah. That's what happened here.

7 A. I don't know.

8 Q. A stray comment from Drew -- that Drew Wicker  
9 claims he heard that he misunderstood, you, a trusted  
10 advisor, a trusted friend, you believed that Nate Paul had  
11 paid for the renovations of Ken Paxton's home.

12 A. I believed that that was possible, yes, sir.

13 Q. Do you know that it's not true?

14 A. I do not know that it's not true.

15 Q. Have you ever tried to find out?

16 A. No, I went to -- that's why we went to law  
17 enforcement for them to find out.

18 Q. Why didn't you just ask Ken Paxton?

19 A. I had resigned.

20 Q. Uh-huh. You know, he could have shown -- he could  
21 have shown you the invoices, the wires, the receipts, the  
22 samples. You didn't ask him?

23 A. Well, I saw them because you had a press conference  
24 where you had them. That's --

25 Q. Oh, I've only shown a few. I'm going to show them

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1 all in this trial.  
 2 A. Okay. I haven't seen them, no, sir.  
 3 Q. How many times have you told people that Ken Paxton  
 4 had somebody pay for the renovations of his home? How many  
 5 times have you said that to people?  
 6 A. I don't know if I've ever said that until you asked  
 7 me the question.  
 8 Q. You wouldn't say that to somebody, would you?  
 9 A. I don't have a recollection of saying it.  
 10 Q. I mean, you shouldn't say it, should you?  
 11 A. Shouldn't say it?  
 12 Q. In other words, if you don't know it's true, you  
 13 shouldn't be out there repeating it, should you?  
 14 A. I don't believe I've been repeating it.  
 15 Q. Okay. I think you said, if I'm not mistaken -- let  
 16 me just ask you point-blank: Do you remember you talked  
 17 about your potential concerns about the office? Remember  
 18 that question?  
 19 A. From the transcript?  
 20 Q. Yeah. Do you remember that?  
 21 A. Yes, sir.  
 22 Q. Okay. You have said that in 2020 you became aware  
 23 that Nate Paul had donated to Ken Paxton's campaign; is that  
 24 right?  
 25 A. That's when I became aware of that campaign

1 contribution.  
 2 Q. When you became aware, you learned, I'm sure, that  
 3 that one campaign donation was actually made in October of  
 4 2018, right?  
 5 A. That's correct.  
 6 Q. And you learned that that October 2018 campaign  
 7 donation was \$25,000, right?  
 8 A. That is correct, sir.  
 9 Q. And that Nate Paul -- or that Nate Paul was a  
 10 campaign donor played a part in your belief that Ken Paxton  
 11 was engaged in unlawful conduct with regard to Nate Paul,  
 12 right?  
 13 A. That was part, yes.  
 14 Q. Okay. So let's make sure we ferret that out a  
 15 little bit. You learned in 2020 of a campaign donation  
 16 almost two years before, right?  
 17 A. That's correct, sir.  
 18 Q. And that -- the fact that a donation had been made  
 19 two years prior played a part in your belief that Ken Paxton  
 20 was doing something wrong with regard to Nate Paul; is that  
 21 right?  
 22 A. That was part, yes.  
 23 Q. Okay. Do you know who else he gave money to?  
 24 A. Who else Nate Paul gave money to?  
 25 Q. Did you check?

1 A. No. That wasn't my concern.  
 2 Q. Do you know how much money Ken Paxton raised in  
 3 2018 for his campaign?  
 4 A. I did at the time. I know it was several million  
 5 dollars.  
 6 Q. What did you say?  
 7 A. I knew -- I would have known the number at the  
 8 time. I know it was several million dollars.  
 9 Q. Where is that --  
 10 MR. BUZBEE: Where is that blowup? You have  
 11 it blown up?  
 12 Q. (BY MR. BUZBEE) Do you know what percentage --  
 13 what percentage of -- in 2018, what percentage Nate Paul's  
 14 campaign contribution was with regard to the total amount  
 15 raised by Ken Paxton?  
 16 A. Well, if your math is correct on this  
 17 demonstrative, it's there, but I wouldn't have known that  
 18 then, no.  
 19 Q. .37 percent, right?  
 20 A. That's what your demonstrative says.  
 21 Q. In 2018 Ken Paxton raised \$6.7 million. Did you  
 22 know that?  
 23 A. I would have known that at the time, yes, sir.  
 24 Q. You checked into that?  
 25 A. No. He would have told me.

1 Q. And Nate Paul donated 25,000 of that, right?  
 2 A. I know Nate Paul donated 25,000, yes.  
 3 Q. And the illegal activity that you complain about or  
 4 at least you claim you had a good faith belief had occurred  
 5 is .37 percent of that?  
 6 A. If that is the correct math, I have no reason to  
 7 dispute you on the math.  
 8 Q. So let me just make sure I'm clear. When somebody  
 9 feels aggrieved and they came to the AG's Office to get help,  
 10 that's the job of the AG's Office, right, to help  
 11 constituents?  
 12 A. That's part of our job, yes.  
 13 Q. I mean, isn't that what we taxpayers are paying  
 14 for?  
 15 A. That's part of our job, yes.  
 16 Q. So when somebody feels aggrieved in some way, they  
 17 don't know where to turn, and they go to the AG's Office, do  
 18 you check to see if they're a donor of some sort?  
 19 A. We -- because of allegations made in the past  
 20 against Attorney General Paxton, we were very sensitive when  
 21 we were asked to do things on behalf of folks who had  
 22 contributed to his campaign. So, yes, we were concerned  
 23 about things like that.  
 24 Q. You were. So that's -- you decide whether you're  
 25 going to do your job --

1 A. No, sir.  
 2 Q. Let me finish my question, please, if you don't  
 3 mind.  
 4 A. I'm sorry. I apologize.  
 5 Q. No worries. You decide whether you're going to do  
 6 your job based on whether the person has donated to your  
 7 boss? Is that what you're telling me?  
 8 A. I'm not telling you that, sir, no.  
 9 Q. Okay. You look at someone with a jaundiced eye if  
 10 they're asking for assistance and they've also given money to  
 11 the elected official that you're working for?  
 12 A. No. No, sir.  
 13 Q. You're skeptical of somebody who's just asking for  
 14 help how to deal with a situation and you're skeptical  
 15 because they might also be a campaign donor?  
 16 A. No, not skeptical, no, sir.  
 17 Q. Okay. But you already told us that Nate Paul, as a  
 18 campaign donor, played a part in your belief that Ken Paxton  
 19 was engaged in unlawful conduct. That's what you said under  
 20 oath, right?  
 21 A. That's correct, sir.  
 22 Q. Is it possible, Mr. Mateer, that you jumped to a  
 23 lot of conclusions really fast?  
 24 A. I don't believe so, sir.  
 25 Q. And you could have -- you could have put all this

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1 to bed if you would have just talked to your boss?  
 2 A. I attempted to talk to him starting probably in  
 3 June, July, August, September.  
 4 Q. No.  
 5 A. I did.  
 6 Q. Take it easy now.  
 7 A. I did talk to him, sir.  
 8 Q. Take it easy. You could have -- once you met up  
 9 with the rest of your colleagues on the 8th floor, you could  
 10 have then, as the leader -- you were the leader, right, of  
 11 the group?  
 12 A. I was the first assistant.  
 13 Q. Yeah, you're the leader?  
 14 A. First among equals, yes.  
 15 Q. You even said in your testimony, you said, Look,  
 16 I -- I managed the day-to-day business in that office.  
 17 Remember saying that?  
 18 A. I did manage the day-to-day office.  
 19 Q. And I control the office, remember saying that?  
 20 A. Control the office. I don't know if I said it in  
 21 that way, sir.  
 22 Q. We'll get to it.  
 23 A. Okay.  
 24 Q. But you as the leader, once you heard all these  
 25 foolishness concerns, some of which you might have believed,

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1 some of which you didn't, your job at that point in time was  
 2 to go to the boss; isn't that right?  
 3 A. I had tried to go to the boss.  
 4 Q. Is it because you wanted to be the Attorney  
 5 General? Is that what was going on?  
 6 A. Anybody who knows me, Mr. Buzbee, knows that that  
 7 is not one of my ambitions. I had my dream job. I came to  
 8 help Ken Paxton, came down here, a city I didn't want to move  
 9 to.  
 10 Q. Wait. Your dream job is to be a federal judge, and  
 11 that got squelched; isn't that right?  
 12 A. No. Actually, my dream job has always been to be  
 13 at First Liberty.  
 14 Q. Weren't you supposed to be a federal judge and then  
 15 the two Senators objected to you?  
 16 A. What two Senators, sir?  
 17 Q. The two that would have the ability to object to  
 18 you. You know who I'm talking about.  
 19 A. You're talking about our Senators?  
 20 Q. Yes.  
 21 A. They didn't object to me.  
 22 Q. They didn't?  
 23 A. No. Senator Cruz certainly didn't.  
 24 Q. Well, somehow something went awry and you're not a  
 25 federal judge, are you?

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1 A. That's absolutely true. My nomination was  
 2 withdrawn by President Trump.  
 3 Q. Yeah. And that's the job you really wanted, right?  
 4 A. That was -- I did want to be a federal judge.  
 5 Q. Sure.  
 6 A. But my dream job was First Liberty.  
 7 Q. Okay. Now, I understand that you took the place of  
 8 Chip Roy; is that right?  
 9 A. That's correct.  
 10 Q. Chip Roy was the first assistant before you?  
 11 A. That's correct, sir.  
 12 Q. Okay. And you mentioned kind of in passing that  
 13 Ken Paxton at some point became unhappy with Chip Roy?  
 14 A. That's correct.  
 15 Q. That Chip Roy was not doing what he wanted him to  
 16 do?  
 17 A. That's correct.  
 18 Q. And he felt the same way about you during the  
 19 conversation about Cammack, right?  
 20 A. The Attorney General never expressed that to me --  
 21 Q. But you told --  
 22 A. -- has never expressed that to me.  
 23 Q. I'm sorry. You told us all that he compared you to  
 24 Chip Roy, remember?  
 25 A. What I said was Mr. Penley said that.

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1 Q. Penley said that Paxton had said that?  
 2 A. And I asked the Attorney General whether he was  
 3 frustrated with me, and he didn't respond about being  
 4 frustrated with me.  
 5 Q. Have you seen the second referral from the DA's  
 6 Office to the AG's Office?  
 7 A. I may have.  
 8 Q. Why would you have seen it at this point?  
 9 A. I had a conversation with Margaret Moore after I  
 10 resigned and may have seen it during that conversation, who  
 11 was the Travis County District Attorney at the time.  
 12 Q. Yeah, I know who she was.  
 13 Listen, because we're running up against the lunch  
 14 hour, I want to focus on Mitte real quick so we can just put  
 15 this Mitte thing to bed, okay? Are you going to help me  
 16 here?  
 17 A. You're asking the questions. I'll answer them.  
 18 Q. Okay. Let's look at AG Exhibit 151. It's in  
 19 evidence. And just so the members of the jury understood how  
 20 the office worked, there's some policy or procedure there  
 21 that you described as executive action?  
 22 A. It's approval. The title is there, Mr. Buzbee.  
 23 See executive approval civil litigation -- he just --  
 24 Q. Oh, executive --  
 25 A. He highlighted it for us.

1 Q. Sorry. Executive Approval Civil Litigation  
 2 Memorandum?  
 3 A. Yes.  
 4 Q. Okay. We see here the letterhead. Letterhead is  
 5 Ken Paxton?  
 6 A. I see that.  
 7 Q. Okay. And basically, it takes us through various  
 8 people within the bowels of the AG's Office who would approve  
 9 something like this, right?  
 10 A. It starts with someone in the division and goes its  
 11 way up, yes, sir.  
 12 Q. And this is just found in some policy manual  
 13 somewhere, right?  
 14 A. Well, it was a policy of the office.  
 15 Q. Is it written down?  
 16 A. It is written down, sir.  
 17 Q. Okay. Now, so let's just look. With regard to  
 18 intervention on behalf of the public interest in charity, we  
 19 have a sign-off of Mary Henderson, who's a senior attorney,  
 20 right?  
 21 A. Correct.  
 22 Q. We have, looks like, Josh Godbey, who is the chief  
 23 of the financial litigation and charitable trust division,  
 24 right?  
 25 A. That's correct, sir.

1 Q. We have also signed off here Darren McCarty, who  
 2 is -- what is he? For civil litigation, head of civil  
 3 litigation?  
 4 A. He's the deputy attorney general for civil  
 5 litigation.  
 6 Q. And then at the top of the chain is your name where  
 7 you signed off on June 8th of 2020, correct?  
 8 A. That is correct, sir.  
 9 Q. And, of course, all of these people here that we  
 10 see on Exhibit 151 derive their authority from the Attorney  
 11 General; isn't that right?  
 12 A. From the Attorney General and the statutes and the  
 13 Constitution, yes.  
 14 Q. I mean, it doesn't matter whether you think it's a  
 15 good idea or not. He, the Attorney General, is the  
 16 decision-maker ultimately; isn't that true?  
 17 A. And that authority is delegated down to and  
 18 through.  
 19 Q. I understand you can delegate authority, but you  
 20 can also take it back, can't you?  
 21 A. I think that's correct, sir.  
 22 Q. Right. So let's make sure we're clear. Any  
 23 authority you had only existed as long as you serve the  
 24 Attorney General; isn't that right?  
 25 A. I think the Government Code gives the first

1 assistant authority when the Attorney General is absent.  
 2 Q. When he's absent?  
 3 A. That's correct.  
 4 Q. Right. Not when he's on a business trip doing work  
 5 on a case for Google. You don't get to just say, Oh, he's  
 6 out of town, now I'm in charge. That ain't how it works, is  
 7 it?  
 8 A. I certainly never did that, sir.  
 9 Q. Yeah. And you better not do that because that  
 10 would get you fired, right? I mean, if you were to do that,  
 11 that should be a fireable offense, right?  
 12 A. Again, as long as the Attorney General were  
 13 exercising his proper authority as well pursuant to the  
 14 Constitution and the laws.  
 15 Q. Let's look at why the person that generated this  
 16 Executive Approval Civil Litigation Memorandum, let's look at  
 17 why they thought it was the right thing to do to intervene  
 18 into this Mitte litigation.  
 19 MR. BUZBEE: Turn over, if you would, to page  
 20 2 of this document, Eric.  
 21 Q. (BY MR. BUZBEE) It goes on for several pages with  
 22 the justification as to why it's a good idea for the AG's  
 23 Office to intervene; is that true?  
 24 A. That's the purpose of the memo, to set forth the  
 25 reasons why to take an action.

1 Q. Did you review it before you signed it?  
 2 A. I did.  
 3 Q. Did you have the opportunity to say, you know, I  
 4 don't think that's sufficient justification?  
 5 A. I would have had that, yes.  
 6 Q. And can we agree that even if you thought it wasn't  
 7 a good idea, that you could be overruled by your boss?  
 8 A. Yes.  
 9 Q. Okay. Just so we're clear on that, I want to make  
 10 sure everybody hears that, that even if -- let's just say as  
 11 an example, using the Mitte intervention as an example, if  
 12 you had looked at this and said, You know what? I don't  
 13 think this detailed memo that goes into line by line of all  
 14 the problems that the Mitte -- the Mitte Foundation has had,  
 15 I don't think that's sufficient justification to intervene,  
 16 and you said, You know what, I'm not going to sign that, the  
 17 Attorney General could overrule that however he chose; isn't  
 18 that right?  
 19 A. I believe that's correct.  
 20 Q. Because you're not in charge, are you?  
 21 A. Ultimately, the elected official is the Attorney  
 22 General.  
 23 Q. Because you've never gotten any votes, have you?  
 24 A. No.  
 25 Q. You didn't get 4.2 million votes, did you?

1 A. I've never run for any office, sir.  
 2 Q. He did.  
 3 A. Never any desire.  
 4 Q. He did, right?  
 5 A. He did.  
 6 Q. He's the one that's elected, right?  
 7 A. He is elected.  
 8 Q. He's the boss, true?  
 9 A. He is ultimately, yes.  
 10 Q. And you serve at his pleasure; isn't that right?  
 11 A. The first assistant serves at the Attorney  
 12 General's pleasure.  
 13 Q. You're a political appointee; isn't that right?  
 14 A. That's correct.  
 15 Q. And if he doesn't trust you anymore, then you're  
 16 out the door; isn't that right?  
 17 A. That's correct.  
 18 Q. And that's how it works with political appointees,  
 19 isn't it?  
 20 A. That's correct.  
 21 Q. It's at will. When he doesn't trust you anymore,  
 22 you leave, right?  
 23 A. Or vice versa, yes.  
 24 Q. Sure. Let's look at all the problems with the  
 25 Mitte Foundation.

1 MR. BUZBEE: Go, Eric, if you would, to page 4  
 2 where they're laid out -- the bullet points are laid out, the  
 3 justification of the intervention by the AG's Office.  
 4 Q. (BY MR. BUZBEE) Do you see them there?  
 5 A. I see the allegations, yes, sir.  
 6 Q. And are those sufficient still in your mind for the  
 7 intervention?  
 8 A. Again, I approved that memo at the time, yes, sir.  
 9 Q. You stand by it today, don't you?  
 10 A. That I approved the memo on that day, yes.  
 11 Q. Okay. Nobody tricked you to get your signature,  
 12 did they?  
 13 A. No one on that date tricked me, yes, sir.  
 14 Q. Okay. And we can see all the problems. Apparently  
 15 or allegedly the former chairman attempted to conjure a sale  
 16 of the investment properties in a self-dealing transaction.  
 17 See that bullet point?  
 18 A. I see it there, sir.  
 19 Q. It says that they hadn't filed the proper IRS  
 20 forms. See that?  
 21 A. That fourth bullet point?  
 22 Q. Yes, sir.  
 23 A. I see what it says.  
 24 Q. They refused to disclose certain fee agreements,  
 25 right?

1 A. I see that bullet point, sir.  
 2 Q. You knew, of course, that one of the individuals  
 3 who had been involved had gotten in trouble criminally. You  
 4 knew that, didn't you?  
 5 A. I don't know if I knew that, sir.  
 6 Q. You don't remember that?  
 7 A. I do not remember that.  
 8 Q. Okay. You know, there's been some saying here,  
 9 let's -- I want to make sure we're -- because we're putting  
 10 Article I to bed, which I think puts the whole case to bed.  
 11 But look at Article I. Impeachment Article I, please.  
 12 It starts off, it says, Protection of Charitable  
 13 Organization. Do you see that there?  
 14 A. One second. At the top, yes, I see it.  
 15 Q. Sorry.  
 16 A. Sorry about that.  
 17 Q. I'm kind of doing you like --  
 18 A. I was reading the paragraph, not the --  
 19 Q. That's false in itself, isn't it?  
 20 A. What --  
 21 Q. The AG's Office is not there to protect charitable  
 22 organizations, is it?  
 23 A. No, I think that is part of our role.  
 24 Q. It's there by statute. It says, By statute, the  
 25 authority to intervene is to protect the public interest in

1 charity; isn't that true?  
 2 A. I think that's what that means.  
 3 Q. That's a whole different thing than protecting  
 4 charities, isn't it?  
 5 A. No, I don't -- I don't think so, sir.  
 6 Q. I mean, the reason for the intervention is because  
 7 they thought the people within the charity were doing things  
 8 that were wrong, and so we're protecting the public's  
 9 interest in the charity, correct?  
 10 A. I think -- I don't think they're necessarily  
 11 exclusive, sir.  
 12 Q. You also authorized -- you also authorized an  
 13 investigation of the Mitte Foundation, didn't you?  
 14 A. I remember seeing those documents, yes, sir.  
 15 MR. BUZBEE: I didn't know what time you  
 16 wanted to do lunch. Is it now? This is a good time to break  
 17 for me if you want to.  
 18 PRESIDING OFFICER: Good time for you?  
 19 MR. BUZBEE: Yes, sir.  
 20 PRESIDING OFFICER: All right. We will break  
 21 until 1:30, 45 minutes.  
 22 (Recessed for lunch at 12:42 p.m.)  
 23  
 24  
 25

1 C E R T I F I C A T E  
 2  
 3 THE STATE OF TEXAS )(   
 4 COUNTY OF TRAVIS )(   
 5  
 6 I, Kim Cherry, Certified Shorthand Reporter in and  
 7 for the State of Texas, do hereby certify that the  
 8 above-mentioned matter occurred as hereinbefore set out.  
 9 I further certify that I am neither counsel  
 10 for, related to, nor employed by any of the parties  
 11 or attorneys in the action in which this proceeding was  
 12 taken, and further that I am not financially or  
 13 otherwise interested in the outcome of the action.  
 14 Certified to by me this 6th day of September, 2023.  
 15  
 16 /s/Kim Cherry  
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 18 Texas Certified Shorthand Reporter  
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1 THE SENATE OF THE STATE OF TEXAS  
 2 SITTING AS A HIGH COURT OF IMPEACHMENT  
 3  
 4 THE MATTER OF §  
 WARREN KENNETH §  
 5 PAXTON, JR. §  
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 11  
 12 TRIAL  
 13 VOLUME 1 - PM SESSION  
 14 SEPTEMBER 6, 2023  
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 24 Stenographically Reported by  
 25 Mary Oralia Berry, CSR, RDR, CRR, CBC

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P R O C E E D I N G S

WEDNESDAY, SEPTEMBER 6, 2023

(1:34 p.m.)

THE BAILLIFF: All rise. The Court is in session. The Texas Senate is now in session.

PRESIDING OFFICER: You may be seated.

Thank you, jurors.

Mr. Buzbee, you may continue.

MR. BUZBEE: Thank you, Your Honor. Good afternoon.

PRESIDING OFFICER: Good afternoon.

CROSS-EXAMINATION (CONTINUED)

BY MR. BUZBEE:

Q. I want to kind of get this timeline correct so we can get it all right in our minds. You found out about the bank subpoena from Cammack on the 29th of September 2020, right?

A. That's correct, sir.

Q. And this meeting you had with the top lieutenants was what day?

A. It's the same day, sir.

Q. So on the 29th on the eighth floor, eighth floor, y'all got together and had a meeting about the subpoena and about Nate Paul, et cetera, correct?

A. That is correct.

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Q. What happened in the -- in the date order next on the 30th? Is that when you went to the FBI?

A. Yes, correct.

Q. Okay. And then you sent a text to the attorney general?

A. We did, yes, sir.

Q. What day was that sent?

A. That was the next day.

Q. What next day?

A. Well, the -- October 1st.

Q. Okay. October 1st.

A. Yes, sir.

Q. And then you resigned October 2nd?

A. That's correct, sir.

Q. All right. Just so I can get it in my mind. You learned about the subpoena on the 29th of September?

A. Yes.

Q. Y'all met the same day?

A. Yes.

Q. You went to the FBI the next day?

A. Yes.

Q. You sent a text on October 1st, the next day?

A. That's correct.

Q. And you also signed -- all of you signed a letter, correct?

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A. Correct.

Q. And then the next day you resigned?

A. Yes.

Q. Okay. So -- just so -- in case the jurors are wondering about the timeline, and maybe they'll wonder.

MR. BUZBEE: Go back, Eric, if you would --

Your Honor, one thing I want to mention. Eric, would you stand up? You hear me say "Eric."

Your Honor, this is Eric Arroyo. He's our audiovisual guy that works at our office. I just -- in case you were wondering who I was yelling at over there.

All right. Eric, would you -- AG Exhibit 170, go to Brickman 187. And let's just try to confirm in our minds that the documents match up to the timeline.

Page 187.

Okay. Here we are. And I think everybody can see this.

Q. (BY MR. BUZBEE) We have a major problem. The kid has served a subpoena on a bank. Showed up there in person at the bank with someone from World Class. I need you guys to come back.

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1 You wrote that in text, true?  
 2 A. Yes, sir.  
 3 Q. And that was on the 29th, right?  
 4 A. That's on the 29th, yes.  
 5 Q. Okay. The next day you went to the FBI,  
 6 September 30th, true?  
 7 A. That's true, yes, sir.  
 8 Q. And the next day, October 1st, you sent  
 9 General Paxton a text?  
 10 A. Yes.  
 11 MR. BUZBEE: Let's look at AG  
 12 Exhibit 127, Exhibit 31.  
 13 Q. (BY MR. BUZBEE) Okay. Here's the text. This  
 14 is a text -- you deleted this text, right?  
 15 A. I had received a copy of it from Ms. Mase.  
 16 Q. Okay. And this is the text you sent the  
 17 general?  
 18 A. Yes, sir.  
 19 Q. On October 1?  
 20 A. Yes, sir.  
 21 Q. Okay. And then the group of you folks then  
 22 signed a letter; is that right, on the same day?  
 23 A. Yes, sir.  
 24 MR. BUZBEE: Let's go, Eric, if you would  
 25 same exhibit, Exhibit 1. We're looking at Exhibit 127,

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1 Exhibit 1. Very tedious, but we've got to look at this.  
 2 We really need to break these out so this  
 3 doesn't take this kind of time.  
 4 Q. (BY MR. BUZBEE) Okay. Here we are. This is  
 5 the letter that the eight -- let's see; one, two, three,  
 6 four, five, six -- seven of you signed, right?  
 7 A. Yes, sir.  
 8 Q. And that was on October the 1st, true?  
 9 A. That is true, sir.  
 10 Q. Okay. Let's take a look -- keep that  
 11 October 1, 2020, date in your mind. Can you do that for  
 12 me?  
 13 A. I'll try, sir.  
 14 Q. Okay. Let's look at AG Exhibit 434. Do you  
 15 see that? That's the bar record of George P. Bush. Do  
 16 you see that?  
 17 A. I see what the document is. I think everybody  
 18 can.  
 19 Q. Now, look at the bottom. Look at the bottom  
 20 entry. His law license was active -- inactive for  
 21 10 years. Do you see that? Look at when he requested  
 22 to reactivate his license. Tell us all that date.  
 23 A. Where? Do you want to point it to me?  
 24 Q. 10/1/2020. Do you see that?  
 25 A. I see the document says that, sir.

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1 Q. What date is it when he applied to activate  
 2 his license?  
 3 A. It says October 1st, 2020.  
 4 Q. Huh. Let me get this right in my mind. On  
 5 October 1st, 2020, you sent the general a text that we  
 6 saw, right?  
 7 A. I did, yes, sir.  
 8 Q. On that same day, you signed a letter, seven  
 9 of you, right?  
 10 A. Yes, sir.  
 11 Q. And coincidentally on that same day George P.  
 12 Bush -- who ran against General Paxton, did he not?  
 13 A. He did in the primary.  
 14 Q. George P. Bush applies to reactivate his law  
 15 license. You see that?  
 16 A. That's what that document appears to say.  
 17 Q. Did you ever hear that old saying there are no  
 18 coincidences in Austin?  
 19 A. Actually I don't --  
 20 Q. You never heard that?  
 21 A. I'm not an Austin guy so, no, I haven't heard  
 22 that one.  
 23 Q. There are no coincidences in Austin. You  
 24 never heard that?  
 25 A. No, I haven't.

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1 Q. Okay. Now, let's -- I'm trying to figure out  
 2 the connection here. Before October 1st, you had  
 3 already talked to Johnny Sutton, hadn't you?  
 4 A. I had not.  
 5 Q. Somebody had, right?  
 6 A. I believe so.  
 7 Q. Somebody in -- within these seven people had,  
 8 right?  
 9 A. I believe so.  
 10 Q. And what's Johnny Sutton's relationship with  
 11 George P. Bush?  
 12 A. I have no idea --  
 13 Q. Don't know?  
 14 A. -- if there's any. I have no idea if there's  
 15 any.  
 16 Q. No clue?  
 17 A. No.  
 18 Q. So the day after George P. Bush applies to  
 19 reactivate his license, you resigned; is that right?  
 20 A. I resigned on October 2nd, sir.  
 21 Q. Let's look at that.  
 22 MR. BUZBEE: That is House Manager  
 23 Exhibit 291. Bring that up on the screen, please, House  
 24 Manager Exhibit 291, the second page, please.  
 25 Q. (BY MR. BUZBEE) That's your resignation

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1 letter?  
 2 A. Yes, sir.  
 3 Q. Okay. Now, you told us before you resigned  
 4 you talked to people at the governor's office?  
 5 A. Yes, I --  
 6 Q. Who? Who?  
 7 MR. HARDIN: Your Honor, is -- is he  
 8 going to offer it? Because this is not in evidence.  
 9 MR. BUZBEE: Which one?  
 10 MR. HARDIN: The exhibit you just put up.  
 11 MR. BUZBEE: House Manager Exhibit 291,  
 12 to the extent it's not in evidence, I move for  
 13 admission.  
 14 PRESIDING OFFICER: It's admitted.  
 15 (HBOM Exhibit 291 admitted)  
 16 MR. HARDIN: Thank you.  
 17 Q. (BY MR. BUZBEE) Now, let's get back to the  
 18 subject at hand. Who at the governor's office did you  
 19 speak to before you resigned?  
 20 A. Well, a couple of days before, we met with --  
 21 I believe it was Jeff Oldham, who would have been at  
 22 that time the governor's general counsel. I believe  
 23 James Sullivan, who is -- who was at that time deputy  
 24 general counsel. And I believe the chief of staff,  
 25 Luis Saenz, was in the meeting as well.

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1 Q. Was anyone else in the meeting?  
 2 A. Other than myself and I believe Mr. Bangert  
 3 and Mr. Brickman. I believe that's all.  
 4 Q. Did you talk to Mr. Hodge?  
 5 A. No.  
 6 Q. No?  
 7 A. He wouldn't have been in that meeting. He  
 8 wasn't at the governor's office at that time.  
 9 Q. Right. Did any of you, the group that you  
 10 know of, talk to Mr. Hodge?  
 11 A. Not that I'm aware of.  
 12 Q. You know who I'm talking about, don't you?  
 13 A. I know who Daniel Hodge is, yeah. He was at  
 14 one time the governor's chief of staff, but by this time  
 15 Luis -- Luis Saenz was chief of staff.  
 16 Q. Right. Daniel Hodge is a lobbyist?  
 17 A. I -- that's my understanding, sure.  
 18 Q. Why did y'all refer to yourselves as the Cool  
 19 Kids' Club?  
 20 A. I don't recognize that.  
 21 Q. You don't recognize it?  
 22 A. don't.  
 23 Q. Okay.  
 24 MR. BUZBEE: Go back, Eric, to AG  
 25 Exhibit 170.

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1 Q. (BY MR. BUZBEE) Your -- your testimony is  
 2 that you folks, you -- you eight folks, never referred  
 3 to yourselves as the Cool Kids' Club?  
 4 A. My testimony is I don't recall me ever using  
 5 that phrase.  
 6 Q. Okay. How about the others?  
 7 A. I -- sitting here right now, no.  
 8 Q. Okay. Do you recall ever being sent a text  
 9 like getting fired will make you a cool kid?  
 10 A. No.  
 11 MR. BUZBEE: Eric, go to Brickman 203.  
 12 Brickman 203, and this is Exhibit --  
 13 Q. (BY MR. BUZBEE) Okay. Do you see the text  
 14 there I'm referring to, being fired will make you a cool  
 15 kid?  
 16 A. Mr. Buzbee, I see that, but I don't know if  
 17 I -- am I on that exchange? I don't -- the message at  
 18 the top, if someone can highlight that. I do have my --  
 19 I do have my glasses on, but I'm trying to see it.  
 20 Yeah, I -- I don't see my name there. I  
 21 don't think I was on that exchange.  
 22 Q. You don't think so?  
 23 A. No. After I left, I don't think so.  
 24 Q. Now, when did you find out about the second  
 25 referral? When did you finally find out that, you know

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1 what, when I went to the FBI and I was telling them that  
 2 this guy was subpoenaing documents that had nothing to  
 3 do with the referral, when did you find out that the  
 4 documents that were being subpoenaed actually had  
 5 everything to do with the second referral? When did you  
 6 find that out?  
 7 A. Mr. Buzbee, sitting here today I don't -- I  
 8 don't recall when.  
 9 Q. Okay. Let's look at the same exhibit,  
 10 Brickman 202.  
 11 Y'all read about it in the news, didn't  
 12 you?  
 13 A. Well, again, sir, I don't think I'm on the --  
 14 I don't think I'm on this text message.  
 15 Q. Okay. But just look at the text message I'm  
 16 referring to. This is about alleged second complaint.  
 17 Interesting. Do you see that language?  
 18 A. Could you highlight it for me, please --  
 19 Q. Eric could.  
 20 A. -- Eric?  
 21 Q. Do you see that language? They're referring  
 22 to a news article. And they're, for the first time  
 23 learning that, in fact, Mr. Cammack had been sent a  
 24 second referral directly from the DA's office and that's  
 25 what the subpoena regarded. Is that about the time you

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1 learned about this?

2 A. Again, I don't have a memory of learning it

3 from -- from that.

4 Q. I mean, you guys were alarmed, you said. I

5 think the word you used was, we were alarmed that this

6 kid, as you called him, had sent a subpoena to a bank.

7 And you believed that subpoena had nothing whatsoever to

8 do with whether the FBI had violated Mr. Paul's rights.

9 A. Do you have the second referral?

10 Q. You're going to see it in a minute.

11 A. What did it -- what did it relate to? That

12 may help me.

13 Q. Just a second. I'm going to help you. Don't

14 worry. I'm not going to --

15 MR. HARDIN: My objection is, Your Honor,

16 he's twice -- maybe seven times, I resisted objecting

17 because the witness quite frankly is handling him so

18 well. However, he's now cross-examined him about an

19 e-mail that he's not -- or a text message he's not on,

20 he doesn't know anything about.

21 Now he's going to cross-examine him about

22 a second referral which the testimony is clear he never

23 saw and doesn't know. He's, therefore, asking, give it

24 to me before you ask me questions about it. So I object

25 to him being asked about documents he knows not only

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1 nothing about but is not part of.

2 MR. BUZBEE: I'm trying to find out what

3 was in his mind when he resigned and when he went to the

4 FBI about what he didn't know. And I'm asking him about

5 why the alarm. And the alarm is, Your Honor, I think

6 he's told us that he didn't know about the second

7 referral. And I'm trying to figure out when he learned

8 about it.

9 MR. HARDIN: I -- I think our law is

10 clear he shouldn't be questioned about documents that he

11 has not seen in this situation, knows nothing about. I

12 mean, he's just said I never saw the second referral. I

13 don't know anything about it. And now he wants to sort

14 of lead him through as he gets to do on cross about

15 things having to do with documents he hasn't seen. So

16 I -- I object to that being inappropriate.

17 PRESIDING OFFICER: Sustained.

18 Q. (BY MR. BUZBEE) And that's the whole point.

19 You didn't know about the second referral, did you?

20 A. I did not.

21 Q. Right. And so you went to the FBI thinking

22 this kid, as y'all called him, as you called him, should

23 not be subpoenaing banks, right?

24 A. I did think that.

25 Q. But you now know that if he was charged by the

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1 DA's office of Travis County to investigate big -- bid

2 rigging, that that would be, in fact, something that he

3 might subpoena, right?

4 A. I actually don't know that.

5 Q. You don't know?

6 A. I do not -- I do not know it.

7 Q. Okay. And since we're on the subject, let's

8 look at -- because you know now there were two

9 referrals, right? You know that.

10 A. I think I know that because I've reviewed the

11 internal report at one time.

12 Q. Okay. Let's look at the first referral. The

13 first referral is --

14 MR. BUZBEE: You're going to have to get

15 into Exhibit 127, Exhibit 3 as quickly as we can.

16 Q. (BY MR. BUZBEE) This document is in evidence.

17 I would ask you to take a look at it once Eric gets it

18 on our screen.

19 MR. BUZBEE: Exhibit 3, Eric, page 3.

20 Q. (BY MR. BUZBEE) All right. Can you see that,

21 sir? He's going to try to bring it up.

22 MR. BUZBEE: Page 3, Eric.

23 Q. (BY MR. BUZBEE) Bring it up so you can see

24 it. You certainly were aware of this first referral

25 from the Travis County DA's Office, correct?

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1 A. At one time I became aware of it, yes, sir.

2 Q. And this was something that Maxwell,

3 Mr. Maxwell and Mr. Penley were supposed to be

4 handling, true?

5 A. That is true.

6 Q. And Mr. Paxton, the general, did not believe

7 that Mr. Penley was pursuing this matter appropriately;

8 isn't that true?

9 A. He became to -- he expressed that at some

10 time, yes.

11 Q. He felt like that Penley, who was a former

12 assistant U.S. attorney, and Maxwell, who was a former

13 Texas Ranger, were not taking the referral seriously;

14 isn't that true?

15 A. I don't know if I would say it that way.

16 Q. Let me ask you this: If you -- if you don't

17 take a referral seriously, one thing you might do is not

18 even log it into the system, right?

19 A. Again, I don't know if I would characterize it

20 the way you have.

21 Q. Who would be responsible when a referral is

22 made from the Office of District Attorney, Travis

23 County, to the attorney general's office, to log that

24 referral and open the investigation? Who would be

25 responsible to do that?

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1 A. Somebody in the division.  
 2 Q. Whose division?  
 3 A. Well, it would either be law enforcement or  
 4 criminal justice. This would be one that sort of both  
 5 had concurrent.  
 6 Q. So ultimately Mr. Penley or Mr. Maxwell?  
 7 A. They -- they were in charge of both of those  
 8 divisions, respectively.  
 9 Q. Let's look at Exhibit 5 to Exhibit 127. Did  
 10 you realize that neither Maxwell nor Penley ever even  
 11 bothered to open an investigation when they received the  
 12 referral?  
 13 A. The document you're showing me, I don't see my  
 14 name on.  
 15 Q. We were not able to locate this referral in  
 16 any of our databases.  
 17 I want you to tell me as the first  
 18 assistant who's responsible for the day-to-day  
 19 operations of the AG's office how could it possibly be  
 20 that when the Travis County DA's Office feels like the  
 21 people they would typically refer this to -- that is  
 22 maybe the FBI, maybe the Texas Rangers -- but she felt  
 23 that they were conflicted, and so she sends this to the  
 24 AG's office. Why would it possibly be that you guys  
 25 wouldn't even log it into the system? Help me

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1 understand how that possibly could happen.  
 2 A. I would have to ask Mr. Penley or Mr. Maxwell.  
 3 Q. I will do that.  
 4 Aren't you ultimately responsible for  
 5 making sure that your people did their jobs?  
 6 A. I mean, ultimately. But as I've testified,  
 7 Mr. Buzbee, and I'm sure you're aware, it's a large  
 8 office with a lot of matters, and I trusted in this case  
 9 Mr. Penley and Mr. Maxwell.  
 10 Q. Now, couldn't you see how maybe your boss  
 11 might be frustrated who felt -- you know he felt like he  
 12 was targeted by the feds, right? He expressed that to  
 13 you before, right?  
 14 A. It --  
 15 MR. HARDIN: Is he soliciting hearsay now  
 16 after all these objections?  
 17 PRESIDING OFFICER: Do you have an  
 18 objection?  
 19 MR. HARDIN: I mean I --  
 20 PRESIDING OFFICER: Are you asking a  
 21 question or do you have an objection?  
 22 MR. HARDIN: I have both an -- a question  
 23 that will lead into an objection to his -- he's asking  
 24 for hearsay. I guess it must be a valid objection. He  
 25 made it 30 times when I was talking.

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1 MR. BUZBEE: I don't know what that  
 2 objection is, but I'm entitled to ask -- I'm entitled to  
 3 ask the man what he -- I mean, he's told us multiple  
 4 times about how Ken Paxton felt about this, that, and  
 5 the other. He knows about how Ken Paxton feels about  
 6 the feds, and that's what I'm asking.  
 7 PRESIDING OFFICER: Let's just move on,  
 8 gentlemen.  
 9 Q. (BY MR. BUZBEE) Tell us how Ken Paxton felt  
 10 about the feds.  
 11 A. I mean, he did have some distrust of the feds.  
 12 His primary distrust was the State officials.  
 13 Q. Uh-huh. So can you understand why your boss  
 14 might be frustrated with his two top lieutenants when  
 15 they weren't doing their jobs and investigating the  
 16 referral from the Travis County DA's Office?  
 17 A. I wouldn't characterize it as that,  
 18 Mr. Buzbee, at all.  
 19 Q. And, of course, when you talk about conflicts,  
 20 I mean, this -- they decided we're not going to send it  
 21 to the Rangers and we're not going to send it to the  
 22 FBI. But we know that Mr. Penley was a former with the  
 23 feds, right?  
 24 A. Mr. Penley was an Assistant U.S. Attorney for  
 25 many years.

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1 Q. And --  
 2 A. In Dallas. In Dallas.  
 3 Q. Right. And Mr. Maxwell also had a past  
 4 history, did he not?  
 5 A. He did. And Mr. Paxton promoted him to the  
 6 position that he held before I got there.  
 7 Q. Now, you told us that you -- that you knew  
 8 General Paxton was frustrated that neither Maxwell or  
 9 Penley would investigate the referral, right?  
 10 A. Actually, I said I couldn't agree with you.  
 11 Q. Uh-huh. And so Mr. Paxton, General Paxton,  
 12 wanted an outside party to do it, right?  
 13 A. We discussed that.  
 14 Q. And more than one person was considered; isn't  
 15 that right?  
 16 A. That is correct.  
 17 Q. One of the people considered was a man named  
 18 Joe Brown?  
 19 A. Yes.  
 20 Q. You liked Joe, didn't you?  
 21 A. I -- I've known Joe for years.  
 22 Q. I mean, you liked him?  
 23 A. I've known him for years, and I like -- yes, I  
 24 had a favorable view of him, yes, sir.  
 25 Q. Another one considered was a man by the name

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1 of Strickland?

2 A. Cliff Strickland considered -- his name came  
3 up, yes.

4 Q. His name came up, and then they figured out  
5 that Cliff Strickland was no way going to work for 300  
6 bucks an hour, right?

7 A. I believe that's true, yeah.

8 Q. So instead they settled in on a guy who was  
9 young, but all he had to do was investigate. They  
10 settled in on Cammack, right?

11 A. Well, eventually that's apparently what the  
12 attorney general did, yes.

13 Q. And you actually, even though you claim it  
14 wasn't an interview, you spent 15 minutes with  
15 Mr. Cammack, did you not?

16 A. I spent 15 minutes with Mr. Cammack.

17 Q. Because we know from the visitor logs --

18 MR. BUZBEE: Exhibit 127, Exhibit 6,  
19 please put on the screen.

20 We know from the visitor logs -- we are  
21 going to have to figure out a way how to break these  
22 out, Eric, so this doesn't take so much time.

23 Q. (BY MR. BUZBEE) We know from the logs,  
24 Joseph Brown came to the office on August 27, 2020, at  
25 3:45 and spent two hours there, right?

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1 A. If they can enlarge that.

2 MR. BUZBEE: Eric, do you see there at  
3 the bottom, on Joe Brown, it shows when he came in and  
4 when he left. Checked in, checked out. Bring that up.

5 Q. (BY MR. BUZBEE) Can you see that?

6 A. I guess.

7 Q. And I'm sorry --

8 A. And I'm not familiar with this document.

9 Q. I'm sorry.

10 MR. BUZBEE: May I approach the witness,  
11 Your Honor?

12 PRESIDING OFFICER: Yes.

13 MR. HARDIN: Maybe it's easier if --

14 MR. BUZBEE: I'm going to show you the  
15 same exhibit.

16 Q. (BY MR. BUZBEE) Mr. Mateer, just confirm for  
17 me --

18 PRESIDING OFFICER: Just wait to go to  
19 the mic to speak to him, though.

20 MR. BUZBEE: Okay.

21 PRESIDING OFFICER: Thank you.

22 Q. (BY MR. BUZBEE) Confirm for me and the  
23 members of this jury that Joe Brown, on August 27, 2020,  
24 spent two hours in the AG's office.

25 A. I can confirm to you that this document says

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1 checked in August 27th, 2020, at 3:45 p.m. And then it  
2 says checked out Thursday, August 27th, 2020, at  
3 5:45 p.m.

4 Q. So he --

5 A. And Joe Brown's name is at the top -- I'm  
6 sorry, sir.

7 Q. That's all right.

8 A. Joseph Brown's name is at the top.

9 Q. Right. That's a visitor log. That's how we  
10 know who comes in the office and who leaves the office,  
11 right?

12 A. I mean, I will assume that that is true, but I  
13 don't know if I've ever seen one of these before.

14 Q. Let's look -- get -- look at the next page.  
15 There's a visitor log for Brandon Cammack. Do you see  
16 that?

17 A. I do, sir.

18 MR. BUZBEE: Go to the bottom, Eric.

19 Q. (BY MR. BUZBEE) Even I'm having trouble  
20 reading that, but it looks like -- why don't you tell us  
21 what it says. It says --

22 A. Well, I mean it's cut off on this copy, but it  
23 does say August 26, 2020, 3:08 p.m. It says KED in. We  
24 can assume that's checked in. And then it says KED out  
25 August 26, 2020, at 4:38.

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1 Q. So what did he stay, an hour and a half or  
2 more in his office?

3 A. That's what this document says, yes, sir.

4 Q. So he came in on the 26th, that is  
5 Mr. Cammack, stayed an hour and a half, and then  
6 Mr. Brown came in the next day and stayed two hours; is  
7 that true?

8 A. That is correct.

9 Q. Okay.

10 MR. BUZBEE: May I approach the witness?

11 Q. (BY MR. BUZBEE) And we know, because we have  
12 your daily calendar, that you listed in your calendar  
13 times, and you were considering -- you mentioned  
14 Cliff Strickland. You mentioned Joe Brown, right?

15 A. I did.

16 Q. If this was so illegal, and so out of bounds  
17 and so egregious, why the devil are you meeting with  
18 these people?

19 A. I don't understand the question.

20 Q. I'm trying to figure out why, if you thought,  
21 hey, I -- we don't -- Penley is doing his job. The  
22 former AUSA is investigating the feds. The former Texas  
23 Ranger is investigating the feds or the magistrates or  
24 the DPS. Why would you be meeting with several lawyers  
25 as outside counsel to do the very same job?

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1 A. Well, it wasn't to do the very same job.  
 2 Q. Well, why -- help me understand, then, why you  
 3 met with -- with Joe Brown. Why did you -- did you  
 4 think it was just a -- a pleasure call?  
 5 A. No.  
 6 Q. He just showed up for two hours for no reason?  
 7 A. No, I'm not saying that, sir.  
 8 Q. Okay. You knew why he was there. You knew he  
 9 was being considered for outside counsel to take over  
 10 the job that Penley wasn't doing, didn't you?  
 11 A. No.  
 12 Q. We know from your logs --  
 13 MR. BUZBEE: Is this Exhibit 127? You  
 14 didn't put a label on it. The logs.  
 15 Pull up 127, please.  
 16 One moment, Your Honor.  
 17 All right. Bring up Board of Managers'  
 18 558.  
 19 Q. (BY MR. BUZBEE) All right. Are these your --  
 20 is this your daily calendar?  
 21 A. It's my physical daily calendar, yes.  
 22 Q. Is this what you keep on your desk to make  
 23 notes? Like here's what I want to accomplish today and  
 24 some notes about what you do?  
 25 A. Some, yes, sir.

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1 Q. Okay. Let's go -- we're looking at Board of  
 2 Managers' 558.  
 3 MR. BUZBEE: And, Eric, if you don't  
 4 mind, turn to page 98. It's Bates-stamped there at the  
 5 bottom.  
 6 Q. (BY MR. BUZBEE) And we see a name on that  
 7 document, do we not? Do you see the name  
 8 Cliff Strickland?  
 9 A. Yes. I see a couple of names, but I do see  
 10 Cliff Strickland, yes.  
 11 Q. Okay. And can you tell us all why you wrote  
 12 Cliff Strickland's name in your -- in your daily  
 13 calendar?  
 14 A. My guess is General Paxton mentioned him.  
 15 I -- I know who that is. I knew his father -- I know  
 16 his father.  
 17 Q. Sure. And you were supposed to check him out,  
 18 see what his hourly rate was?  
 19 A. I don't know if that's true. I think -- I  
 20 don't know.  
 21 Q. You don't know?  
 22 A. No, I don't know.  
 23 Q. Right. But you do know his hourly rate is 800  
 24 bucks, don't you?  
 25 A. I'm not surprised that it's 800, but I don't

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1 know if I know that.  
 2 Q. Yeah. That's too expensive for outside  
 3 counsel, is it not?  
 4 A. I would think it's expensive.  
 5 Q. I mean, even if -- I mean, we have some World  
 6 Class -- probably the World Class lawyers here. They're  
 7 only getting paid 500 bucks an hour.  
 8 A. Yeah.  
 9 Q. You knew that?  
 10 A. Yeah. What's your rate?  
 11 Q. Huh?  
 12 A. What's your rate?  
 13 Q. Well, you'll find out soon enough.  
 14 So Cliff Strickland was too expensive for  
 15 the outside counsel gig, true?  
 16 A. I -- what I recall is that Cliff Strickland  
 17 denied being willing to assist in this matter.  
 18 Q. So let's go over to page 100 of the same  
 19 document. He denied doing the work because he wasn't  
 20 going to get paid his hourly rate. That's the reason;  
 21 is that not right?  
 22 A. Again, Mr. Buzbee, I don't recall that.  
 23 Q. Now, let's go over to page 100. You wrote  
 24 some other notes, but you put, I like Joe.  
 25 That's Joe Brown, right?

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1 A. I believe that's so, yeah.  
 2 Q. So you had written in your logs -- in your  
 3 notes Strickland's name, Joe's name. We already know  
 4 that you met with Cammack for at least 15 minutes,  
 5 although you told us all, that wasn't really an  
 6 interview.  
 7 Why don't you tell us why you're doing  
 8 this if you -- you were so adamant we weren't going to  
 9 use outside counsel, and you thought it was wrong, and  
 10 you had all of these objections to it. Tell us why  
 11 you -- you were going through the motions here.  
 12 A. I wasn't going through the motions. If you'll  
 13 look at the notes below, sir, after I met with  
 14 Mr. Brown, I met with Mr. Penley. And you'll see in  
 15 parentheses it says DM out. That's referring to  
 16 David Maxwell. The outside counsel we were looking at  
 17 was to -- was to assist Mr. Penley and Mr. Maxwell.  
 18 That was always my understanding. That was always my  
 19 expectation.  
 20 Q. Right. But see Mr. Penley and Mr. Maxwell  
 21 weren't doing anything.  
 22 A. See, I disagree with that, sir.  
 23 Q. They didn't even open a file.  
 24 A. They kept asking Mr. Paul and his attorneys  
 25 for documents, and they wouldn't give them documents.

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1 Q. Did they open a file?  
 2 A. Again, sir, I don't know. I know that -- I  
 3 know that they were working on it because at different  
 4 points in time they -- they told me they were. They had  
 5 meetings. They met with -- with -- with Mr. Paul. They  
 6 met with Mr. Wynne. They kept asking for documents.  
 7 Mr. Penley repeatedly expressed his frustrations that  
 8 Mr. Paul and his counsel were not cooperating.  
 9 Q. You were so against the idea that you told  
 10 Mr. Vassar to draft a contract; isn't that right?  
 11 A. I don't know that I did that, sir.  
 12 Q. Well, that's what he says.  
 13 A. Well, I -- I don't believe I did that, sir.  
 14 Q. Do you know that he drafted a contract --  
 15 A. I --  
 16 Q. -- for Mr. Brown and for Mr. Cammack?  
 17 A. I know he drafted one for Cammack because that  
 18 was later. You -- you showed that to me this morning.  
 19 I don't know about Mr. Brown.  
 20 Q. One of the things that outside counsel has to  
 21 disclose is whether he or she has conflicts that would  
 22 prevent them from taking on an outside matter, right?  
 23 A. That is -- that is true, sir.  
 24 Q. Let's look at Exhibit 127, Exhibit 8.  
 25 As he's pulling that page up, you also

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1 told Vassar we need to keep this on as short of a leash  
 2 as possible. We don't want it running away, right?  
 3 A. That doesn't sound like me.  
 4 Q. All right. We'll ask Vassar that when he --  
 5 A. That -- that language --  
 6 Q. That's what he said in his interview, but  
 7 we'll ask him directly.  
 8 A. Yeah, that language doesn't sound like Jeff  
 9 Mateer.  
 10 Q. So let's look at the correspondence between --  
 11 now, where in the -- in the chain of command, where is  
 12 Vassar in relation to you?  
 13 A. Let's see, at this time he is deputy for legal  
 14 counsel, and he would be a direct report to me  
 15 through -- assisting me on that would be Mr. Bangert.  
 16 Q. Okay. So he -- you would consider him a  
 17 direct subordinate?  
 18 A. He is a direct subordinate, but specifically  
 19 on -- because -- because Ryan Bangert had been in that  
 20 position, he worked very closely with him.  
 21 MR. BUZBEE: So, Eric, if you would, in  
 22 this exhibit, turn to the last page.  
 23 Q. (BY MR. BUZBEE) And we can see Vassar, the  
 24 e-mail that he sent an outside counsel contract draft.  
 25 Do you see that?

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1 A. I mean, I've never -- I'm not -- I don't think  
 2 I'm on this. I -- I've not seen it before.  
 3 Q. I'm asking you to see it now.  
 4 A. If -- I mean, we can see it on the screen. I  
 5 see it on the screen.  
 6 Q. Vassar is your direct subordinate?  
 7 A. Again, through Bangert, yes.  
 8 Q. He's sending an outside counsel contract  
 9 draft.  
 10 A. It says, Please see attached.  
 11 Q. Yeah. And then in response Mr. Brown lays out  
 12 some things that might or might not be conflicts to take  
 13 on the -- the representation. Do you see that?  
 14 A. Let me -- yeah. Let me read it.  
 15 Can you make that bigger, sir?  
 16 Whoops. A little bit bigger.  
 17 What about the first paragraph first,  
 18 the -- I'm sorry, the first paragraph first, sir.  
 19 I see in the first paragraph he talks  
 20 about malpractice insurance.  
 21 Q. Right.  
 22 A. Second paragraph, sir.  
 23 Q. Do you see what the scope of the work is as  
 24 you're reading that?  
 25 A. I read it, sir, yes.

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1 Q. The scope is that I will investigate -- fully  
 2 investigate the circumstances related to the referral  
 3 received and provide a report related to any potential  
 4 criminal charges.  
 5 A. That's right. I see what it says, sir.  
 6 MR. BUZBEE: And let's go to the first  
 7 page. The next page, I should say, Eric.  
 8 Q. (BY MR. BUZBEE) More correspondence between  
 9 Vassar and Mr. Brown related to the draft. Do you see  
 10 that?  
 11 A. Now, can they -- where? Isn't that the same  
 12 e-mail we just saw?  
 13 MR. BUZBEE: Eric, please go to the first  
 14 page of the e-mail. There you go.  
 15 Q. (BY MR. BUZBEE) Vassar says the malpractice  
 16 issue may be one that we can resolve.  
 17 That's referring to the previous e-mail  
 18 about malpractice insurance, right? Do you see that?  
 19 A. I see that, sir.  
 20 Q. Now, my question to you is did Vassar, your  
 21 direct subordinate, tell you, you know what, we're  
 22 looking at Brown, I've done a draft contract for Brown,  
 23 but he doesn't have malpractice insurance. Is that a  
 24 problem? Did he tell you that?  
 25 A. I don't remember that, sir.

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1 Q. Don't remember it?  
 2 A. I do not.  
 3 Q. Can we agree as of September of 2020 that your  
 4 subordinate had drafted a contract for Joe Brown and was  
 5 talking through the scope, et cetera, of the  
 6 representation?  
 7 A. These documents appear to reflect that, sir.  
 8 MR. BUZBEE: Let's go to Exhibit 7 within  
 9 127, Eric.  
 10 And bring up, Eric, if you would, the  
 11 e-mail from Mr. Vassar to Mr. Cammack on September 4,  
 12 2020.  
 13 Q. (BY MR. BUZBEE) Can you see and confirm, sir,  
 14 that at the same time that Vassar was sending a draft  
 15 contract -- or at around the same time he was sending a  
 16 draft contract to Mr. Brown, he was doing the same with  
 17 Mr. Cammack?  
 18 A. I can read the e-mail. I don't think I was  
 19 copied on the e-mail. So I'm seeing it here for the  
 20 first time.  
 21 Q. And of course we had already seen from the  
 22 other e-mail there was a malpractice insurance issue  
 23 with Mr. Brown, right?  
 24 A. I saw that Mr. Vassar said it was resolved.  
 25 Q. But there was no such issue with Mr. Cammack,

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1 was there?  
 2 THE WITNESS: Can you highlight that,  
 3 Eric?  
 4 A. I'm sorry. I don't see it mentioning  
 5 malpractice insurance.  
 6 Q. (BY MR. BUZBEE) Right. So as we look at  
 7 these three people, one of them is too expensive, one of  
 8 them doesn't have malpractice insurance, and the other  
 9 one, he's young, but he doesn't really have to do a  
 10 whole lot, he's just got to do more than Penley, right?  
 11 A. Again, sir, I would not characterize it that  
 12 way at all.  
 13 MR. BUZBEE: Let's go to Exhibit 9 within  
 14 127.  
 15 Q. (BY MR. BUZBEE) Here, if the jury wants to  
 16 see the actual contract sent by your subordinate to  
 17 Mr. Cammack, they can look at this exhibit. Do you see  
 18 it there?  
 19 A. What I -- what's on the screen right now is a  
 20 letter. Well, it says Brent Webster at the top.  
 21 Q. That's because he collected all the e-mails.  
 22 A. Say that again.  
 23 Q. That's because he collected all the e-mails.  
 24 A. Okay. So it says Webster at the top. And it  
 25 says from Ryan Vassar. It doesn't say who it's to

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1 except it says, General.  
 2 Q. Right. This was the contract that Vassar  
 3 wanted to use with both Cammack and Brown, and a copy  
 4 was provided to the general. Do you see that?  
 5 A. I see what the e-mail says.  
 6 Q. Okay. Now, you've told us all that you  
 7 objected to hiring Cammack, and the reason you objected  
 8 is because you thought Penley could handle it and said  
 9 he was handling it, right?  
 10 A. That's part, yes.  
 11 Q. And Penley did not want somebody to come in  
 12 and do it. He said he was going to do it himself but he  
 13 was just waiting on documents, right?  
 14 A. That's part, yes.  
 15 Q. Okay. And so as we -- as the executive  
 16 approval process went forward, it stopped at Penley,  
 17 right?  
 18 A. That's my recollection, yes, sir.  
 19 MR. BUZBEE: Let's look at AG  
 20 Exhibit 130.  
 21 Q. (BY MR. BUZBEE) And as we're putting that on  
 22 the screen, just tell us point-blank, does -- does --  
 23 how long had Penley been at the office, as of this time?  
 24 A. That's a good question, sir.  
 25 Q. I hope my -- all of my questions are good.

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1 A. Some are.  
 2 Q. Some. Okay.  
 3 How long had Penley been at the office as  
 4 of September 2020?  
 5 A. Yeah, I --  
 6 Q. Mere months, right?  
 7 A. I don't --  
 8 Q. Eight months at max, right?  
 9 A. I -- I honestly do not have a recollection of  
 10 when he started. I know when I came in  
 11 Adrienne McFarland was the deputy. She retired at a  
 12 point. We recruited -- we were looking for the  
 13 position. Mr. Paxton had known Mark, recommended him  
 14 highly. And so he became, you know, part of our team.  
 15 How long? A month? I mean, I -- I guess ask  
 16 Mr. Penley.  
 17 Q. I will.  
 18 What we have on the screen is the  
 19 executive approval memorandum with regard to the outside  
 20 counsel contract for Mr. Cammack, right?  
 21 A. You -- you jumped down to the re -- I'm sorry.  
 22 If you could go down to the -- I see it's an executive  
 23 approval memo. I see the list of names. Can -- can I  
 24 see the --  
 25 Q. Synopsis?

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1 A. Yeah, or the Re line. That will help first.  
 2 MR. BUZBEE: So he's asking for the Re  
 3 line, please.  
 4 A. Yeah, I see that I'm not seeing it on this  
 5 page.  
 6 Q (BY MR. BUZBEE) It's there.  
 7 MR. BUZBEE: Eric, it's in bold, Re.  
 8 A. I see -- I see the Re, but I -- what I -- I'm  
 9 sorry. And I keep going back and forth because I'm  
 10 trying to look at it.  
 11 What I'm not seeing is Cammack  
 12 referenced. If you say the next pages are Cammack, I'm  
 13 not going to dispute that.  
 14 Q (BY MR. BUZBEE) Okay.  
 15 A. Obviously the document speaks for itself.  
 16 Q. Sure. Let's look at the people that approved  
 17 it.  
 18 Let me ask you this. Any of these --  
 19 none of these people can veto the attorney general, can  
 20 they?  
 21 A. None of these people can veto the attorney  
 22 general, but our processes were in place to protect him  
 23 and to protect the agency that you had proper sign-off.  
 24 Q. I'm not asking about your processes, your  
 25 bureaucrat processes. I'm asking about legally.

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1 None of these people can veto the  
 2 attorney general, can they?  
 3 A. That's a tough question for me to answer.  
 4 Q. Why? You should know that, should you not?  
 5 If you're the first assistant, that's something you  
 6 should absolutely know by now, right?  
 7 None of these people, none of these  
 8 people have the legal authority to veto the attorney  
 9 general; isn't that true?  
 10 A. I think if the attorney general is taking an  
 11 action that is improper, then it's incumbent on the  
 12 staff, and that's why these processes are in place.  
 13 Q. And process according to --  
 14 A. So I don't --  
 15 Q. I'm sorry?  
 16 A. So I don't think it's proper, for instance, if  
 17 Dan Morales goes out and enters into a deal --  
 18 Q. I'm not talking about Dan Morales.  
 19 A. -- or Greg Abbott went out and entered into a  
 20 deal. I mean, the process -- it's the agency, and the  
 21 agency had -- I mean, I know you're -- you're making  
 22 comments about the process and bureaucratic, and look,  
 23 it may be, but there's a reason.  
 24 Q. It is.  
 25 A. There's a reason, I mean, the attorney general

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1 can't, on his own, go out -- because when this  
 2 Legislature, they give authority for the agency to act,  
 3 right? They give -- you can do a certain thing. For  
 4 instance, in the Government Code, one of the provisions  
 5 in the Government Code, Mr. Buzbee -- I'm sorry.  
 6 Q. I don't -- you're not answering my question.  
 7 A. Well, I am answering your question.  
 8 Q. Okay. Just --  
 9 A. One of the -- one of the -- in the Government  
 10 Code, the Legislature has given the Office of Attorney  
 11 General the authority to enter into outside -- outside  
 12 counsel contracts. That's authority given.  
 13 In addition, this Legislature gives money  
 14 so that you have money to actually -- you need money and  
 15 you need authority. And so when you ask the question,  
 16 could an attorney general do that, I mean, he needs to  
 17 have authority and there has to be funds to do it.  
 18 These processes are in place.  
 19 Q. Are you finished?  
 20 A. I was trying to answer your question.  
 21 Q. You're telling the members of this jury, each  
 22 of them a senator elected by the people, that a  
 23 bureaucrat in the office has the authority to veto the  
 24 boss?  
 25 A. What I'm saying --

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1 Q. That's what you're trying to suggest to us,  
 2 are you not?  
 3 A. What I'm trying -- if I can, can I answer your  
 4 question?  
 5 Q. That's why I asked it.  
 6 A. What I'm trying -- what I'm trying to suggest  
 7 to you is this Legislature gives authority to the  
 8 agency. They say what the agency can do. We have the  
 9 Constitution, we have the statutes. Part of that is  
 10 also money.  
 11 Q. The attorney general is responsible for the  
 12 policies and the procedures of the office; is that  
 13 right?  
 14 A. The attorney general is responsible for the  
 15 policies and the procedures in the office.  
 16 Q. He makes the policies and procedures for his  
 17 own office, does he not?  
 18 A. He, at one point, approved those. I think  
 19 these policies and procedures were in place before he  
 20 became attorney general.  
 21 Q. They were put in place by Greg Abbott.  
 22 They're policies and procedures created by the holder of  
 23 the office. They can be modified and changed by the  
 24 officeholder, how ever he or she sees fits; isn't that  
 25 true?

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1 A. I think that's true.  
 2 Q. Okay. But here you are telling us all, or  
 3 trying to suggest to us all, that the attorney general,  
 4 the elected attorney general in the State of Texas, has  
 5 to get the approval of his staff to enter an outside  
 6 contract. That is what you are saying, is it not?  
 7 A. What -- what I'm saying is in addition  
 8 to having the -- the Legislature also sets the  
 9 parameters of that authority. Part of the job of the  
 10 staff is to make sure the office is following what the  
 11 Legislature has granted.  
 12 Q. In fact, let's see, we know on the first page  
 13 that Lesley French, the general counsel, she signed off,  
 14 true?  
 15 A. I -- I see that, yes, sir.  
 16 Q. Joshua Godbey, he signed off, true?  
 17 A. True.  
 18 Q. Ryan Vassar, who wrote the contract, he signed  
 19 off, right?  
 20 A. Yes.  
 21 Q. Michele Price, the controller, that's the  
 22 woman in charge of the money, she signed off, right?  
 23 A. Yes.  
 24 Q. It stopped with Mr. Penley, right?  
 25 A. That is true.

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1 Q. And this outside counsel contract was being  
 2 done to do the job that Mr. Penley was supposed to be  
 3 doing; isn't that true?  
 4 A. Now, you keep asking that question, and I keep  
 5 telling you I don't have that same view.  
 6 Q. Sure.  
 7 MR. BUZBEE: And let's go to, Eric, if we  
 8 could, page 14011 of the same document. It's the  
 9 signature page. 14011.  
 10 Q. (BY MR. BUZBEE) And here's the signature  
 11 page, true?  
 12 A. That appears to be the signature page.  
 13 Q. The contract is written where the attorney  
 14 general is to sign; is that right?  
 15 A. Well, what it says, sir, is attorney general  
 16 or designee. And I think I said on my direct  
 17 examination, it was very rare that the attorney general  
 18 himself actually signed contracts.  
 19 Q. Sure.  
 20 A. In fact, when the attorney general did sign a  
 21 contract, we actually had a special folder, envelope,  
 22 that you would put it in. There were some requirements  
 23 of some contracts. I think they were things from the  
 24 feds that they required actually the actual signature of  
 25 the attorney general.

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1 Q. Right. There are some things that the  
 2 attorney general could not designate --  
 3 A. I said --  
 4 Q. Can you let me finish, please?  
 5 A. I apologize, yes.  
 6 Q. There are some things that he had to sign,  
 7 right?  
 8 A. There are a few things he had to sign.  
 9 Usually I think they were federal requirements.  
 10 Q. And most of the time, though, he designated  
 11 someone to sign on his behalf, right?  
 12 A. Well, again, most of the time, in my  
 13 experience as first assistant, it was the first  
 14 assistant.  
 15 Q. But that does not mean he cannot sign, does  
 16 it?  
 17 Does it?  
 18 A. No.  
 19 Q. Okay. You said Mr. Penley had a real problem  
 20 with hiring Cammack, true?  
 21 A. Penley had a problem with hiring Cammack,  
 22 correct.  
 23 Q. So Penley refused to sign off, and that  
 24 stopped the process, right?  
 25 A. That's correct.

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1 Q. Are you telling me you did not know that  
 2 Vassar had drafted a contract? Is that what you're  
 3 trying to tell us?  
 4 A. What I'm trying to tell you is -- is the best  
 5 of my recollection. And the best of the recollection is  
 6 I don't recall that, no, sir.  
 7 Q. But certainly at some point you knew because  
 8 you talked about conversations you had with the general  
 9 where he was asking -- he was wondering why Penley  
 10 wouldn't sign the contract. You knew the contract  
 11 existed, right?  
 12 A. I knew that they were entertaining the fact of  
 13 a contract. So I would assume, yes.  
 14 MR. BUZBEE: Eric, Exhibit 127,  
 15 Exhibit 34 within that document, please.  
 16 Q. (BY MR. BUZBEE) All right. Looking at  
 17 Exhibit 34 within 127, we see here kind of the DocuSign  
 18 history, true?  
 19 A. If that's what you say. I can't -- I don't  
 20 dispute that. It says DocuSign. They just highlighted  
 21 that.  
 22 Q. One of the good things about DocuSign is you  
 23 can see exactly when somebody viewed the document. You  
 24 can see if somebody rejects the document. You can see  
 25 when they sign the document. Would you agree with that?

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1 A. I'm seeing this for the first time.  
 2 Q. It's common sense, though, is it not?  
 3 A. The document says that -- well, again, I think  
 4 we both agree, neither of us are tech people. I mean,  
 5 he -- Eric is highlighting, and I -- I see what that  
 6 says.  
 7 Q. So let's look at Penley's history,  
 8 Mr. Penley. According to DocuSign and the document  
 9 that's in evidence, it was sent to him. That is the  
 10 Cammack contract was sent to him on September 16th,  
 11 2020. Do you see that?  
 12 A. You're going to have to enlarge it for me,  
 13 sir.  
 14 Q. September 16th, 2020, he was sent the  
 15 document, true?  
 16 A. Yeah, it looks like it's 6:43:14 p.m. Is that  
 17 what you're referring to?  
 18 Q. He didn't view the document until the day  
 19 y'all sent the text, did he?  
 20 A. I think there's a record. I mean, that's what  
 21 this says. But I know there is an exhibit that -- that  
 22 he sends an e-mail on September 24th that he attaches,  
 23 or tries to attach, the DocuSign. And, of course, you  
 24 can't attach one. It was just the fact that one had  
 25 been sent to him.

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1 Q. It shows us here that he declined the document  
 2 at 3:03 p.m. on October 1st. And then he viewed it  
 3 after he had declined it, an hour later. Isn't that  
 4 what that shows?  
 5 A. The document says what it says.  
 6 Q. Sure.  
 7 A. I don't have any knowledge.  
 8 Q. Now, your position is I was adamantly against  
 9 the attorney general hiring Cammack, right?  
 10 A. I believe Mr. Cammack did not have the type of  
 11 experience necessary to assist Mr. Penley in the  
 12 investigation. You compare him to someone like  
 13 Joe Brown who had been a U.S. attorney, who had been  
 14 actually a DA. I mean, there -- there's no comparison  
 15 in experience.  
 16 Q. Did he issue subpoenas? Could he get  
 17 subpoenas issued?  
 18 A. Could who? Mr. Brown?  
 19 Q. Mr. Cammack.  
 20 A. Well, we know --  
 21 Q. Would he have the -- would he have the  
 22 wherewithal to get subpoenas issued?  
 23 A. Well, we know that he eventually did with  
 24 assistance from Mr. Paul's lawyer.  
 25 Q. Do you know how those subpoenas were

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1 actually -- I don't -- I don't want to talk about what  
 2 you might have read in the paper. I want to ask you  
 3 about what you know.  
 4 Do you know how Mr. Cammack --  
 5 A. I haven't --  
 6 Q. Can you let me finish?  
 7 A. Well, you asked me a question --  
 8 Q. I'm getting ready to finish the question.  
 9 A. -- about the paper.  
 10 Q. Just a second, sir.  
 11 Do you know specifically how Mr. Cammack  
 12 got subpoenas issued? Do you know how that process  
 13 worked?  
 14 A. I do not.  
 15 Q. You claimed to the FBI that he appeared in  
 16 front of the grand jury, didn't you? That's what you  
 17 told the FBI, didn't you?  
 18 A. I don't think I told that to the FBI.  
 19 Q. What we know happened instead was, is he was  
 20 assisted by the Travis County DA's Office and was sent a  
 21 subpoena draft with a DocuSign that he DocuSigned?  
 22 A. I think that's a better question directed at  
 23 the Travis County DA's Office, Ms. Moore.  
 24 Q. So did you ever bother even to ask how the  
 25 subpoenas Mr. Cammack sent were issued?

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1 A. I -- I didn't, because I didn't need to.  
 2 Q. Y'all were drafting -- collectively, you and  
 3 the other employees or ex-employees -- were drafting a  
 4 letter to send to the FBI or the -- or the Texas  
 5 Rangers?  
 6 A. Do you have something to show me?  
 7 Q. Do you not recall drafting a letter where  
 8 y'all were sending drafts back and forth amongst  
 9 yourselves of a correspondence you were going to send to  
 10 the authorities?  
 11 A. If you have something to show me, I -- that  
 12 may refresh my memory.  
 13 MR. BUZBEE: Let's look at Exhibit 22,  
 14 please, within the same Exhibit 127. Go to page -- the  
 15 pages aren't numbered, but go to Number 4 within the  
 16 document, please, Eric.  
 17 Go all the way to the bottom, Eric. It's  
 18 very difficult to point this out, but it's the -- the  
 19 sentence starts: The subpoena sought information that  
 20 involved financial records at local banks. Bring  
 21 that -- go to Number 4, Eric. I'm sorry, Eric. It's --  
 22 you're two pages off.  
 23 There we go. Eric, just go to the  
 24 second-to-last page, please. The second-to-last page of  
 25 the document.

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1 You're -- guys, the second-to-last page,  
2 this page, the second-to-last page. There's two  
3 complaints. There we go. You have it. There we go.

4 All right. I'm sorry.

5 Q. (BY MR. BUZBEE) The sentence starts -- I  
6 mean, this -- this is something that you guys were  
7 collectively drafting, is it not?

8 A. I -- I don't know if I've ever seen this,  
9 Mr. Buzbee.

10 Q. You -- we took it off your computer.

11 A. Off my computer?

12 Q. Well, the computers from the office, yeah.  
13 There were multiple drafts that y'all were sending  
14 around.

15 A. Was it Jeff Mateer's computer? Can you show  
16 me that?

17 Q. Well, let's --

18 A. It said at the beginning -- you've been  
19 jumping around. This is one of the disadvantages of an  
20 iPad.

21 Q. I know. I'm at a disadvantage, too, because  
22 my guy is way over there.

23 A. I know. I understand. We both are frustrated  
24 with it.

25 Q. Let me just -- let me just focus your

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1 attention on some language of a draft letter. Then you  
2 can tell me whether you --

3 MR. HARDIN: Your Honor, pardon me.

4 Pardon me, Your Honor. My objection is he doesn't know  
5 the source of this. He doesn't believe where it came.  
6 It's totally inappropriate for him to be asked questions  
7 about it until Mr. Buzbee shows where it came from so  
8 he's satisfied it's something that he knows something  
9 about.

10 MR. BUZBEE: Let -- I can handle that,  
11 Your Honor. Sure.

12 PRESIDING OFFICER: Can you help  
13 straighten that out?

14 MR. BUZBEE: Yes, sir.

15 PRESIDING OFFICER: All right.

16 MR. BUZBEE: No doubt.

17 Q. (BY MR. BUZBEE) Did you realize that  
18 Ryan Bangert, on behalf of all of you so-called  
19 whistleblowers, was drafting a letter to be sent to  
20 either the FBI or the Rangers?

21 A. I -- I don't have memory of that.

22 Q. Did he share with you any of the drafts that  
23 he created that was ultimately sent to the authorities?

24 A. This is their -- I don't know.

25 Q. You don't remember?

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1 A. I don't remember, sir.

2 Q. Okay. Let me just see if your recollection of  
3 the things that were going on -- would you agree with  
4 the statement that nothing in the subpoenas sought  
5 information that related to the allegations contained in  
6 the Travis County complaint which involved potential  
7 criminal conduct by employees of state and federal?

8 A. Is this related to the first one?

9 Q. Yeah.

10 A. I mean, I -- again, you're reading from this  
11 document.

12 Q. Yeah. I'm just trying to --

13 A. I mean, I would ask -- I mean, again, what I  
14 would ask is what you will do. I assume I would ask  
15 Mr. Bangert because I -- I don't recall.

16 Q. I'm trying to get it -- figure out what y'all  
17 thought you knew --

18 MR. HARDIN: Pardon me again. Pardon me  
19 again.

20 This entire line, Your Honor, is so  
21 misleading. If I'm right -- and I'll be corrected --  
22 I'll be glad to be corrected if I'm wrong -- I believe  
23 what we have here is an excerpt from the  
24 50-something-page OAG report. What this is, it's a  
25 self-serving version of the -- of their report that he's

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1 being asked about, as if it's something that first that  
2 he wrote, and if not, then something that -- that was  
3 written by someone else. And he's acting like this was  
4 a fact that they did something.

5 He needs to disclose to this witness  
6 where this comes from. It's not coming from his  
7 computer. He doesn't have any knowledge whether it's  
8 coming from Mr. -- anyone's else computer. This entire  
9 line is unfair and -- and wrong for the witness.

10 If he tells him where it's coming from  
11 and then ask him if it's right, I won't object. But  
12 this is -- this kind of shooting in the dark is  
13 inappropriate.

14 MR. BUZBEE: Your Honor, Mr. Hardin, if  
15 he -- if he looked at the document would know that this  
16 came from Ryan Bangert's computer, that it was a letter  
17 that he was drafting on behalf of all of the so-called  
18 whistleblowers, and there are things in the letter that  
19 I think is misconception that they all had collectively,  
20 which was they didn't know about the second referral.  
21 That's why I'm asking these questions.

22 A. And I -- I've said that, Mr. Buzbee.

23 Q. (BY MR. BUZBEE) Okay. And that's what --  
24 that alarmed you. He's sending subpoenas to banks and  
25 it has nothing to do with the first referral, right?

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1 A. It was one of the things that alarmed us, I  
2 think I've said.

3 MR. HARDIN: Is it -- may I ask for a  
4 predicate for these questions, Your Honor? Is this  
5 document that he's been asking him from, from the  
6 attorney general's offices, self-serving document they  
7 published to the world as to their version of events?  
8 If that's where it's from, then I can go to the page of  
9 that report and determine that. But this witness needs  
10 to know that's what it is, rather than suggesting it  
11 came from his computer or somebody else's computer. But  
12 this did not --

13 MR. BUZBEE: I --

14 MR. HARDIN: I respectfully suggest --

15 MR. BUZBEE: He's taking up my time and  
16 he --

17 MR. HARDIN: -- the predicate --

18 MR. BUZBEE: If he read the documents  
19 that's in evidence -- this document is in evidence -- he  
20 knows that it came directly from Ryan Bangert's  
21 computer.

22 MR. HARDIN: He doesn't know any such  
23 thing.

24 MR. BUZBEE: And he knows that Ryan --  
25 please.

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1 MR. HARDIN: Sure thing.

2 MR. BUZBEE: He knows that Ryan Bangert  
3 circulated this so they can get their facts right before  
4 they sent this correspondence to the authorities.

5 And that's all I asked him is, is this  
6 true that --

7 THE WITNESS: I don't think this --

8 MR. BUZBEE: -- none of you knew -- none  
9 of you knew about the second referral, and that's why  
10 you were all so upset?

11 That's the point, and I think the point  
12 has been made.

13 PRESIDING OFFICER: Let's move on.

14 MR. BUZBEE: Okay.

15 MR. HARDIN: Your Honor, this document,  
16 it looks like this document was -- was prepared by  
17 Mr. Brent Webster.

18 MR. BUZBEE: No. Geez. Come on. You  
19 need to look closely at the document. It's very clear,  
20 prepared by Ryan Bangert.

21 Q. (BY MR. BUZBEE) Now --

22 MR. HARDIN: All right. It looks like --

23 PRESIDING OFFICER: Are you satisfied  
24 now?

25 MR. HARDIN: It looks like it's two other

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1 people, but it is not this man.

2 MR. BUZBEE: I -- Your Honor, I made that  
3 clear. It's Ryan Bangert. I've said it three times.

4 MR. HARDIN: Excuse me. You've testified  
5 repeatedly, Mr. Buzbee, that this man knows X. This --  
6 the only way you're going to know what he knows is to  
7 ask him questions, rather than suggest it was done by  
8 somebody else.

9 MR. BUZBEE: Which is what I was doing.  
10 I'll move on.

11 (Simultaneous crosstalk)

12 MR. HARDIN: My objection is improper  
13 predicate --

14 PRESIDING OFFICER: Counselors,  
15 counselors --

16 MR. HARDIN: -- to these questions.

17 PRESIDING OFFICER: -- let's just move  
18 on.

19 MR. BUZBEE: Sure.

20 MR. HARDIN: Thank you.

21 MR. BUZBEE: I'm trying to.

22 Q. (BY MR. BUZBEE) Now, do you know who  
23 Bailey Molnar is?

24 A. Say that again, sir?

25 Q. I'm sorry. Do you know who Bailey Molnar is?

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1 A. Spell that last name.

2 Q. M-O-L-N-A-R. Works at the Travis County  
3 District Attorney's Office. I don't want to say she's a  
4 clerk, but she does administrative-type work.

5 A. I don't think I do -- excuse me, sir. I don't  
6 think I do.

7 Q. So you wouldn't have any role in her  
8 assistance with Cammack in issuing subpoenas?

9 A. No.

10 Q. Okay. Now, you had asked and your lawyer --  
11 or the House's lawyer had complained that, hey, show him  
12 the second referral. You would like to see it, right?  
13 You've never seen it?

14 A. If you show it to me, I guess I'll --

15 MR. BUZBEE: Exhibit 127, Exhibit 13.

16 Q. (BY MR. BUZBEE) Okay. Have you seen this  
17 document before?

18 A. I'm still reading it, sir. Thank you.

19 Q. Have you had a chance to read it?

20 A. I'm sorry. I don't read -- I read fast, but  
21 not that fast.

22 It helps. Thank you, Eric.

23 Q. (BY MR. BUZBEE) Okay. What we have on the  
24 screen here is what has been referred to as the second  
25 referral. Would you confirm with me that this document,

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1 this referral, was sent from the DA's office of Travis  
2 County directly to Mr. Cammack in Houston, Texas, in  
3 September -- on September 23, 2020?

4 A. Well, what I confirm is it's dated  
5 September 23rd. The address that's listed is not an  
6 Office of the Attorney General of Texas.

7 Q. Now, do you know who Don Clemmer is?

8 A. Don Clemmer -- I do know who Don Clemmer is.

9 Q. Who is Don Clemmer?

10 A. He used to work at the Office of Attorney  
11 General before I was there.

12 Q. Okay.

13 A. I believe worked with Adrienne McFarland.  
14 Actually he might have been in a deputy position at one  
15 time for when Governor Abbott was General Abbott.

16 Q. I'm asking -- okay, sir. Do you see where  
17 he -- how he listed --

18 A. I'm trying to answer your question. I'm  
19 sorry.

20 Q. I understand what you're doing.

21 Can you tell me and confirm that at or  
22 around September 2020 he worked at the DA's office for  
23 Travis County?

24 A. I know he worked at the DA's office. I don't  
25 know what his position was, but I see that a letter says

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1 what his position is.

2 Q. Yeah. It says Director, Special Prosecutions  
3 Division. Do you see that?

4 A. I do see that, yes, sir.

5 Q. And you told us that Clemmer used to work at  
6 the AG's office, right?

7 A. Before my time, yes.

8 Q. Right. So you know that the AG's office is  
9 not in Houston, Texas, and he would know that too,  
10 right? He would know that the Office of Attorney  
11 General is not in Houston, Texas, right?

12 A. Well, no, we do have an office in Houston. We  
13 actually have several offices. I just know that address  
14 is not one of our offices.

15 Q. Right. Right. And so he would know --

16 A. Well, you would have to -- I mean, obviously,  
17 you're asking me a question that you know I don't know  
18 the answer to, but he would know the answer to.

19 Q. Sure. Yeah. So rather than sending the  
20 referral to Penley or Maxwell, the second referral was  
21 sent directly to the outside counsel, Brandon Cammack,  
22 right?

23 A. This letter says that. I don't know why that  
24 was done.

25 Q. And you had no idea about this referral until

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1 sometime well after this; isn't that right?

2 A. That's correct.

3 Q. Now, who is Lisa Tanner?

4 A. Lisa Tanner was a -- and may still be.  
5 Lisa Tanner was a prosecutor at the time I was there in  
6 the criminal division.

7 Do you want more? She's one of the key  
8 prosecutors for the State of Texas, or was.

9 Q. Now, on -- did you ever -- did you ever  
10 once -- let me ask it this way: Did you ever discuss  
11 with Mr. Clemmer outside counsel for the AG's office?

12 A. I don't know if I've ever met Mr. Clemmer.

13 Q. Okay. I'm not asking that. I'm asking  
14 whether you discussed via phone, e-mail --

15 A. No.

16 Q. -- anything like that, with Mr. Clemmer?

17 A. Again, I don't think I've ever had a  
18 discussion with Mr. Clemmer.

19 Q. Okay. Do you know what the subject was of the  
20 second referral? Do you know what Mr. Paul was  
21 alleging?

22 A. You would have to show it to me.

23 Q. Okay. We have the second one.

24 MR. BUZBEE: This is in evidence?

25 MR. LITTLE: I don't think so, but it's

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1 on your screen.

2 MR. BUZBEE: We're going to offer into  
3 evidence House 168. It's the second criminal complaint  
4 filed by Nate Paul.

5 PRESIDING OFFICER: Any objection?

6 MR. HARDIN: No objection.

7 PRESIDING OFFICER: Entered into  
8 evidence.

9 (HBOM Exhibit 168 admitted)

10 MR. BUZBEE: You don't have a hard copy?

11 All right. Eric, go to the second page,  
12 please. Keep going. Next page, please. Go to page 6.

13 Q. (BY MR. BUZBEE) All right. And the jury, to  
14 the extent they want to look at it, can see in Exhibit  
15 House 168 the nature of Nate Paul's complaints. And you  
16 didn't know anything about this. That's what you told  
17 us?

18 A. If you want me to --

19 Q. I don't want to waste a lot of time on it. I  
20 just want to make sure the jurors know that there is a  
21 second referral and it was -- the genesis of it  
22 Nate Paul complained to the Travis County DA's Office.

23 A. I mean, if that's what you're saying,  
24 obviously the document is what it is. I'm not -- absent  
25 me sitting and reading it, I'm not able to answer.

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1 Q. Now, you told me, I think, that if you're  
2 going to hire outside counsel at the AG's office, you  
3 need to go through the procedure, right?  
4 A. Yes, sir.  
5 Q. And it's absolutely essential that if the  
6 DA -- when he talked about the Legislature and the money  
7 and -- and the codes and the -- and the policy, it all  
8 needs to be followed if you're going to -- if you are  
9 going to hire -- that is the AG's office is going to  
10 hire outside counsel, right?  
11 A. Yes.  
12 Q. That's --  
13 A. To actually hire and execute a contract, you  
14 have to go through the process.  
15 Q. Right. And -- and that includes getting  
16 approval from the comptroller in that process to fund  
17 it, doesn't it?  
18 A. That -- you have to have money that the  
19 Legislature has allocated.  
20 Q. And you told us, I think you told us, that  
21 that is in place to protect the office?  
22 A. Yes. In part, yes.  
23 Q. That is in place so things are done aboveboard  
24 and on the up-and-up, right?  
25 A. Yes.

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1 have to have the funds set aside. This is part of the  
2 process.  
3 What would have followed, Mr. Buzbee, is  
4 the full process. But obviously there isn't such a  
5 contract because we did not proceed.  
6 Q. Wow. Okay. Let me make sure I got this.  
7 You are the first deputy?  
8 A. I mean --  
9 Q. First assistant.  
10 A. Yeah.  
11 Q. I call -- I don't mean you any offense. I  
12 just --  
13 A. I know. I know you don't.  
14 Q. You're the first assistant. You're sending an  
15 e-mail to Lacey Mase authorizing \$50,000 of our  
16 taxpayers' money for an outside counsel, Johnny Sutton;  
17 is that right?  
18 A. That is -- that is correct. Setting aside  
19 those funds in the event we did ultimately enter into a  
20 contract, but we did not.  
21 Q. Well, you certainly did. Johnny Sutton is  
22 your lawyer right now, isn't he?  
23 A. He didn't enter into a contract with the  
24 agency.  
25 Q. Let me ask you something. Let's be clear.

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1 MR. BUZBEE: Let's look at AG  
2 Exhibit 368. And go to the second-to-last page.  
3 Q. (BY MR. BUZBEE) Now, let's focus on this all  
4 together. Given what you told us, given your objections  
5 to the elected attorney general and hiring Mr. Cammack,  
6 or anybody outside, what we have here is an e-mail from  
7 you the day before you resigned to Lacey May --  
8 A. Mase.  
9 Q. -- Mase, where you authorized the use of  
10 \$50,000 for outside counsel. What is that?  
11 A. What is it?  
12 Q. Uh-huh.  
13 A. That's what I was talking about exactly. In  
14 order to have a contract --  
15 Q. What contract is that for?  
16 A. It was -- it says what it says. It was, we  
17 were considering at this point in time whether the  
18 agency would enter into an outside counsel contract with  
19 Johnny Sutton.  
20 Q. But --  
21 A. In order to do that -- can I complete my  
22 answer?  
23 Q. Yes. Sure. Go ahead.  
24 A. In order to do that, you have to have funds  
25 set aside. You can't just enter into a contract. You

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1 Answer my question to the jury. They may want to know.  
2 Is Johnny Sutton your lawyer right now?  
3 A. Johnny Sutton is my personal lawyer.  
4 Q. Is he sitting right over there?  
5 A. Yep, I see him.  
6 Q. Okay. You tell me what authority you had as  
7 first assistant to set aside our taxpayer money to hire  
8 an outside counsel. You tell me that.  
9 A. I had the authority to set aside the funds  
10 because the next step in the process would have been to  
11 go through the executive approval memo process. And if  
12 all of the deputies would have signed off on it and we  
13 had made the determination that that was in the best  
14 interest of the State to retain Mr. Sutton, as -- as  
15 counsel.  
16 Q. For who?  
17 A. For the State.  
18 Q. For what?  
19 A. Because we were looking into potential crimes  
20 that were being committed.  
21 Q. You -- did you tell -- did you tell your boss  
22 that you were allocating 50k for an outside contract --  
23 outside counsel contract?  
24 A. If he had come to the meeting on October --  
25 can I finish? Are you done?

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1 Q. Yeah. I know you're getting excited. Just  
2 let me finish.

3 A. Well, I am because this is --

4 Q. Take it easy.

5 A. -- you're trying to misstate things.

6 Q. Please.

7 PRESIDING OFFICER: Settle down here.  
8 Just answer the question.

9 THE WITNESS: I'm sorry, Mr. President.

10 Q. (BY MR. BUZBEE) You know we had to get -- we  
11 had to find this forensically. Did you know that?

12 A. No. I don't know why. I turned in my  
13 computer.

14 Q. I don't know why either.

15 But let's be clear about what you did,  
16 about what you did, a loyal servant, trusted friend.

17 A. I never got to answer the question.

18 Q. I'm going to ask it.

19 PRESIDING OFFICER: Let him ask -- just  
20 wait for the question.

21 Q. (BY MR. BUZBEE) What authority did you --

22 MR. HARDIN: My objection is if you'll  
23 quit the commercials and testify and just as to the  
24 objection, I don't have any. But when he puts all these  
25 kind of accolades in there and he is making fun of the

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1 witness in his question, I strenuously object. He can  
2 ask a simple question, but not with all these  
3 commercials from his side of the case.

4 PRESIDING OFFICER: What's the -- what's  
5 the objection?

6 MR. HARDIN: My objection is that he has  
7 no foundation and basis for asking the questions. He is  
8 simply harassing the witness by putting a lot of  
9 adjectives in there that he thinks serves him. He's not  
10 asking a question. He has, for about two hours,  
11 testified, and I've been very patient about it.

12 His questions are testimony; they are not  
13 questions. That particular one, if we read back, he  
14 starts going on all of these little commercials for his  
15 point of view, and I object.

16 PRESIDING OFFICER: Again, let's just  
17 move on.

18 MR. BUZBEE: Sure, sir.

19 PRESIDING OFFICER: Thank you.

20 Q. (BY MR. BUZBEE) What authority did you have  
21 to secretly go behind your boss' back and allocate  
22 \$50,000 for an outside counsel contract? What  
23 authority? What -- who gave you that authority?

24 A. I can't answer that question because what  
25 you've said is absolutely incorrect.

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1 Q. Show me a --

2 A. First off -- first off, sir --

3 Q. Go ahead.

4 A. -- I asked -- we asked to meet with the  
5 attorney general on this date. If we'd had a meeting,  
6 had he come, had he come, had he been here, we could  
7 have had a discussion, and perhaps Mr. Sutton could have  
8 assisted even him at this point.

9 MR. BUZBEE: Let's look at AG  
10 Exhibit 361. And go to page 7, Eric.

11 Q. (BY MR. BUZBEE) Lacey Mase took your  
12 authorization and sent it to the comptroller, right?

13 A. I mean, this is part of an e-mail. I don't  
14 see the -- the first part of it. Again, I don't think  
15 I'm copied on it.

16 MR. HARDIN: Your Honor, I do not show  
17 that this one is in evidence, and it should be taken  
18 down on the -- from the screen for the Senate until we  
19 find out whether it is.

20 MR. BUZBEE: I'm sorry, I don't even  
21 understand the objection. This is in evidence.

22 PRESIDING OFFICER: He's saying it's not  
23 in evidence. He's saying it's not in evidence at this  
24 point.

25 MR. BUZBEE: It is in evidence. We

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1 offered it into evidence. And if -- to the extent that  
2 he doesn't know that, we'll offer it again.

3 MR. HARDIN: Can we see the exhibit  
4 number, please?

5 MR. BUZBEE: AG 361.

6 MR. HARDIN: 361, yeah. Okay.

7 PRESIDING OFFICER: Do you object?

8 MR. BUZBEE: Bring that up.

9 MR. HARDIN: Yeah. That's what -- all  
10 right. So just real briefly, Your Honor.

11 This is not one of those that was agreed.  
12 It was provided to us this morning, the amendment to  
13 their list, and we didn't -- I don't even think we still  
14 have a copy of it, a physical copy of it. And it's not  
15 an exhibit that was part of the agreement everybody  
16 reached overnight. So the problem is we don't have a  
17 copy of this. I'm sure he's going to --

18 PRESIDING OFFICER: Would you provide a  
19 copy?

20 MR. BUZBEE: We can get a copy.

21 MR. HARDIN: It's just now been up on the  
22 computer as an inadmissible piece of evidence for about  
23 five minutes.

24 MR. BUZBEE: May I approach?

25 PRESIDING OFFICER: Yes.

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1 MR. HARDIN: Thank you.  
 2 PRESIDING OFFICER: We'll take it --  
 3 we'll take it down until we resolve this. Just take it  
 4 down for a moment -- not you -- off of the computers on  
 5 the desk.

6 MR. BUZBEE: We offer 361, Your Honor.  
 7 MR. HARDIN: Well, we're going to object.  
 8 It's circulated. We may change our mind later, but this  
 9 is actually an excerpt from a forensic report that we've  
 10 never had disclosed to us. It's never been part of  
 11 discovery. And quite frankly, the report was generated  
 12 on September the 14th of 2021, and they have never  
 13 blank, blank, blank, produced it.

14 And now they have -- while the witness is  
 15 on the stand, they start talking to him. In very  
 16 understated, kind and general terms, this is outrageous.  
 17 It violates every rule the Senate had about discovery.  
 18 And you've entered multiple orders, as you know and as  
 19 you've mentioned. This is not the way the process is  
 20 supposed to work, and we do object.

21 MR. BUZBEE: You know -- Your Honor, you  
 22 know what's so ironic is we got this, we're told, from  
 23 them. We got this document from them. I mean, I  
 24 didn't -- I would have mentioned that, Your Honor, if I  
 25 had known it, but I was just told that in my ear. And,

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1 of course, it's e-mails between people in the office,  
 2 including this man here.

3 THE WITNESS: I don't think I'm on that  
 4 e-mail, sir.

5 PRESIDING OFFICER: The witness, just  
 6 hold for a moment.

7 Is it your document, Counselor?

8 MR. HARDIN: I --

9 PRESIDING OFFICER: From you--all?

10 MR. HARDIN: I -- I can tell you that we,  
 11 the trial team, have never seen this document and never  
 12 knew that it was going to be proposed as an exhibit.

13 I will -- and when you say that they got  
 14 it from us, I don't know how they got it from us, unless  
 15 the attorney general -- this is produced by the attorney  
 16 general's office. This is not produced by us. I don't  
 17 know, and we would have to look during the break. We  
 18 can try to do that because I think that's upcoming.

19 I will be glad to inform the Court. If  
 20 it turns out that this document was given to us, we will  
 21 tell you that, but that is still not the way  
 22 admissibility should be. If they're going to offer an  
 23 expert report in any kind of -- this should have been  
 24 disclosed a long time ago.

25 PRESIDING OFFICER: It's a good time to

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1 take a ten-minute break. We've been here for 90  
 2 minutes, and you can take a look at it.

3 MR. HARDIN: Thank you, Judge.

4 (Recess from 3:00 p.m. to 3:14 p.m.)

5 PRESIDING OFFICER: We have a couple of  
 6 jurors still not back, so we'll wait a moment.

7 Mr. Buzbee, you may resume.

8 MR. BUZBEE: Yes, sir. I want to close  
 9 this loop on these documents.

10 PRESIDING OFFICER: I think that mic is  
 11 not on.

12 MR. BUZBEE: I want to close this loop on  
 13 these documents. You heard my colleague, Mr. Hardin,  
 14 say that these documents had never been produced to us,  
 15 we haven't seen these documents.

16 Your Honor, the documents are Bates  
 17 stamped with their Bates stamp. They sent the documents  
 18 to us. And then when we sent our exhibit list back to  
 19 them, it was sent to Mr. Hardin. And I'm told he failed  
 20 to forward it to the rest of his team.

21 So, you know, I withstood a few  
 22 criticisms from Mr. Hardin, which is fine. You know,  
 23 that's his job. But to suggest that he's never seen the  
 24 document, that we didn't get him the document, and to  
 25 object to a document that he gave to us, that's pretty

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1 ridiculous.

2 So we would offer into evidence the two  
 3 documents that we were discussing before the break, just  
 4 to confirm, AG 368 and AG 361.

5 MR. HARDIN: If I may, I told the Court  
 6 that I would look into it because I think I have it -- I  
 7 think I have the sequence right.

8 This was a document that the AG's office  
 9 produced to us in August. And in compliance with your  
 10 order, we tried to turn them around many times within 24  
 11 hours, certainly as soon as we could. We produced this  
 12 document, along with a lot of other documents, back in  
 13 August. So almost two months ago.

14 When we produced it, it was produced en  
 15 mass, just like this. It was never listed on their  
 16 exhibit list, and it was never listed as a proposed  
 17 list.

18 I'm sure Mr. Buzbee maybe inadvertently  
 19 spoke now, I'm sure not deliberately, but he didn't add  
 20 that when they -- the first time we knew they were going  
 21 to list it as an exhibit was last night. And the first  
 22 time we saw it as an exhibit in type was today at noon.  
 23 That's what led to all of this hullabaloo.

24 It is a forensic report, for the Court to  
 25 understand, that was done back in '21, where the agency,

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1 after these people left, went through all their  
2 computers and did a forensic report looking for evidence  
3 and things. And this -- this was a forensic report done  
4 on the computer of Lacey Mase. And that's -- that's the  
5 sum total.

6 So he is right in that we produced it to  
7 him. He's somewhat misleading in discussing when we got  
8 it as an exhibit and were on notice it was going to be  
9 offered as an exhibit. But now that we've looked at it  
10 and all, I'll be glad to waive my objection. We'll be  
11 glad to have it be admitted and let the jury look at it  
12 and understand what it is.

13 PRESIDING OFFICER: Thank you,  
14 Mr. Hardin.

15 So he doesn't object. You can enter it  
16 into the exhibits.

17 (AG 361 admitted)

18 MR. BUZBEE: Yes, Your Honor. Thank you.

19 I want to make sure I understand. Put it  
20 back up on the screen, please. Actually, let's just  
21 make sure we focus on what this witness sent.

22 Eric, put 368, AG 368, which is now in  
23 evidence that we received. You can see -- go to the  
24 e-mail sent by this witness.

25 Q. (BY MR. BUZBEE) Now, sir, I want to make sure

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1 we all understand this. You went to the FBI on  
2 September 30th, the day before you sent this e-mail,  
3 right?

4 A. Yeah. He enlarged it. Let -- can you put the  
5 date so I can -- I'm sorry.

6 Can we -- Madam Court Reporter keeps  
7 telling me that when I look at the document, I don't  
8 speak into the mic, and so I'll try to be deliberate.

9 Yes, it is dated -- looks like if this  
10 date is correct, it's October 1st, 2020.

11 Q. Listen to my question.

12 A. Yes, sir.

13 Q. You sent this e-mail the day after you went to  
14 the FBI; isn't that right?

15 A. You know, I -- now that I see that date --  
16 that time, there's no way Jeff Mateer is up at 1:39 a.m.  
17 I -- so --

18 Q. So you dispute an e-mail that was sent from  
19 your e-mail address?

20 A. I'm not -- no, sir. What I'm -- what I'm  
21 saying is it has a date stamp on it with a time stamp.  
22 That -- there's no way I sent it on that -- at that  
23 time. I'm not disputing that I sent an e-mail.

24 Q. On that date?

25 A. I think -- that date or the day before, the

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1 timing could be somehow screwed up on the computer. I  
2 don't know.

3 Q. Let's make sure we have a clean record and  
4 everybody knows what was going on.

5 You went to the FBI. You reported what  
6 you claimed to be crimes. And then -- and then you told  
7 one of your subordinates to allocate \$50,000 for a  
8 lawyer; isn't that right?

9 A. To -- to set aside unobligated reserves in the  
10 event we did enter into an outside counsel contract, and  
11 the "we" being the agency.

12 Q. And you did that -- this lawyer, Mr. Sutton  
13 who represents you now, was supposed to be helping  
14 Ken Paxton in some way?

15 A. Potentially. We wanted to meet with  
16 Mr. Paxton on October 1st.

17 Q. With a lawyer?

18 A. No. It was going to be just the deputies  
19 first, but perhaps that could have led to that, had he  
20 met with us.

21 Q. Uh-huh. So you -- you were going to -- you  
22 wanted a lawyer to meet with you with the AG?

23 I'm trying to figure out why are you  
24 using State moneys for a lawyer for your personal use?

25 A. I wasn't. And I didn't. And I wouldn't.

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1 Q. I guess from your point of view it's okay to  
2 step outside of the procedure when you want to hire an  
3 outside lawyer, but it's not okay for the elected  
4 attorney general to do so; is that right?

5 A. That's absolutely false.

6 Q. Now, are letters sent by the Attorney General  
7 of the State of Texas official documents?

8 A. Yes.

9 Q. They are official documents, are they not?

10 A. I believe so.

11 Q. Let's all be clear. According to the former  
12 first assistant, your position is that letters sent from  
13 the AG's office are, in fact, official documents,  
14 correct?

15 A. They're documents from the office, and they  
16 would be, you know, depending on the subject matter, I  
17 believe so.

18 Q. Are you familiar with Texas Penal Code 37.01?

19 A. You've got it on the screen.

20 Q. Let's look at it.

21 MR. BUZBEE: Let's bring it up where we  
22 can see it, Eric. Can we have it bigger, Eric? There  
23 we go. Now scroll it where we can read it.

24 Q. (BY MR. BUZBEE) Tell me if I get this right.  
25 A person violates 37.0 -- 37.10(a) when he knowingly

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1 makes a false record in or false alteration of a  
2 government record. Did I read that right?

3 A. You read the document, yes.

4 Q. Before I showed it to you and read it to you,  
5 were you familiar with that particular provision of the  
6 Texas Penal Code?

7 A. Sitting here, perhaps. I don't -- I don't  
8 know.

9 MR. BUZBEE: Exhibit 127, Exhibit 19,  
10 please, Eric.

11 Q. (BY MR. BUZBEE) All right. What we have here  
12 is a letter sent on the same day you guys went to the  
13 FBI by your subordinate Mark Penley, correct?

14 A. That appears to be a letter of September 30th  
15 to Mr. Cammack from Mark Penley, correct.

16 Q. Who altered this government record?

17 A. I don't follow you.

18 Q. What?

19 A. I don't -- I don't follow you. I don't think  
20 this document was altered. I don't.

21 Q. Do you see the letterhead that this letter was  
22 sent from?

23 A. I see the seal of the attorney general on it,  
24 yes.

25 Q. Do you see the attorney general's name?

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1 A. I do not.

2 Q. Who removed it?

3 A. I -- I don't know.

4 Q. Would you ever countenance that?

5 A. I would have to know the circumstances.

6 Q. Well, these are the circumstances. It's  
7 September 2020 and your subordinate is sending a letter,  
8 an official letter from the AG's office, and removes  
9 your boss' name. Would you ever countenance that?

10 A. Again, we would have to ask Mr. Penley.

11 Q. I'm asking would you ever countenance that?

12 A. I don't -- I don't know in this situation. I  
13 don't think this letter was altered because it does have  
14 the seal.

15 Q. Would you authorize that? Would you authorize  
16 removing the duly elected attorney general's name from  
17 official correspondence? Would you authorize that?

18 A. Again, I don't know if that's required or not.

19 Q. Would you do it yourself?

20 A. I -- I am anticipating that you're going to  
21 show me a document.

22 Q. I am indeed. My question is would you have  
23 done it yourself?

24 A. I don't know if Mr. Penley focused on that. I  
25 don't know if I focused on it. We obviously didn't --

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1 we don't print out the letters. They're route to us,  
2 and we sign them.

3 Q. Yeah. Somebody -- this is not a situation.  
4 This is official letterhead of the office. Somebody had  
5 to do whatever it takes to remove the duly elected  
6 attorney general's name from the official letterhead;  
7 isn't that right?

8 A. I don't know what the process would involve.

9 MR. BUZBEE: Exhibit 30 within 127, Eric.

10 Last page. No. There you go.

11 Q. (BY MR. BUZBEE) Do you see that on the same  
12 day you were allocating \$50,000 for Johnny Sutton, you  
13 were also sending a letter to Brandon Cammack?

14 A. Again, we discussed what we did with regard to  
15 Mr. Sutton. I do see that I sent a letter -- or signed  
16 a letter on October 1st, 2020, sent it.

17 Q. You signed an official correspondence from the  
18 attorney general's office of the State of Texas that had  
19 his name removed; isn't that right?

20 A. That's what this shows. I wouldn't -- I did  
21 not focus on that at the time.

22 Q. Who gave you the authority to do that? Who  
23 gave you the authority? Someone that you've already  
24 admitted had never run for office, had never gotten a  
25 vote, the authority to alter the official letterhead of

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1 the attorney general's office?

2 A. As I mentioned to you, Mr. Buzbee, I didn't --  
3 I didn't do that. I signed a letter.

4 Q. Well, who did it in the office? Somebody had  
5 to be working for you because you told us you controlled  
6 the day-to-day -- the day-to-day activities of the  
7 office. Remember?

8 A. I don't know who did it.

9 Q. And you just -- it was just an oversight on  
10 your part that you were signing a letter that had your  
11 boss' name removed? Is that your testimony to these  
12 jurors?

13 A. My -- my testimony is that is not something I  
14 would have been focused on, on October 1st.

15 Q. You were involved in staging a coup, weren't  
16 you?

17 A. Absolutely not.

18 Q. That's what you were up to.

19 A. Absolutely not.

20 Q. That's the reason you went to the governor's  
21 office. That's the reason you were talking to TLR.  
22 That's the reason that you had or engaged in conduct  
23 removing your boss' name. You were staging a coup,  
24 weren't you?

25 A. Absolutely not.

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1 Q. Hmm. The Mitte Foundation, we saw that you  
2 signed off on that, right?

3 A. We reviewed documents that I approved the  
4 investigation and I approved the intervention, correct,  
5 sir.

6 Q. Do you remember you talked about -- you came  
7 back from vacation and there -- that you realized -- you  
8 found out that a legal opinion had been issued.  
9 Remember saying all of that?

10 A. About the foreclosure?

11 Q. I'm just -- do you remember saying --

12 A. I'm -- I'm asking for clarification, sir.

13 Q. Yes, sir.

14 A. Is it about the foreclosure letter?

15 Q. Yes, sir.

16 A. Yes, I remember it.

17 Q. You called it a legal opinion, didn't you?

18 A. If -- if that's what the record shows it  
19 was -- it was a legal opinion. It was done by lawyers,  
20 the Office of Attorney General, under I believe the  
21 disaster authority.

22 MR. BUZBEE: In fact, Eric, put on the  
23 screen, please, Article II of the impeachment articles.

24 Q. (BY MR. BUZBEE) All right. I just want to --  
25 for the sake of clarity, one of the charges in this case

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1 that General Paxton misused his official power to issue  
2 written legal opinions under Chapter-- Subchapter C,  
3 Chapter 402, Government Code. Do you see that?

4 A. I see what you've read, yes.

5 MR. BUZBEE: Now, let's look at the legal  
6 opinion that has been referred to. Go to Exhibit 127,  
7 41, Eric.

8 Q. (BY MR. BUZBEE) Before we turn the page, why  
9 don't we look at the official letterhead of the attorney  
10 general's office. Do you see it there?

11 A. I see it, yes.

12 Q. Of course, that's not the letterhead that you  
13 used on October 1st, is it?

14 A. No. The two documents are --

15 Q. You altered it, didn't you? Or you had it  
16 altered?

17 A. No, sir.

18 Q. Uh-huh. But focusing on Article II of the  
19 impeachment articles --

20 MR. BUZBEE: Go to the second page, Eric.  
21 Actually, third page.

22 It's the last page, Eric. There we go.

23 Q. (BY MR. BUZBEE) Would you do me the favor of  
24 reading the very last sentence in that paragraph?  
25 A. Okay.

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1 Q. Please read it aloud so our jurors can hear  
2 you.

3 A. Again, please note this letter is not a formal  
4 attorney general opinion under Section 402.042 of the  
5 Texas Government Code.

6 Q. Hmm. It's pretty clear, is it not, that this  
7 letter does not fall under legal opinions as defined in  
8 402.042, correct?

9 A. Well, Mr. Bangert says what it -- what it  
10 says. It's not a formal attorney general opinion.

11 Q. Right. But the Article of Impeachment says it  
12 is.

13 And you know as a lawyer, it fails right  
14 there, dismissed, right?

15 A. I don't -- I don't know that.

16 Q. Well, I mean, you allege, hey, you violated --  
17 you did something wrong. You issued an opinion under  
18 402.042. And it takes us literally 20 seconds to show  
19 that's not true. That fails, right?

20 A. I don't know what you're asking me.

21 Q. Hmm. It's like -- almost like somebody read  
22 the first two pages but failed to read the last page  
23 when they drafted these articles, isn't it?

24 A. You're asking me to speculate concerning --

25 Q. How many foreclosures did this letter stop?

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1 A. I don't know.

2 Q. None. Did you know that?

3 A. I -- I don't know.

4 Q. Now, grand jury subpoenas are supposed to be  
5 secret; is that right? How does that work? You -- do  
6 you know?

7 A. I -- I don't know.

8 Q. Okay. Are you supposed to -- I mean, would it  
9 be appropriate for somebody in your office to send  
10 issued grand jury subpoenas, copies of them, to some  
11 sort of outside lawyer who is not involved in the case?

12 A. I think it would depend on the circumstances.

13 Q. Was it appropriate to send the grand jury  
14 subpoenas that Mr. Cammack had issued to Johnny Sutton?

15 A. I believe in this circumstance it was.

16 Q. Was Johnny Sutton the office's lawyer at that  
17 point when that was done?

18 A. Johnny Sutton was never the office's lawyer.

19 Q. Okay. Was he -- was he your lawyer when that  
20 was done?

21 A. He -- what date was it done on, sir?

22 MR. BUZBEE: Exhibit 35 of 127, Eric.  
23 Wait a minute. Hold up, Eric. Let me  
24 make sure I've got it right.

25 Q. (BY MR. BUZBEE) Let me just -- before I grab

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1 the document. When would it ever be appropriate for  
2 either you or any of your subordinates to send grand  
3 jury subpoenas or copies of them to some outside lawyer  
4 who had not been hired yet?

5 MR. HARDIN: Object to the form. That's  
6 a misstatement. He doesn't know. He doesn't know when  
7 he had been hired.

8 MR. BUZBEE: Well, let's figure that out.  
9 If you are asking me, I'll ask him. We were told  
10 previously that, oh, you can't know when he was hired.  
11 So let's figure it out now.

12 Q. (BY MR. BUZBEE) When did you hire  
13 Johnny Sutton?

14 A. I believe we retained him that -- during the  
15 last week that I was first assistant attorney general,  
16 personally.

17 Q. Well, wait -- wait a minute. You're telling  
18 us that you hired and retained Johnny Sutton while you  
19 were still at the office?

20 A. Correct.

21 Q. And at the same time you're allocating \$50,000  
22 to retain him?

23 A. And we made the decision not to do that.

24 Q. Wait a minute. Okay. Help me out. This is  
25 news.

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1 You're saying under oath that while you  
2 were an employee of the attorney general's office,  
3 before you resigned, that you had already hired  
4 Johnny Sutton; is that right?

5 A. I believe that's so.

6 Q. What date?

7 A. Whenever the first -- that first contact was.

8 Q. He says in his subpoena -- or trying to quash  
9 a subpoena, it was before you went to the FBI?

10 A. I think that's correct.

11 Q. Okay. So now we're all clear. You personally  
12 had hired Johnny Sutton, an outside lawyer, in your  
13 individual capacity before you went to the FBI; is that  
14 right?

15 A. Correct.

16 Q. And at the same time -- in fact, the next day  
17 on October 1, you were telling Lacey Mase and the  
18 comptroller to set aside \$50,000 for Johnny Sutton?

19 A. For the office to retain Johnny Sutton.

20 Q. You were going to have Johnny Sutton represent  
21 you individually and also the office, and who -- and you  
22 were going to have the office pay for it?

23 A. No, that's not correct. It is not uncommon --

24 Q. You realize now what you just testified to?

25 MR. HARDIN: Could you let him finish,

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1 please? Just finish his answer.

2 Q. (BY MR. BUZBEE) Do you realize what you just  
3 testified to?

4 A. No, sir.

5 Q. You just told this entire jury that you had  
6 hired an outside lawyer in your individual capacity  
7 before you went to the FBI on September 30th, 2020. And  
8 the very next day you were instructing your subordinates  
9 to set aside \$50,000 for Johnny Sutton?

10 A. And the agency never hired Mr. Sutton. The  
11 agency never paid any money to Mr. Sutton. The funds  
12 were never used in that way. The decision that we made  
13 was the agency not to hire him. That never happened.

14 Q. The decision "we" made?

15 A. "We," me and the other folks.

16 Q. Okay. Can you help me understand? I guess  
17 you told me now. Johnny Sutton was your individual  
18 lawyer while you were still at the office. Was he an  
19 individual lawyer in the individual capacities of other  
20 of your subordinates?

21 A. I believe so.

22 Q. And so your testimony would be that if your  
23 subordinates were sending secret subpoenas that had been  
24 issued by the Travis County District Attorney's Office,  
25 that they were able to do that because Johnny Sutton was

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1 their personal lawyer?

2 A. I believe it was done pursuant to a request  
3 from the FBI.

4 Q. To send to Johnny Sutton?

5 A. To send to Sutton, and then to the FBI.  
6 That's what I understand.

7 Q. So the FBI, these subpoenas that everybody is  
8 complaining about, at least those folks, were sent to  
9 the FBI three years ago and nothing has happened so far,  
10 right?

11 A. I don't know if nothing has happened.

12 Q. Are you here testifying in any way that  
13 Nate Paul had anything to do financially with the  
14 renovations of Angela and Ken Paxton's home?

15 A. I only know what I've been told.

16 Q. Told by whom? Again, you mean Rylander and  
17 Wicker?

18 A. Remember I testified before lunch about that,  
19 sir.

20 Q. Okay. Did you ever make any effort to confirm  
21 that what you had been told by one of those two was  
22 correct?

23 A. I did not.

24 Q. Okay. You just believed it?

25 A. I believe Mr. Wicker and Mr. Rylander are

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1 truthful people.

2 Q. Did you know -- did they ever look at the

3 invoices?

4 A. You would have to ask them, sir.

5 Q. I will. I'm asking you. Did you ever look

6 at --

7 A. I never asked them if they looked at the

8 invoices.

9 Q. Do you have any evidence whatsoever other than

10 what somebody -- and you're not sure which one -- told

11 you that Nate Paul had anything financially to do with

12 the renovation of the Paxton's home?

13 A. Would you say that again? I'm sorry.

14 Q. Do you have any evidence, any, to support any

15 allegation that Nate Paul paid for any of the

16 renovations of the Paxtons' home?

17 A. Other than what we discussed.

18 MR. BUZBEE: Pass the witness.

19 REDIRECT EXAMINATION

20 BY MR. HARDIN:

21 Q. Mr. Mateer, let's cover a couple of things,

22 hopefully very quickly. Let's talk about this forensic

23 report that he introduced as Attorney General 361. And

24 he talked to you about --

25 MR. HARDIN: I'm sorry. Do you want

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1 these? Mr. Buzbee, are these your notes? Mr. Buzbee?

2 PRESIDING OFFICER: Mr. Buzbee --

3 MR. HARDIN: Mr. Buzbee --

4 PRESIDING OFFICER: -- he's asking you if

5 those are your notes.

6 MR. HARDIN: -- are these your notes?

7 You want these back?

8 MR. BUZBEE: That's my trash.

9 PRESIDING OFFICER: Mr. Hardin, please

10 speak up. You're speaking softly.

11 MR. HARDIN: Thank you very much, Your

12 Honor. I've -- I -- I've been mindful of my failings in

13 this regard.

14 Q. (BY MR. HARDIN) Let me ask you this: On

15 Exhibit 361, he talked to you about Lacey Mase' e-mail

16 that talked about that \$50,000, correct?

17 A. Yes.

18 Q. And he made a very big deal, did he not, about

19 the fact that her -- that this was on October the 1st.

20 So that the jury remembers, the day that the group of

21 you went to the FBI was what date?

22 A. Was the day before, September 30th.

23 Q. All right. And on the date of the -- the date

24 of October the 10th, is that when you sent the e-mail or

25 text that Mr. Buzbee asked you about to the attorney

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1 general asking to meet with him?

2 A. That's October 1st.

3 Q. That's October 1st.

4 A. Yes.

5 Q. The gathering of all of y'all that we've

6 talked about in that conference room where you found out

7 about the subpoenas was on what date?

8 A. That was the 29th.

9 Q. All right. And on the 29th, I think you

10 described the mood everybody was in and the concerns

11 everybody was. On the 29th, is that when you initially

12 thought and talked about setting aside \$50,000 for the

13 group of you to -- for the -- for him to represent,

14 Mr. Sutton, the attorney general's office, as opposed to

15 you as individuals?

16 A. Correct.

17 Q. What was your thinking as to why y'all needed

18 a lawyer for the university -- for the attorney

19 general's office?

20 A. Because we were trying to navigate through

21 this with potentially going to law enforcement, and so

22 we wanted someone who had that type of experience at

23 that level.

24 Q. All right. You knew Mr. Sutton had criminal

25 defense lawyer as well as a previous criminal

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1 prosecution experience, did you not?

2 A. I did.

3 Q. All right. And each of you -- or did all of

4 you know him from past dealings?

5 A. I didn't know Mr. Sutton very well.

6 Q. But most of you did?

7 A. Did. I knew one of his, I guess, former

8 partners really well, which was John Ratcliffe.

9 Q. All right. Now, sometime that day, did you --

10 did you as a group decide that was not a good idea?

11 A. We did eventually decide that, yes.

12 Q. Was that after you had authorized the exercise

13 of paperwork to make it possible?

14 A. Well, what we did again was my e-mail was

15 making sure and seeking confirmation that there were

16 funds in the event we decided to do that. We did not do

17 that. Had we done it, we would have gone through --

18 we've gone at length through this executive approval.

19 Q. All right. Real quickly, if, in fact, you had

20 decided to follow through on it, that request that had

21 been put aside, what would you have had to do to get it

22 authorized and done?

23 A. We would have had to go through the executive

24 approval memo process, just like we've seen. And

25 everyone would have had to sign off.

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1 Q. And that process would have been necessary  
2 before any of the funds would have been expended or even  
3 eligible to expend; is that right?

4 A. Before funds are expended or a contract is  
5 executed.

6 Q. All right. So before a contract could have  
7 been worked out with Mr. Sutton, you would have had to  
8 go through all that -- if you were going to do it on  
9 behalf of the agency, you would go -- have to go through  
10 that -- all that cumbersome process, correct?

11 A. That is correct.

12 Q. And how long would that have taken ordinarily?

13 A. I mean, it can be done within a day or so.

14 Q. All right. But in the meantime, had each of  
15 you decided that you needed to go to law enforcement,  
16 and after thinking about different agencies, different  
17 possibilities, you settled on the FBI, correct?

18 A. That is correct.

19 Q. DPS had agents that he had been complaining  
20 about, correct, that Mr. Paul had?

21 A. Yes.

22 Q. And so -- and the other agencies that had law  
23 enforcement people had been involved, such as the  
24 District Attorney's Office, correct?

25 A. Correct.

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1 MR. BUZBEE: Objection. Your Honor, I'm  
2 sorry.

3 MR. HARDIN: That's true. I'll withdraw  
4 it. Let me move on.

5 MR. BUZBEE: I mean, multiple leading  
6 questions. I just wish he would just ask one.

7 MR. HARDIN: My --

8 PRESIDING OFFICER: Sustained.

9 MR. HARDIN: My problem is if he just  
10 says objection and gives his basis and stops, it doesn't  
11 get charged on my time. But we've now had a bunch of  
12 time where these kind of speeches have eaten us up.  
13 I'll come to you at the end of my statements.

14 I'll withdraw this statement and proceed.

15 PRESIDING OFFICER: Thank you.

16 And in fairness, both of you have kind of  
17 elaborated a little bit on objections, so let's  
18 continue. But I will watch it very carefully on both  
19 sides.

20 MR. HARDIN: Yes. Thank you very much.

21 Q. (BY MR. HARDIN) Now, if I could, would you  
22 please tell me when it was in this process y'all decided  
23 to go to the FBI and hire Mr. Sutton personally on  
24 y'all's behalf rather than the agency?

25 A. We initially contacted Mr. Sutton on the 29th.

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1 We reached the decision that the agency doesn't need to  
2 contract with Mr. Sutton on the -- on -- later on the  
3 1st.

4 Q. So was there ever any attempt to get \$50,000  
5 from the agency, to use \$50,000 from the agency, or  
6 follow -- follow up at all on authorization?

7 A. We never started the memo process at all.

8 Q. All right.

9 A. Which was essential to do that.

10 Q. Are you -- are you aware when we're talking  
11 about the computer time and everything of Universal  
12 Time?

13 A. Say that again.

14 Q. Are you aware of Universal Time?

15 A. Now that you say it, I am, the concept.

16 MR. HARDIN: I want to just get a note,  
17 if I can.

18 Q. (BY MR. HARDIN) Do you recall Mr. Buzbee  
19 spending a great deal of time with you on both the Lacey  
20 Mase e-mail and -- so the attachment to the forensic  
21 report, and suggesting that it was at 1:39 on October  
22 the 1st?

23 A. I mean, the document says that. I see it.

24 Q. Does it come any surprise to you that if you  
25 go on the Internet and check out what Universal Time is,

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1 which is what this was, it would have been at 8:39 the  
2 day before, not on October 1st?

3 A. That's -- makes sense.

4 Q. If what I have just said to you is true and  
5 accurate, would that have meant that y'all were still  
6 talking about authorizing the money on the day -- on the  
7 20th -- on the 30th as opposed to October the 1st, as  
8 Mr. Buzbee was saying?

9 A. Yes, sir.

10 Q. And regardless, when you went to the FBI on  
11 the 30th -- on the 30th, did Mr. Sutton accompany you?

12 A. I believe so.

13 Q. All right. And by that time had y'all orally  
14 retained him to represent you individually instead of  
15 the company -- the agency?

16 A. Yes, sir.

17 Q. Do you have any evidence or knowledge at all  
18 that Mr. Sutton even knew that y'all had originally  
19 talked about retaining him for the agency?

20 A. I had no discussions with him.

21 Q. All right. Now, it would be consistent with  
22 your level of knowledge that Mr. Sutton would not even  
23 have known that y'all had talked originally about hiring  
24 him on behalf of the agency?

25 A. Based on my knowledge, that's correct.

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1 Q. All right. And then finally he asked you  
2 about this one issue. He asked you about some grand  
3 jury subpoenas. At the time that the grand jury  
4 subpoenas were shared with Mr. Sutton, was he your  
5 lawyer?

6 A. Yes.

7 Q. And was he representing y'all individually?

8 A. Yes.

9 Q. What is your position as to whether anybody  
10 who thinks they may have a problem or need a lawyer can  
11 share the evidence that -- or the information they're  
12 concerned about with their lawyer?

13 A. Oh, I think you can share information with  
14 your lawyer.

15 Q. And did any of you give any alleged grand jury  
16 subpoenas to Mr. Sutton before you had retained him?

17 A. I did not.

18 Q. Okay. Now, I want to ask when you go to the  
19 FBI, just a couple of more areas. I believe you said  
20 you have no criminal law experience; is that correct?

21 A. When I was at Carrington Coleman, Mr. Coleman  
22 made us all take a couple of criminal cases. So when I  
23 was a first- or second-year associate, I actually did do  
24 a couple of criminal cases.

25 Q. But other than that, what is your experience?

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1 If one is reporting a crime, what they believe may be a  
2 crime to law enforcement, do they wait until they're  
3 able to establish beyond a reasonable doubt before they  
4 report the possibility of a crime?

5 A. I don't think that's what you do.

6 Q. When you went to the FBI, did you go with them  
7 to express your concerns and hope that they would look  
8 into it?

9 A. We just wanted to tell them what was going on.

10 Q. Did you make any determination as any kind of  
11 expert on criminal law as to whether things were or were  
12 not a crime?

13 A. Not at that time, no, sir.

14 Q. All right. Finally, on this area, regardless  
15 of whether a crime, what is your position as to whether  
16 you were concerned about two particular areas,  
17 specifically? Whether or not what Mr. Paxton had been  
18 doing and authorized and loosened on the world was an  
19 abuse of office, did you have any thought about whether  
20 that was -- whether it was an actual specific crime for  
21 this or not? What was your thought process?

22 A. I thought -- I had a belief that -- that it  
23 was.

24 Q. Would you still have that belief, even if it  
25 turned out this or that individual thing was not a

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1 crime?

2 A. That was based all upon what I knew at that  
3 time.

4 Q. What do you mean?

5 A. Well, we knew what we knew, I mean, you know,  
6 knowledge on that date. Therefore, based upon the  
7 actions that I discussed with you earlier today --

8 Q. What was -- what was your view as to whether  
9 or not if the attorney general's office, when its own  
10 internal people believed the incident at issue was not a  
11 crime, if they did not, and it should not be  
12 investigated and should not be opened as a file, if your  
13 own internal people felt that way, would then somebody  
14 on behalf of the office been hired to go out and use  
15 grand jury subpoenas to punish the enemies of a friend  
16 or a donor, did you have a position -- whether that was  
17 a crime or not, did you have a position of whether that  
18 was an abuse of the Office of the Attorney General?

19 MR. BUZBEE: Objection, Your Honor. That  
20 was three questions, and it was -- all three of them  
21 were leading.

22 MR. HARDIN: I believe he can answer each  
23 of them.

24 PRESIDING OFFICER: Sustained.

25 MR. HARDIN: I'm sorry. Excuse me.

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1 Sustained?

2 PRESIDING OFFICER: Sustained.

3 MR. HARDIN: Thank you, Judge.

4 Q. (BY MR. HARDIN) Did you have an opinion as to  
5 what your really hard-core belief was as to that conduct  
6 that you believed he had engaged in as to what -- how  
7 that complied with the oath of the Attorney General of  
8 the State of Texas?

9 A. I believed that it violated the oath.

10 Q. Why?

11 A. Because he was taking actions not on behalf of  
12 the State of Texas but on behalf of one individual.

13 Q. Against?

14 A. Against -- I mean, he was aligning against  
15 other parties in the case -- in this against law  
16 enforcement.

17 Q. Did you have an opinion one way or the other  
18 whether he was -- by what he was doing, it was  
19 interfering with federal and state investigations,  
20 criminal investigations?

21 A. I mean, that appeared to be the case.

22 Q. Okay. Finally, if you -- you signed on. You  
23 authorized the intervention in June of 2020 into the  
24 Mitte Foundation case against Mr. Paul's companies,  
25 correct?

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1 A. I did, yes.

2 Q. If you knew then what you knew now, would you  
3 ever have authorized intervention?

4 A. I would not have.

5 MR. HARDIN: Thank you. That's all I  
6 have.

7 PRESIDING OFFICER: Recross, Mr. Buzbee?

8 MR. BUZBEE: Yes, Your Honor.

9 RE-CROSS-EXAMINATION

10 BY MR. BUZBEE:

11 Q. You told us all that it was against the  
12 charity and for Nate Paul. That's what you said, the  
13 intervention?

14 A. The intervention was to intervene into that  
15 lawsuit, yes, sir.

16 Q. No, no, no. You told us, in response to the  
17 leading questions of Mr. Hardin, that the intervention  
18 was against the charity and for Nate Paul. Isn't that  
19 what you said?

20 A. I think what I -- what I meant to say, if I  
21 said that, and I'm not so sure I did, it was to  
22 intervene into the lawsuit between the two parties. And  
23 then there was also, as you know, an investigation into  
24 the charity.

25 Q. So it wasn't against the charity, was it?

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1 A. I did approve it.

2 Q. Okay. So this article is hogwash, isn't it?

3 A. I think we would need more information.

4 Q. Hmm. And you were telling us, well, that  
5 those time stamps in these documents that were given to  
6 our side at least by Mr. Hardin's office, you're saying  
7 those were Universal Time?

8 A. Again, I was reading the document, like we all  
9 were.

10 Q. Wait a minute. I'm just asking about what  
11 Mr. Hardin -- this -- the back-and-forth you had with  
12 Mr. Hardin. He asked you about Universal Time.  
13 Remember?

14 A. Showed a document, uh-huh, that had the  
15 reference to Universal Time.

16 Q. Okay. And you were telling us that Universal  
17 Time, that these documents would not have been 1:30 in  
18 the morning but would have been 8:30 prior?

19 A. He -- I don't --

20 Q. You don't know?

21 A. What I know is it is very extremely unlikely  
22 that I was looking at any e-mail at 1:30. Now,  
23 4:00 a.m., 9:30 p.m., yes. 1:30, that -- that -- I  
24 don't think so.

25 Q. Well, let's -- let's real quick. I believe it

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1 A. It was to intervene into the lawsuit.

2 Q. Yeah. It wasn't against anybody. It was an  
3 intervention, wasn't it?

4 A. The intervention was an intervention.

5 Q. It was an intervention that you authorized,  
6 right?

7 A. That's correct.

8 Q. And you also authorized an investigation,  
9 didn't you?

10 A. I believe on the same day or about the same  
11 day, yes.

12 Q. And the impeachment articles --

13 MR. BUZBEE: Pull it up, please.

14 Article I.

15 Q. (BY MR. BUZBEE) Let's look at it. Paxton  
16 caused employees of his office to intervene in a  
17 lawsuit. Do you see that language?

18 A. I do, sir.

19 Q. He didn't cause anything. That's something  
20 that each of the people on the executive action  
21 memorandum approved; isn't that right?

22 A. We would have to ask those people who are on  
23 that memo, yeah.

24 Q. I'm asking you. You're on the memo. You  
25 approved it.

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1 was 368, AG 368, if my memory serves. Let's go to  
2 the -- the authorization e-mail so the members of the  
3 jury are clear about what you were up to.

4 Do you -- can you tell us whether you had  
5 already retained Johnny Sutton at the time you sent this  
6 e-mail to Lacey Mase?

7 A. I would -- I would need to know the conversion  
8 to Universal Time.

9 Q. Well, I'm not asking about that. I'm asking  
10 in your memory -- we know for a fact -- you told us  
11 before you went to the FBI on September 30th that you  
12 met or talked to Johnny Sutton, that you retained him,  
13 right?

14 A. That is correct, sir.

15 Q. Okay. Can we agree that you had retained  
16 Johnny Sutton individually before you went to the FBI?

17 A. Yes.

18 Q. And can we agree that after that, according to  
19 you -- and your story is now y'all were also thinking  
20 about hiring Johnny Sutton for the office itself, right?

21 A. Yes. We were, yes.

22 Q. Wouldn't that be a conflict? How the devil is  
23 Johnny Sutton going to represent you in your individual  
24 capacity, and also represent the attorney general's  
25 office when the actual client in the attorney general's

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1 office would be the attorney general himself?  
 2 A. That's why we wanted to meet with the attorney  
 3 general, among other matters, on October 1st.  
 4 Q. You're telling this jury, all public servants,  
 5 all elected, that you thought it was okay for you to  
 6 hire some outside lawyer in your individual capacity and  
 7 to also even discuss the office might hire him as well?  
 8 You think that's okay?  
 9 A. I think it can be okay, yes, sir.  
 10 Q. Would you at least agree it wouldn't be okay  
 11 to have Johnny Sutton be paid for by the Texas taxpayers  
 12 for your individual representation?  
 13 A. Yes.  
 14 Q. That would be a crime, wouldn't it?  
 15 A. I don't know if it's a crime, but it didn't  
 16 happen.  
 17 Q. It didn't happen because you resigned.  
 18 A. No. We made the decision not to hire him by  
 19 the agency.  
 20 Q. You told us how all of this stuff was done for  
 21 Nate Paul. Do you remember talking about all of that?  
 22 A. We discussed Nate Paul, yes.  
 23 Q. And you know for a fact that Nate -- I mean,  
 24 Nate Paul was a pain in the butt, wasn't he?  
 25 A. I think that's fair to say.

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1 Q. He was a pain -- he was a constituent that  
 2 wanted action, right?  
 3 A. He certainly e-mailed a lot of people in the  
 4 office.  
 5 Q. I mean, I said in the opening statement when  
 6 he said jump, he wanted you to jump, and just hope you  
 7 jumped high enough, right?  
 8 A. I think we've examined his contact with me.  
 9 Q. You heard the term the squeaky wheel gets the  
 10 grease?  
 11 A. I do know that one.  
 12 Q. I mean, sometimes there's -- in constituent  
 13 services, there's somebody who's a real pain who is,  
 14 over and over and over demanding action. And sometimes  
 15 there ain't a whole lot you can do for them; isn't that  
 16 right?  
 17 A. That does happen, yes, sir.  
 18 Q. Yeah. That's how Nate Paul was; isn't that  
 19 right?  
 20 A. He was more than that.  
 21 Q. Yeah. He was -- he sent letter after letter  
 22 after letter after letter making threats and accusations  
 23 to the AG's office, didn't he?  
 24 A. He did. Through his lawyer and himself.  
 25 Q. Yeah. E-mail after e-mail. He was incredibly

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1 unhappy with the action of the AG's office, wasn't he?  
 2 A. I believe at times he was, yes.  
 3 Q. He was madder than a hornet's nest at times at  
 4 the AG's office for what he called incompetence and  
 5 failing to act; isn't that right?  
 6 A. I mean, the best source of that would be ask  
 7 Mr. Paul, yeah.  
 8 Q. And you know this is true because he sent you  
 9 all of his correspondence that he had been sending to  
 10 Josh Godbey, accusing Josh Godbey of having a conflict.  
 11 You remember that?  
 12 A. I don't know if he sent me all his  
 13 correspondence, but he did send me correspondence.  
 14 Q. I mean, he claimed the AG's office had a  
 15 conflict because the spouse of the receiver in the case  
 16 worked at the AG's office, right?  
 17 A. If you have it, I could look at it.  
 18 Q. Yeah.  
 19 A. I don't have --  
 20 Q. And he thought that that was the reason  
 21 Josh Godbey wasn't doing anything, because Godbey had a  
 22 conflict; isn't that right?  
 23 A. If you could show me the documents, I could  
 24 look at it.  
 25 Q. Well, he sent them all to you. Don't you

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1 remember? We looked at them in your direct.  
 2 A. We didn't look at all of them, sir.  
 3 Q. Okay.  
 4 MR. BUZBEE: Let's just -- let's look at  
 5 AG Exhibit 219, Eric.  
 6 Q. (BY MR. BUZBEE) I'm just going to hit the  
 7 high points. This is an e-mail Nate Paul sent to you in  
 8 July of 2020 where he was very upset, very frustrated  
 9 with the AG's office. Do you recall receiving this  
 10 e-mail?  
 11 A. One second, sir.  
 12 It appears to be familiar, yes, sir.  
 13 Q. He says these e-mails started a month ago and  
 14 continue to be ignored. Do you see that part? The  
 15 first paragraph, last sentence.  
 16 A. I'm looking.  
 17 That's what it says, sir.  
 18 MR. BUZBEE: Go to the next page, Eric.  
 19 Q. (BY MR. BUZBEE) He's sending you a ton of  
 20 different e-mails that he sent to Josh Godbey. Here it  
 21 is where he tells Josh -- Josh was your direct  
 22 subordinate or one level below you?  
 23 A. No. Josh would have reported to the deputy  
 24 for civil litigation.  
 25 Q. Which was?

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1 A. Darren McCarty.  
 2 Q. Okay. So this would have been you, McCarty,  
 3 Josh Godbey?  
 4 A. Yes.  
 5 Q. Okay.  
 6 A. With an associate deputy to McCarty there as  
 7 well.  
 8 Q. Here he tells Josh Godbey pointblank, You've  
 9 exhibited highly unprofessional behavior. Do you see  
 10 that?  
 11 A. Yes, I see it. You've read that.  
 12 Q. He says, Your relationship with Greg Milligan.  
 13 That was the receiver in the Mitte Foundation case,  
 14 wasn't it?  
 15 A. I -- I don't know.  
 16 Q. Well, we all know.  
 17 He says, Your relationship with  
 18 Greg Milligan and opposing counsel has clearly affected  
 19 your ability to be neutral. Do you see that language?  
 20 A. I see the language.  
 21 Q. He's accusing --  
 22 MR. BUZBEE: Yes, sir.  
 23 PRESIDING OFFICER: Excuse me. This has  
 24 not been admitted into evidence yet, I believe.  
 25 MR. BUZBEE: 219 is not in evidence?

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1 Your Honor, we offer 219, just to make it  
 2 fast.  
 3 PRESIDING OFFICER: Any objection?  
 4 MR. HARDIN: No objection, Your Honor.  
 5 PRESIDING OFFICER: Continue.  
 6 MR. BUZBEE: Thank you.  
 7 PRESIDING OFFICER: It's admitted into  
 8 evidence.  
 9 (AG Exhibit 219 admitted)  
 10 MR. BUZBEE: Thank you, Your Honor.  
 11 Q. (BY MR. BUZBEE) Looking at this, he accused  
 12 the AG's office of having a conflict of interest, didn't  
 13 he?  
 14 A. You've -- is that -- did you read that?  
 15 Q. Yes, sir, I did.  
 16 Clearly affected your ability to be  
 17 neutral. That's called conflict of interest, is it not?  
 18 A. It says not to be neutral. That could lead to  
 19 a conflict of interest.  
 20 Q. I'm just trying to figure out how Nate Paul  
 21 had the keys, as we've been told, to the AG's office  
 22 when he keeps haranguing the AG's office for failing to  
 23 do its job. Any answer to that?  
 24 A. Any answer to that? He certainly --  
 25 Q. Let me go --

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1 A. Would you like me to answer or not? No?  
 2 Q. You can answer if you -- if you have an answer  
 3 as to how we are being sold this bill of goods that the  
 4 AG's office had been handed over to Nate Paul, yet we  
 5 see the real time correspondence where he's haranguing  
 6 the office over and over and eventually haranguing you.  
 7 You see that, right?  
 8 A. Right.  
 9 MR. HARDIN: Now can he answer the  
 10 question, Your Honor? Please.  
 11 PRESIDING OFFICER: Move on.  
 12 MR. BUZBEE: Thank you, Your Honor.  
 13 Let's take a look, so we can end this up,  
 14 Exhibit --  
 15 MR. HARDIN: Your Honor, I asked that  
 16 those last questions then, our objection, it's to be  
 17 stricken from the record. He asked this question -- he  
 18 gave a speech. If one looks at exactly what he did with  
 19 his answer there, the witness asked if he could answer.  
 20 Do you want me to answer? And then he gives a speech  
 21 about, well, if you can just do so and so, and then he  
 22 withdraws the question.  
 23 So he's made a speech and testified and  
 24 not allowed the witness to answer. I respectfully ask  
 25 that that last question be struck, and he be allowed to

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1 answer the question before that.  
 2 MR. BUZBEE: I'll withdraw it, Your  
 3 Honor. That's fine.  
 4 MR. HARDIN: I'll bet.  
 5 MR. BUZBEE: Finally, Eric, let's look at  
 6 Exhibit 127, Exhibit 40.  
 7 Q. (BY MR. BUZBEE) What is a litigation hold?  
 8 What does that mean in the parlance of lawyering?  
 9 A. Well, what it means is when you -- when you  
 10 either send or receive one, it's to not delete anything.  
 11 Q. Does that include texts?  
 12 A. It includes any correspondence that's relevant  
 13 to the subject of the request.  
 14 Q. Now, would you agree -- and I mean, you've  
 15 been a lawyer for 26, 27 years?  
 16 A. Actually longer.  
 17 Q. Okay.  
 18 A. I was licensed in 1990.  
 19 Q. Okay.  
 20 A. So I think that means I'm 33 years.  
 21 Q. 33 years?  
 22 A. Yes, sir.  
 23 Q. You know as a member of our profession that --  
 24 that when you send a litigation hold letter that means  
 25 preserve everything related, I may be suing you, right?

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1 A. That is true.

2 Q. Did you know that Nate Paul's lawyer sent that  
3 to the AG's office?

4 A. On October 11th, 2020.

5 Q. Yeah. So nine days after you left, Nate Paul  
6 is threatening to sue the office for inaction for having  
7 a conflict, et cetera; isn't that true?

8 A. I mean, this is a letter that is sent to  
9 Mr. Webster and Mr. Paxton. I'm not at the office any  
10 longer. I can read it if you want, if you have it.

11 Q. That's fine, sir.

12 MR. BUZBEE: Your Honor, with that, I  
13 pass the witness.

14 MR. HARDIN: Ready for the next witness,  
15 Your Honor.

16 PRESIDING OFFICER: The witness is  
17 excused.

18 MR. HARDIN: May this witness -- may this  
19 witness be excused and, of course, stay available if  
20 there has to be some recall, but certainly not around.

21 PRESIDING OFFICER: You're excused but  
22 subject to recall. You may step down.

23 MR. HARDIN: Thank you, Your Honor.  
24 Your Honor, we call Mr. Ryan Bangert.

25 PRESIDING OFFICER: To both parties and

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1 A. Ryan Lee Bangert.

2 Q. All right. Mr. Bangert, I want, if you will,  
3 to keep in mind a couple of things. The way you're  
4 positioned is perfect for the microphone, I think, in  
5 every respect. You don't have to take your hands down.

6 And if you think I am not very -- not  
7 moved about inadvertently, I want you to call me on it  
8 and vice versa. Okay?

9 A. That's fair.

10 Q. How old a man are you?

11 A. I'm 46 years old.

12 Q. And you might want to be a little closer to  
13 the microphone. See if you can -- I think you can bend  
14 it towards your face. It might work out a little  
15 better. All right. Thank you.

16 Where do you live?

17 A. I live in Bee Cave, Texas.

18 Q. So would you take us through about a minute  
19 and a half or so of your own personal background, where  
20 you grew up, your parents, et cetera?

21 A. Certainly. I was born in a small farm town in  
22 Illinois called Quincy, Illinois, about an hour north of  
23 St. Louis on the Mississippi River.

24 Q. What did your parents do?

25 A. My father is a salesman. He did not complete

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1 the jurors, I plan to go until about 6:30 this evening,  
2 depending on when we get to a point. It may be a little  
3 earlier, a few minutes later, since we started a little  
4 late this morning working on other issues.

5 We'll take a break, members, a snack  
6 break here for everyone in about another 30 minutes.

7 MR. HARDIN: That's fine.

8 PRESIDING OFFICER: Okay.

9 Members, we're not on a break. We're  
10 just waiting for the other witness to come in. I just  
11 want to let you know. But feel free to stand and  
12 stretch.

13 (Brief pause.)

14 PRESIDING OFFICER: Mr. Bangert, come  
15 forward. I need to swear you in. Raise your right  
16 hand.

17 (Witness was sworn by the Court.)

18 PRESIDING OFFICER: Thank you.

19 RYAN LEE BANGERT,  
20 having been first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. HARDIN:

23 Q. Good afternoon.

24 A. Good afternoon.

25 Q. State your name, please.

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1 college. My mother is a schoolteacher.

2 Q. And do you recall -- what size town was this,  
3 by the way?

4 A. About 40,000 give or take.

5 Q. And that's a little bit bigger than my 9,000  
6 in North Carolina. So 40,000 would be considered a big  
7 city.

8 Let me ask you this: When you finished  
9 high school, where did you go to college?

10 A. Certainly. I moved to Fort Worth, Texas, when  
11 I was in second grade.

12 Q. All right.

13 A. And did grade school there. High school in  
14 Omaha, Nebraska. And then I went to Oral Roberts  
15 University for college, which is in Tulsa, Oklahoma.

16 Q. And what about law school?

17 A. I graduated ORU in 1999 and started law school  
18 at SMU in 2001. And in the intervening two years, I --  
19 I successfully pursued my wife who agreed to marry me.

20 Q. And where did you finish in your class?

21 A. At SMU?

22 Q. Yes.

23 A. I was first in my class at the law school.

24 Q. And where did you go from there?

25 A. From 2004 to '05 I clerked for Judge Patrick

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1 Higginbotham on the Fifth Circuit Court of Appeals.  
 2 Q. And after that in 2005 -- and let me stop you  
 3 there. You would have been approximately what, what age  
 4 by the time you -- you finished clerking for the Fifth  
 5 Circuit?  
 6 A. About 28, maybe -- I was 28 years old.  
 7 Q. Had you picked -- by that time had you also  
 8 been involved in Republican politics or other outside  
 9 activities?  
 10 A. I had. I had been -- at Oral Roberts  
 11 University, I had been the student body president, but I  
 12 had also been an officer in the College Republicans. I  
 13 had interned for a Republican congressman on Capitol  
 14 Hill named John Christensen from Omaha, Nebraska. I had  
 15 also served on his campaign.  
 16 I had been an intern for a group called  
 17 the Christian Coalition. I am not sure if they exist  
 18 anymore, but I was an intern for them back in the late  
 19 '90s. I also was a Blackstone Fellow in law school.  
 20 Q. What is a Blackstone Fellow?  
 21 A. A Blackstone Fellowship is a fellowship, a  
 22 summer fellowship program, that is administered by  
 23 Alliance Defending Freedom. And we collect what we  
 24 would say are the best and the brightest conservative,  
 25 faith-based law students in the country, and we train

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1 them for about two and a half to three months in  
 2 originalism, textualism, natural law. We give them  
 3 excellent access to internships. And we also commission  
 4 them as fellows.  
 5 Q. Mr. Bangert, tell me this: Did -- what role  
 6 has your religion played in your life, both as a student  
 7 and as an adult?  
 8 A. Very significant.  
 9 Q. In what way?  
 10 A. It's the basis for everything that I do.  
 11 Q. And has that always been true or is that later  
 12 in life?  
 13 A. It's always been true. And, of course, as  
 14 anyone would tell you who has been a believer most of  
 15 their life, you have your ups and downs. But certainly  
 16 it has been the guiding star in everything that I do.  
 17 Q. You're aware, are you not, of the allegations  
 18 that have been made publicly, and indeed by Attorney  
 19 General Paxton and others similarly involved from his  
 20 point of view, defenders of his, that this is somehow --  
 21 this impeachment process itself is somehow in the hands  
 22 and caused by outside groups that do not share  
 23 conservative values. You're aware of that?  
 24 A. I have heard about that, yes.  
 25 Q. All right. Would you please tell us or give

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1 me an idea of, for instance, your political philosophy  
 2 in the sense of on a scale of 1 to 10, and 1 is very,  
 3 very, very far left, and 10 is very, very, very far  
 4 right, where do you -- where do you fit in?  
 5 A. Well, I don't think anyone would have ever  
 6 accused me of being far left. I -- in newspaper  
 7 articles describing me, leading up to this trial, I was  
 8 described as working for an extreme conservative group.  
 9 I believe I work for a -- what I would call a Christian  
 10 legal advocacy organization.  
 11 But my politics are very much  
 12 conservative. My party affiliation has been and always  
 13 will be Republican. And I have long been associated  
 14 with what is -- what I would call the conservative legal  
 15 movement. That includes the Federalist Society, the  
 16 Philadelphia Society, and of course the Blackstone  
 17 Fellowship.  
 18 Q. So if someone were to refer to you as a RINO,  
 19 what is your reaction?  
 20 A. That would be -- I would -- that would be  
 21 remarkable and I can't imagine that having any basis in  
 22 reality.  
 23 Q. What are you presently doing? What is your  
 24 present job?  
 25 A. I presently am the executive -- I'm sorry, not

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1 the executive -- the senior vice president for strategic  
 2 initiatives and an advisor to the president for a group  
 3 called Alliance Defending Freedom.  
 4 Q. Called what?  
 5 A. Called Alliance Defending Freedom.  
 6 Q. And the Alliance Defending Freedom is what?  
 7 A. We are a global legal advocacy organization.  
 8 We specialize in defending religious freedom, freedom of  
 9 speech, life. We also work very closely on campus with  
 10 groups who are having their free speech stifled by  
 11 universities.  
 12 We also support parental rights. I think  
 13 that it's fair to say that if you were to put us on a  
 14 political spectrum, we would be conservative very much,  
 15 although we are a nonpartisan organization.  
 16 Q. At the time, how did -- the jury has just  
 17 heard for several hours from Mr. Mateer. How long have  
 18 you known him?  
 19 A. I've known Jeff for quite a while. I knew him  
 20 back when he was at First Liberty Institute prior to  
 21 joining the attorney general's office. And I did  
 22 several cases with First Liberty Institute as a  
 23 volunteer attorney when I was practicing law at Baker  
 24 Botts, which I don't think we talked about me joining  
 25 Baker Botts. But I -- when I was there, I was a

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1 volunteer attorney for First Liberty.  
 2 Q. Wait. Yes. When you left law school at SMU,  
 3 and then after you left clerking for Judge Higginbotham,  
 4 what did you do?  
 5 A. In 2005 in the fall I joined Baker Botts in  
 6 Dallas, Texas. I was an associate there until 2013, I  
 7 believe, when I made partner as a litigation partner. I  
 8 was there as a partner until 2016. Right after the  
 9 election of President Trump, I received requests that I  
 10 consider joining in the government.  
 11 At the time we weren't in a position  
 12 lifestyle -- life stage-wise to go to Washington, DC.  
 13 And so I was asked by then-Attorney General Josh Hawley  
 14 to join his administration in Columbia, Missouri. And  
 15 we had some back-and-forth, but he's a very persuasive  
 16 guy.  
 17 Q. So when you joined him, what position did you  
 18 have with Josh Hawley?  
 19 A. I was the deputy for civil litigation. So I  
 20 ran all the civil litigation in Missouri.  
 21 Q. And what was his position?  
 22 A. Josh Hawley was the attorney general for the  
 23 State of Missouri.  
 24 Q. And, of course, since has gone on to other  
 25 things?

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1 A. He has. He ran for and won the U.S. Senate  
 2 seat in Missouri over Claire McCaskill while I was  
 3 there.  
 4 Q. Can we safely concede that Josh -- Senator  
 5 Josh Hawley is a very conservative man?  
 6 A. He's a very principled conservative man.  
 7 Q. And did you -- how long did you work for him  
 8 in your capacity as chief of staff?  
 9 A. I was two years. And I was the deputy for  
 10 civil litigation.  
 11 Q. I'm sorry.  
 12 Did you actually be offered -- did you  
 13 obviously end up being offered another job before you  
 14 left?  
 15 A. I was spoken to by the incoming attorney  
 16 general, Eric Schmitt, about potentially joining his  
 17 administration. Incidentally, Mr. Schmitt is now the  
 18 junior Senator from the state of Missouri. But during  
 19 that time period, after -- immediately after the 2018  
 20 election when Josh had won the Senate seat and  
 21 General Paxton had won reelection, Jeff Mateer and I  
 22 were texting back and forth, and Jeff said I think it's  
 23 time for you to come home.  
 24 Q. Did you do so?  
 25 A. I did. Brantley Starr, who was a friend of

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1 mine, and at the time was the deputy first assistant in  
 2 the office, had been nominated by President Trump to  
 3 become a federal judge. And Jeff recruited me because  
 4 we knew Brantley was going to be leaving.  
 5 Q. Could you imagine how anybody could be  
 6 legitimately contending you and Mr. Mateer into a team  
 7 that was put together at the attorney general -- how  
 8 could anyone reasonably legitimately contend that you  
 9 guys were some kind of ultraliberal force that was  
 10 designed to take over and thwart the true conservative  
 11 mission?  
 12 MR. OSSO: Assumes facts not in evidence.  
 13 And relevance, Your Honor.  
 14 MR. HARDIN: Okay. I'm sorry --  
 15 PRESIDING OFFICER: What?  
 16 MR. HARDIN: -- I'm simply asking him  
 17 about it. Can he imagine how anybody can take that  
 18 position. I thought I was taking a shortcut to bringing  
 19 in evidence on it. All right.  
 20 PRESIDING OFFICER: Sustained.  
 21 A. It would be fantasy, pure and simple.  
 22 Q. (BY MR. HARDIN) All right. Now, let me ask  
 23 you: When you left and came back, did you come to work  
 24 then for the attorney general's office?  
 25 A. I did. In January of '19, I joined the

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1 Attorney General's Office of Texas as the deputy for  
 2 legal counsel.  
 3 Q. And what were your duties as the deputy of  
 4 legal counsel? And what -- and what month did you come  
 5 back?  
 6 A. January of 2019.  
 7 Q. All right. And what were your duties? What  
 8 did you oversee starting in January of '19?  
 9 A. The deputy for legal counsel oversees a number  
 10 of different functions within the office. Open records  
 11 is one of them. The opinion committee is another. The  
 12 public finance division is another. The general counsel  
 13 division is another.  
 14 And I was also tasked with overseeing a  
 15 group called special litigation. Special litigation is  
 16 a strategic litigation unit within the AG's office that  
 17 both brings and defends strategic key litigation on  
 18 behalf of the State.  
 19 Q. All right. Now, let me ask you when you -- do  
 20 you recall the first time you might have ever become  
 21 aware of a Mr. Nate Paul?  
 22 A. I do.  
 23 Q. When was that?  
 24 A. It was either at the end of December of 2019  
 25 or early, early in January of 2020.

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1 Q. Was he on your -- the evidence is clear in  
2 here that on August the 14th of '19, he had a search  
3 warrant executed by a combined state and federal task  
4 force at his house and businesses. Did you happen to  
5 notice any publicity or anything about that in August of  
6 '19?

7 A. No.

8 Q. All right. What was the occasion for you  
9 becoming aware of Mr. Nate Paul in either December or  
10 January of '20 -- December '19 or January of '20?

11 A. The attorney general spoke to me about an open  
12 records file that he wanted me to take a look into. I  
13 also contemporaneously received an e-mail from  
14 Jeff Mateer to the same effect.

15 Q. All right. And did you talk to Mr. Mateer  
16 about it or he just forwarded you the -- the request?

17 A. He forwarded me the request. I cannot recall  
18 whether I spoke with him or not, but I certainly spoke  
19 with the attorney general.

20 Q. What was the nature of the request that he --  
21 he referred to you to consider?

22 A. The request was a -- basically it was called a  
23 reconsideration, a recon, of the previously issued open  
24 records decision that had been issued by the open  
25 records division.

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1 Q. Had you ever before been involved, in Missouri  
2 or any other, working with an open records request?

3 A. My time in Missouri, I was primarily  
4 responsible for litigation, so my experience with open  
5 records requests in Missouri was relatively limited.  
6 But by the time that this came about, I had been working  
7 with it for over a year here in Texas.

8 Q. Would you briefly describe for the jury the  
9 open records process as it is -- as it is handled by the  
10 attorney general's office?

11 A. Certainly. And I will -- I'll do my best to  
12 summarize.

13 The attorney general's office is  
14 responsible for ruling on requests by agencies or state  
15 governmental bodies who have received open records  
16 requests from citizens and who wish to withhold  
17 information based on an open records exemption or an  
18 exception. And the attorney general's office will  
19 evaluate those requests and then rule on them through a  
20 series of letter rulings. We receive thousands upon  
21 thousands of these requests every single year. It's all  
22 handled through the open records division. They're  
23 handled by a team of attorneys who specialize in open  
24 records law. And they are -- let's just say that it is  
25 a well-oiled machine.

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1 Q. And what -- what are we talking about when we  
2 say the law enforcement exception?

3 A. Yes. There are a number of exceptions in the  
4 open records provision -- provisions in Texas law. The  
5 law enforcement exception is one of those. It's  
6 designed to protect law enforcement when an ongoing  
7 investigation is taking place against having the  
8 defendant or other interested parties procuring  
9 information from law enforcement that would disrupt the  
10 investigation or potentially compromise witnesses or  
11 compromise safety, quite frankly, of -- of those  
12 involved.

13 Q. Does it matter whether the law enforcement  
14 agency is a federal or state or local law enforcement  
15 agency?

16 A. The rules apply slightly differently. The  
17 rules are designed for state law enforcement agencies,  
18 but we do, as a matter of comity, when there's a FOIA  
19 exception for federal law enforcement agencies, honor  
20 those requests as well.

21 Q. But it is essentially a state statute  
22 designed, is it not, to regulate or respond to requests  
23 that would invoke local or state law enforcement,  
24 correct?

25 A. Yes.

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1 Q. But if something is to effect -- say, if the  
2 FBI is one of the agency -- agencies in a particular  
3 event, is it designed to address that as well?

4 A. It does. It does --

5 Q. How does it do that?

6 A. We have a number of open records rulings that  
7 we've issued. And you'll have to forgive me if I forget  
8 the numbers of them, it's been a -- it's been a while.

9 But we effectively agree to honor  
10 requests posted by FBI or other federal law enforcement  
11 agencies to withhold information, oftentimes information  
12 that has been provided to state partners in the conduct  
13 of joint law enforcement activities.

14 Q. So if there was a joint law enforcement  
15 operation to involve, like, four different law  
16 enforcement agencies, it could be FBI, it could be DPS,  
17 it could be local police departments, it could be some  
18 regulatory agencies that have law enforcement capability  
19 or involvement, in any or all of those situations, does  
20 the AG's office treat that as a law enforcement  
21 exception agency?

22 A. The law enforcement exception, specifically  
23 with respect to state law enforcement agencies, and  
24 we'll treat that as a matter of comity, a law  
25 enforcement exception for the federal agencies as well.

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1 Q. Well, all right. Let's take the incidents  
2 that you said you were not aware of the time it  
3 occurred, following Mr. Nate Paul. And among the  
4 agencies that were involved there were people from the  
5 Securities board, right?

6 A. Right.

7 Q. The State agency. From the DPS, State agency  
8 and also the FBI, would any of those agencies be treated  
9 differently?

10 A. Functionally, no. No, they would not.

11 Q. And what does that mean "functionally"?

12 A. It means that the analysis in the open records  
13 rulings differed slightly with respect to the agencies,  
14 but the outcome was always the same. We would not force  
15 those agencies to disclose law enforcement materials  
16 that were subject to the exception in the Texas code for  
17 Texas agencies or FOIA for federal agencies. We would  
18 allow them to withhold that information.

19 And I also want to point out, these  
20 requests that were going to the open records requests  
21 were being posed to Texas law enforcement agencies.

22 Q. All right. So a private citizen wants to  
23 complain about some matter in a search warrant or  
24 whatever. What would they do and how would -- how would  
25 the process prefer it?

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1 So let's say a private citizen and his  
2 lawyer wants to determine -- want to get behind a joint  
3 operation by law enforcement and file a Freedom of  
4 Information request. How would that proceed?

5 A. The same -- the same as every other request.  
6 The request would go to a Texas agency or a Texas law  
7 enforcement agency. They would then submit a request  
8 for a ruling to the open records division. And when the  
9 law enforcement exception applied, which in that -- in  
10 these types of cases where there are joint law  
11 enforcement activities taking place and they're ongoing,  
12 we would very -- we would almost always withhold the  
13 information.

14 Q. So if, an example I cited, law enforcement  
15 capability board, the Securities board had people  
16 present, DPS had people present, FBI had people present  
17 conducting it, what -- how would you proceed with each  
18 of those agencies?

19 A. The agency making the request to withhold  
20 would brief the issue. Interested agencies would then  
21 receive an opportunity to submit their own briefs.

22 Q. Let -- let me start here. If the request went  
23 to the securities board, what would be the process then,  
24 if the first request went to the securities board?

25 A. The State Securities Board would -- if they

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1 wish to withhold information under the state law  
2 enforcement exception, the Securities board would submit  
3 a request for a ruling to the attorney general's office  
4 open record division. That request would then be  
5 adjudicated by our attorneys. And sometimes there were  
6 additional briefings if there's a party who was seeking  
7 information who wanted to brief the issue, they would  
8 submit briefs and we would rule upon it.

9 Q. All right. And then if -- what would you do  
10 about if there were other agencies that had information  
11 in there? Obviously if the request originally went to  
12 the securities board, whichever -- would there be  
13 possibly information there from DPS and from the FBI?  
14 How do you handle that in letting them know whether they  
15 can weigh in?

16 A. They're notified of the pending request and  
17 given an opportunity to brief.

18 Q. They would be notified as well?

19 A. Yes.

20 Q. So would you notify, then, each law  
21 enforcement agency of the request, even if it just went  
22 to one of them?

23 A. Typically, yes.

24 Q. Okay. Now, in this particular time in  
25 December -- January, December of '19, January of '20,

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1 would you describe for the jury how you got involved and  
2 what you did and what the request was that you were  
3 asked to look at by Mr. Mateer?

4 A. Certainly. There had been a request made, I  
5 believe it was to the State Securities board, for  
6 information relating to the law enforcement actions  
7 taken against Nate Paul, concerning Nate Paul. And  
8 there were a number of different pieces of information  
9 and documents that were requested.

10 I did speak with the attorney for  
11 Nate Paul.

12 Q. Do you recall who that was?

13 A. It was someone at the Meadows Collier firm in  
14 Dallas.

15 Q. Someone in the Chuck Meadows firm in Dallas?

16 A. Yes, the Chuck Meadows firm in Dallas.

17 Q. All right.

18 A. I had dealings with them before in other  
19 matters when I was at Baker Botts.

20 Q. So you already knew the firm?

21 A. I did.

22 Q. All right. So what did you do?

23 A. I spoke with them to understand the contours  
24 of their motion for reconsideration. Based on my review  
25 of the record and through conversations, it became

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1 apparent that the thing that was most concerning to the  
2 Meadows Collier firm was getting access to a particular  
3 document known as a probable cause affidavit. This was  
4 the affidavit that would have supported the search  
5 warrant of Mr. Paul's home, the --

6 Q. And did you discover whether or not that  
7 affidavit was actually under a federal seal in  
8 San Antonio?

9 A. I did. And I learned that it was under  
10 federal seal, yes.

11 Q. And I'm not sure -- you mentioned it today.  
12 I'm not sure we were clear before this.

13 The actual event that gets to you, was  
14 that the first time the AG's office had been involved in  
15 this request, or were you being asked to reconsider a  
16 previous decision?

17 A. It's the latter. We were being asked to  
18 reconsider a ruling we had already made, finding that  
19 the documents should not be disclosed. And that  
20 includes the probable cause affidavit. It should not be  
21 disclosed.

22 Q. And do you recall whether the previous one had  
23 weighed -- whether the FBI had weighed in on it as well,  
24 or was it declined initially without even hearing from  
25 the FBI?

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1 A. I do not recall because I wasn't involved  
2 specifically. That would have been a routine matter.  
3 And the denial of the open -- the granting of those  
4 exceptions and the refusal to force disclosure would  
5 have been routine. It was unexceptional.

6 Q. Was there anything unusual about the decision  
7 you were reviewing in terms of its -- its actual  
8 decision itself, namely that the law enforcement  
9 exception dictated that the information would not be  
10 revealed?

11 A. No. When I --

12 Q. Was there anything?

13 A. When I reviewed the decision, it was  
14 unremarkable to me. It appeared to me to be a straight  
15 application of our existing precedent.

16 Q. And what did you do? When you -- when you  
17 looked at it, what is the first thing you did?

18 A. Well, I reviewed it. I understood that there  
19 was a motion for reconsideration pending, so I also took  
20 that issue to Justin Gordon. Justin was, at the time,  
21 the head of the open records division and was one of my  
22 direct reports. I asked him to pull the file, to look  
23 at it, to evaluate the decision, and make sure that we  
24 had covered all of our bases. Because a motion for  
25 reconsideration, we did get those from time to time.

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1 They were almost, in all cases, denied out of hand.

2 Q. Yeah. I was going to ask you that next.

3 In all the cases you touched or watched  
4 while you were there, how would you rank the number of  
5 occasions in which the law enforcement exception was not  
6 adhered to?

7 A. Difficult to quantify, but it would have been  
8 a very unusual thing for a straight application of that  
9 exception not to be granted. In fact, I don't know if  
10 we ever did it.

11 Q. So it would be accurate to say that you don't  
12 know of one that you were -- that you had encountered?

13 A. I'm not personally aware of a situation where  
14 that exception applied where we would not have granted  
15 it.

16 Q. Did you look into Mr. Paul at all yourself?

17 A. Say it again.

18 Q. Did you do any research on Mr. Paul?

19 A. I did.

20 Q. What did you do?

21 A. I Googled him.

22 Q. The ultimate research tool.

23 A. Right.

24 Q. And how did that impact your view?

25 A. It made me very concerned that I had been

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1 asked to -- well, let me back up.

2 I learned through my Google research that  
3 Mr. Paul had indeed been -- his home and several  
4 properties been searched by the FBI, that he was under  
5 active investigation by federal law enforcement. And as  
6 someone who is a senior staff member, that immediately  
7 sends up red flags when you're being asked to review a  
8 file for reconsideration to disclose law enforcement  
9 materials to someone who is under an active and very  
10 far-reaching investigation.

11 Q. Tell me what the danger is or what the policy  
12 position was at your agency in terms of why would you  
13 want to adhere to this sort of rigid rule that if it  
14 involves ongoing investigation, criminal investigations,  
15 you would cite the law enforcement exception? What --  
16 what's the reason -- reason for that?

17 A. The policy reasons. There are a number of  
18 policy reasons for that.

19 Q. Don't get too far away from the microphone.

20 A. Oh, my apologies.

21 Q. That's okay.

22 A. Certainly. There are a number of policy  
23 reasons for that, one of which is you would not want to  
24 compromise, in any way, an ongoing criminal  
25 investigation, particularly by state agencies by

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1 releasing information that could cause that  
2 investigation to be not able to go forward.

3 More importantly, you also don't want to  
4 compromise the safety or the identity of potential  
5 witnesses or the safety and identity of those who might  
6 be conducting the investigation. So there's both the  
7 public policy interest in ensuring the integrity of our  
8 law enforcement activities here in the state. There's  
9 also a public policy interest in ensuring the safety of  
10 those who are undertaking those activities or serving as  
11 witnesses.

12 Q. I was about to ask you. Those files, how  
13 would you rank whether or not how often they have actual  
14 personal data with people who have cooperated with law  
15 enforcement, or citizens who have given information but  
16 want to remain anonymous as much as they can, the names  
17 of people that are involved? How would you describe the  
18 potential risks to them if this information started  
19 being revealed to whomever was curious, whether it was  
20 media or the offender themselves?

21 MR. OSSO: Objection to relevance, Your  
22 Honor. I mean, it's -- it's not with regard to a  
23 specific document here.

24 PRESIDING OFFICER: I'm sorry. Repeat  
25 your objection. I couldn't hear you clearly.

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1 MR. OSSO: It's an overly broad question,  
2 Your Honor. It doesn't specify what specific document  
3 that the witness is going to be referring to.

4 MR. HARDIN: My question is -- I'm asking  
5 him what the danger in the policies of these things,  
6 which goes directly to why they were going to be  
7 concerned about releasing this information to Mr. Paul.

8 MR. OSSO: Well, I think Mr. Bangert has  
9 already answered that question, Your Honor.

10 MR. HARDIN: I'm sorry?

11 MR. OSSO: I would say that Mr. Bangert's  
12 already answered that question.

13 PRESIDING OFFICER: Overruled.

14 MR. HARDIN: Thank you.

15 A. Could you state the question one more time,  
16 Mr. Hardin?

17 MR. HARDIN: Yes.

18 Q. (BY MR. HARDIN) My question is -- I'm asking  
19 what did the danger and the policies of these things  
20 which goes directly to why they were going to be  
21 concerned about releasing this information to Mr. Paul?

22 A. Again, safety concerns are paramount. You  
23 never want to compromise the identity or the safety of  
24 witnesses. And certainly, I -- when I was reviewing  
25 files, and I only reviewed files that had what you might

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1 call hair on them, or files, in this instance, that  
2 didn't have hair on it, but at the request of the  
3 attorney general.

4 There were files where witness  
5 identity -- sex crimes with -- sex crime victims in  
6 particular -- might be revealed. Those were always very  
7 concerning. We want to make sure those were properly  
8 dealt with.

9 Q. Well, Mr. Bangert, do your decisions when  
10 you're making of these open records requests, if you're  
11 not careful about how you do it, are you ever concerned  
12 about your setting a precedent that would even be worse  
13 than the individual case you're looking at?

14 A. Precedent is very important to the open  
15 records division. We want to be rigorous and ensuring  
16 consistency to the utmost. We want to ensure that as we  
17 apply the law, it is applied evenly and consistently --  
18 consistently for all Texans.

19 Q. Well, then if, in fact, you released the  
20 information that Mr. Paul and his attorneys were  
21 seeking, that would have given you -- what kind of  
22 information would that have given them, the person under  
23 investigation?

24 A. I was very deeply concerned in particular  
25 about what it would have done to our precedent to

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1 overrule the law enforcement exception applied in this  
2 case, this case being the reconsideration motion I was  
3 asked to review by the attorney general, because there  
4 was a probable cause affidavit in play. Not only that,  
5 a probable cause affidavit subject to a federal seal  
6 that was part of an active, ongoing, multiagency  
7 investigation. That would have been, in my view, a very  
8 poor precedent for us to set and would have disrupted  
9 law enforcement activities in the State of Texas.

10 Q. Did it include often -- what we commonly call  
11 offense reports in which identifying data of the  
12 officers and the witnesses were included?

13 A. I'm not familiar with that term, but  
14 certainly --

15 Q. Let me get the -- let me give you -- excuse me  
16 for interrupting.

17 Let me see if I can give you another  
18 term. Would it have included memos about what happened  
19 and by whom and who did what so that personal  
20 identifying data would be in there about law enforcement  
21 and anybody else, witnesses?

22 A. Certainly. Law enforcement exception covers  
23 documents that contain personally identifying  
24 information for law enforcement and witnesses.

25 Q. And with that file, that would also include

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1 the names and addresses potentially of victims for  
2 witnesses?

3 MR. OSSO: Objection. Improper  
4 foundation, Your Honor. This witness hasn't yet laid  
5 the foundation to establish he has knowledge of the  
6 file.

7 MR. HARDIN: I'm simply asking what all  
8 is there that they're trying to protect.

9 PRESIDING OFFICER: Overruled.

10 MR. HARDIN: Thank you.

11 A. There's a whole panoply of information that  
12 could be included within documents covered by the law  
13 enforcement exception, so --

14 Q. (BY MR. HARDIN) When this was over -- well,  
15 let me ask you this: During your deliberations about  
16 this matter in January of 2020, did you have any contact  
17 with the attorney general about it?

18 A. I did.

19 Q. And what was the nature of that? When,  
20 where --

21 A. Certainly.

22 Q. -- how, what?

23 A. Initially the attorney general asked me to  
24 review the motion for reconsideration. Unusual in the  
25 sense that he typically did not involve himself in open

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1 records requests, but he is the attorney general and I  
2 certainly wanted to honor and fulfill that request. So  
3 I reviewed it carefully. And I reached -- very quickly  
4 reached the conclusion that the decision was correct,  
5 and I advised him of such.

6 Q. Let me go back for a moment. When you were  
7 hired, did you ultimately -- I believe you said that you  
8 were recruited by Mr. Mateer. But did you have contact  
9 with the attorney general and -- and meet with him  
10 before you -- before you were hired?

11 A. I had -- not before I was hired, but I had  
12 contact with the attorney general going all the way back  
13 to 2014 when I was a partner at Baker Botts. I  
14 contributed to his campaign. I supported him during his  
15 primary run -- his primary campaign. I believe it was  
16 against Mr. Branch. I also -- I believe I was the only  
17 partner at Baker Botts who did so. That's what I was  
18 told.

19 But I believed in what he was doing. I  
20 believed his policies were the best for Texas. That's  
21 why I joined his office in 2019. I believed in what he  
22 was doing. I also believed Texas was leading the way in  
23 representing the interests of the conservative legal  
24 movement here in the U.S.

25 Q. So would you have characterized yourself as a

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1 strong supporter?

2 A. At that time, yes, I was. That's why I joined  
3 the office over other opportunities that came my way.

4 Q. So in addition to this -- this reconsideration  
5 request on the -- on the Paul case coming from the  
6 lawyers for Mr. Paul, where in that scheme of things did  
7 the attorney general reach out to you as well and ask  
8 you to look at it?

9 A. Again, it would have been toward the end of  
10 December or beginning of January, either '19 or '20. He  
11 asked me to take a look at it. I did. I reviewed it.  
12 Came to the conclusion that it was correct. Typically  
13 in instances like that the attorney general would say  
14 thank you for that review and we would move on. This  
15 was different.

16 Q. How -- how was it different?

17 A. He pushed back. And he pushed back not  
18 necessarily by contesting my application of law, but by  
19 saying it doesn't seem fair to me that a defendant  
20 should not have access to something like a probable  
21 cause affidavit, something that's being used to  
22 investigate him.

23 Q. Was there any conversation, Well, that would  
24 be a consideration for the judge in courts that were  
25 involved that he should go to? Tell me about any

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1 conversation or response you had.

2 A. There was federal case law on that point. And  
3 I shared that with the Meadows Collier firm, and pointed  
4 out to them that all they needed to do was go to the  
5 federal courts and file motions with the federal judge  
6 If denied, they could go to the Fifth Circuit, and there  
7 was good case law there too. And I shared those facts  
8 with the attorney general as well. There was a federal  
9 option.

10 Q. What was Attorney General Paxton's response?

11 A. The attorney general shared with me his view  
12 that he had been wronged by law enforcement and was  
13 uninterested in having other Texas citizens wronged by  
14 law enforcement as well.

15 Q. Did he express to you any further, as far back  
16 as January of '20, his views of law enforcement?

17 A. He was clearly very skeptical of law  
18 enforcement when we were having those conversations. I  
19 was -- I was surprised by the level of pushback I got to  
20 what I viewed as a routine application of the law. But  
21 we continued to have those conversations with him all  
22 the same.

23 Q. But once -- once you had put -- made your view  
24 known, and once he pushed back, how many -- did you have  
25 any further conversations with him?

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1 A. We had a series of conversations, most --  
 2 Q. About this?  
 3 A. About this subject, in January.  
 4 Q. Oh, excuse me. About this case as well?  
 5 A. We had a series of conversations about this  
 6 specific open records request, the one for  
 7 reconsideration of the SSB request, yes.  
 8 Q. The one on behalf of Mr. Paul?  
 9 A. Yes.  
 10 Q. How many times would you estimate that you had  
 11 conversations with the attorney general in which he was  
 12 urging you -- or was he? In these conversations, was he  
 13 urging you to take a particular position?  
 14 A. He was certainly putting -- applying pressure  
 15 to look for any way possible to disclose the probable  
 16 cause affidavit. Now, he did not instruct me to  
 17 override or overrule our existing precedent at that  
 18 time. But he was very interested in finding any way he  
 19 could to have that probable cause affidavit released.  
 20 Q. And what was your reaction?  
 21 A. I told him that that would not be a good idea.  
 22 Q. So ultimately was it disclosed at that time?  
 23 A. It was not disclosed at that time; to my  
 24 knowledge, no.  
 25 Q. How -- how did the issue end? I mean, how did

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1 you move away from it?  
 2 A. I think we may have just worn each other out  
 3 on that, but he did --  
 4 Q. You what? I'm sorry.  
 5 A. We may have just worn each other out on that,  
 6 but he -- he did eventually -- and, of course, remember  
 7 we're now ramping up into COVID in 2020. February and  
 8 March was the beginning and the explosion of COVID. So  
 9 other events began to overtake the office very quickly.  
 10 Q. And actually in February -- as early as  
 11 February of the COVID year, 2020, before everything  
 12 really breaks out the middle of March, did you yourself  
 13 give talks and research and conclude it was going to be  
 14 a huge issue, particularly as it affected the legal  
 15 things that the AG's office was going to have to get  
 16 involved in?  
 17 A. Yes. We -- even before March when COVID  
 18 became a reality for most Americans, we were wargaming,  
 19 planning, having internal meetings about what the  
 20 potential legal effect would be if a pandemic were  
 21 declared and COVID hit our state.  
 22 Q. Was -- did the -- did the attorney general's  
 23 office have a position from the very beginning,  
 24 initiated and urged by the attorney general, as to what  
 25 y'all's legal position was going to be in dealing with

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1 the COVID plague with any issues of whether it's masks  
 2 or whether it's meetings, whether it's gatherings,  
 3 whether it's activities? What -- what was his position  
 4 that each of you were challenged to carry out?  
 5 A. Yes. The situation was very fluid in March.  
 6 I would say we didn't have a position per se. But very  
 7 quickly over time as states began shutting down,  
 8 canceling school, mask mandates were imposed,  
 9 stay-at-home orders were imposed. Very quickly it  
 10 became the policy of our office, and I would argue the  
 11 policy of the State of Texas, to do everything we could  
 12 to keep things open as much as humanly possible,  
 13 consistent with public safety.  
 14 PRESIDING OFFICER: Counselor, I went a  
 15 little past our break I promised for everyone involved.  
 16 Can I -- is this fine?  
 17 MR. HARDIN: This is fine. This is  
 18 perfect.  
 19 PRESIDING OFFICER: We'll break until 20  
 20 after, take a little bit -- it's a 20-minute break -- I  
 21 mean 10 after, a 20-minute break, 10 minutes after, a  
 22 20-minute break, get us back, and then we'll go about  
 23 6:30. We'll go another hour when we come back.  
 24 MR. HARDIN: Thank you, Your Honor.  
 25 (Recess from 4:50 p.m. to 5:15 p.m.)

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1 PRESIDING OFFICER: Court will come to  
 2 order.  
 3 Mr. Hardin, we'll go to -- try to wrap up  
 4 by about 6:30, a good breaking point. If it's a few  
 5 minutes later, fine. Or if it's a few minutes earlier,  
 6 I will leave it to you.  
 7 MR. HARDIN: Thank you, Your Honor. Can  
 8 you hear me?  
 9 Ah, there you go. Thank you.  
 10 PRESIDING OFFICER: We'll wait for our  
 11 witness here.  
 12 Q. (BY MR. HARDIN) The necessary participant.  
 13 Now, if you can keep the microphone to  
 14 you, my problem is I can hear you sometimes thinking, so  
 15 just -- I think you're perfect where you are.  
 16 All right. We move on now from the open  
 17 records. Is it -- in your mind, so the issue died out  
 18 as to that file after -- after your conversations,  
 19 repeated conversations with the AG?  
 20 A. Yes, eventually, the issue did --  
 21 MR. OSSO: It's off.  
 22 A. Testing.  
 23 Yes. The issue did eventually, from my  
 24 perspective, die out. It was not -- it was not raised  
 25 again for some time, you know, for a matter of months

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1 after that.

2 Q. (BY MR. HARDIN) Did it resurface later that  
3 year?

4 A. It did.

5 Q. And how and when?

6 A. I was promoted to a different role in March.  
7 I believe it was March of 2020. So as COVID was kicking  
8 in, I was promoted to Deputy First Assistant Attorney  
9 General. So the role that Brantley Starr previously had  
10 had, he had been elevated to the federal bench. And I  
11 was asked to assume that role.

12 So Ryan Vassar became the deputy for  
13 legal counsel, which was the role that I previously had  
14 been serving in. But I was aware, because I was working  
15 with Ryan Vassar at the time, helping him to learn the  
16 ropes of open records, that another request had been  
17 submitted, this time to DPS.

18 MR. HARDIN: Stacey, can you pull up --  
19 back the first demonstrative we started the trial with  
20 that lays out the pictures of everybody? Thank you.

21 Q. (BY MR. HARDIN) Can you see that okay?

22 A. Yes, sir.

23 Q. Can you see that okay?

24 So does that accurately reflect where you  
25 were in the new lineup?

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1 A. Yes, it does.

2 Q. All right. I'm going to call this  
3 Demonstrative 1.

4 And this particular -- this particular  
5 document, whom did you report to? Were -- did you have  
6 a direct report to the attorney general or to  
7 Mr. Mateer?

8 A. I reported directly to Mr. Mateer.

9 Q. And then how many divisions did you have under  
10 you by this time?

11 A. I was still overseeing the special litigation  
12 unit. But apart from that, I had no other direct  
13 reports. However, as the deputy first assistant, I was  
14 assisting the first assistant in overseeing the agency  
15 as a whole.

16 Q. So if the first assistant was out of town,  
17 would you be the one that -- that would be essentially  
18 the acting first assistant?

19 A. More or less. When he was out of town, I  
20 would assume some of his responsibilities as a matter of  
21 practice. I also would handle duties as assigned by  
22 both the first assistant and the attorney general.

23 Q. And you, by this time, had known Mr. Mateer  
24 how long?

25 A. Several years.

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1 Q. All right. Had you ever seen or known him to  
2 express any interest in ever being the attorney general  
3 himself?

4 A. No, I had not.

5 Q. All right. On a scale of 1 to 10, 10 being  
6 totally absurd, 1 being -- 1 being much less than that,  
7 where do you rank?

8 A. In terms of his desire to become the attorney  
9 general?

10 Q. Yeah.

11 A. He -- he was very tired. By the end of his  
12 fifth -- he was going into his sixth year, and he had  
13 expressed to me, especially toward the end, how he was  
14 thinking about retiring from public service because his  
15 back was bad. He had been burning the candle at both  
16 ends for some time.

17 Q. So on a scale of 1 to 10 again, in terms of  
18 his desire, as your observations, to be the attorney  
19 general, where would you rank it?

20 A. It would be zero.

21 Q. All right. Thank you.

22 Now, let me ask you this: How did the --  
23 the continued issue of the open records request and  
24 desire to obtain open records concerning Mr. --  
25 Mr. Paul's search warrant and criminal investigations

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1 again, how did you next come into contact about -- with  
2 it and when?

3 A. Speaking with Ryan Vassar, who by that time,  
4 in April, May of 2020, he was overseeing open records as  
5 the deputy for legal counsel. I understood that a  
6 request had been filed, I believe it was with DPS, for  
7 additional materials relating to the Nate Paul  
8 investigation.

9 Q. All right. And -- and the original time that  
10 you -- you became aware of Mr. Paul seeking these  
11 records, whom was the open records request directed to,  
12 if you recall?

13 A. My recollection is the State Securities board  
14 the first time around.

15 Q. All right. So that one went off as you have  
16 described in your testimony. And then did you learn  
17 that there had been a second open records request, this  
18 time to another agency that was present in this search,  
19 this time DPS?

20 A. Yes.

21 Q. All right. Had you had conversations in the  
22 past in which the lieutenant governor expressed his  
23 views of DPS?

24 PRESIDING OFFICER: Excuse me. I think  
25 you mean the attorney general.

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1 MR. HARDIN: Pardon me, Your Honor?  
 2 PRESIDING OFFICER: You said the  
 3 lieutenant governor. I am listening very closely,  
 4 Counselor.  
 5 MR. HARDIN: That was only to see if you  
 6 were paying attention, sir.  
 7 PRESIDING OFFICER: Trust me. I'm  
 8 listening to the words.  
 9 MR. HARDIN: Now that you confirmed that  
 10 you were, let me rephrase it.  
 11 Q. (BY MR. HARDIN) The DPS -- I'm a little  
 12 flustered here. I'm going to have to recover.  
 13 So did you -- would just then the second  
 14 agency that had -- or that had been involved in the  
 15 search of Mr. Paul's house and business back in '19, in  
 16 August of '19, was this now the second agency Mr. Paul  
 17 and whomever is working on his behalf tried to get  
 18 documents from?  
 19 A. That is my -- yes, that is my understanding.  
 20 I was aware that this was the second time. I do not  
 21 believe Meadows Collier was involved this time around.  
 22 A new law firm had surfaced.  
 23 Q. Yes. And do you recall whether -- the name of  
 24 that lawyer?  
 25 A. I believe it was Gregor Wynne.

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1 Q. Was the lawyer you were dealing with a  
 2 Mr. Michael Wynne?  
 3 A. He was part of that firm to my recollection,  
 4 yes.  
 5 Q. Now, so how did it come to your attention as  
 6 to what you were supposed to do or what you were  
 7 referring -- what you were regarding, rather?  
 8 A. My understanding was this request was, again,  
 9 for law enforcement materials this time in the  
 10 possession of DPS, not SSB. But, again, these were all  
 11 agencies, part of this joint law enforcement operation.  
 12 So very similar materials were being requested again  
 13 relating to Nate Paul.  
 14 Q. So how did you get dragged into it as to your  
 15 position and your participation?  
 16 A. Primarily by assisting Mr. Vassar, who was at  
 17 that time very, very new to the role.  
 18 Q. All right. Can you describe for the jury the  
 19 sequence of events as it was being considered in -- in  
 20 the attorney general's office to override past decisions  
 21 on these same matters?  
 22 MR. OSSO: Objection to leading, Your  
 23 Honor.  
 24 MR. HARDIN: I -- I don't --  
 25 PRESIDING OFFICER: Sustained. Rephrase.

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1 Q. (BY MR. HARDIN) Let me -- let me put it this  
 2 way: What happened next?  
 3 A. Many things. So this request was submitted to  
 4 DPS. DPS then did what it normally would have done,  
 5 which is request our office -- request a ruling from our  
 6 office from the open records division, which was per  
 7 normal process. At this point, the attorney general  
 8 became interested in the file once again.  
 9 Q. And how did he show that interest?  
 10 A. He asked to meet with Justin Gordon. I  
 11 believe it was at this point where Justin Gordon was  
 12 summoned to the attorney general's office to be -- to  
 13 have discussions with the attorney general about this  
 14 file.  
 15 And he also asked for a copy of a book  
 16 that we keep in our office. We have a manual that we  
 17 publish. When I say "we," the attorneys -- the attorney  
 18 general's office, every two years, I believe, publishes  
 19 an update to the open records manual to reflect changes  
 20 to the code from the previous legislative session.  
 21 Q. Did you -- did you provide him the book  
 22 yourself?  
 23 A. It was either I or Ryan Vassar. I do recall  
 24 we were looking for a copy in the office because he  
 25 wanted a paper copy.

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1 Q. All right.  
 2 A. And the copies we had, the pages were falling  
 3 out so we had to go make sure they were all there.  
 4 Q. Now, did you begin to continue to have  
 5 repeated conversations with the --  
 6 MR. OSSO: Objection to leading.  
 7 MR. HARDIN: I don't think that's leading  
 8 at all. I haven't even finished by the way.  
 9 MR. OSSO: Your Honor --  
 10 MR. HARDIN: It works better if I finish  
 11 the question.  
 12 PRESIDING OFFICER: Finish the question  
 13 first.  
 14 MR. HARDIN: Thank you very much.  
 15 Q. (BY MR. HARDIN) Did you have any continued  
 16 conversations with the attorney general about this  
 17 matter?  
 18 A. My conversations were primarily with  
 19 Ryan Vassar and Justin Gordon at this point assisting  
 20 them in handling it. I did overhear conversations. I  
 21 know I did see and witness the attorney general pull  
 22 Justin Gordon into his office concerning this matter.  
 23 So I was keenly aware being on the eighth floor and  
 24 working with my colleagues that this was happening.  
 25 Q. Did you -- did the attorney general your --

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1 himself contact you about his interest in trying to find  
2 a way to reveal this information?

3 A. I do not recall specific conversations with  
4 him about the second request. And, again, that would  
5 have made sense because I was no longer overseeing that  
6 division directly.

7 Q. Then did you have any participation and -- and  
8 observation of what happened next, or was that primarily  
9 in -- in the realm of Mr. Vassar?

10 A. I did have some observations, and I did have  
11 some participation on what happened next.

12 Q. In -- in what way? What was it?

13 A. There were a couple of options on the table  
14 for how to handle this open records request. There  
15 really are two options. One, you either would pour out.  
16 A pour out is when you more or less tell the agency you  
17 have to disclose the information, or you sustain the  
18 agency's request for exemptions. It was clear to us  
19 that the attorney general was now stridently in favor of  
20 finding a way to disclose this information.

21 MR. OSSO: Objection to speculation.

22 Q. (BY MR. HARDIN) Were you aware of --

23 PRESIDING OFFICER: Sustained.

24 Q. (BY MR. HARDIN) -- of what his position was?

25 A. Yes. I was personally aware of his position

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1 on this.

2 Q. How were you personally aware?

3 A. Because I was in the office. I watched him as  
4 he was conducting himself. I overheard conversations in  
5 which he was a party concerning this. So, yes, I was  
6 aware based on my interactions with him.

7 Q. And how --

8 MR. OSSO: Judge, I renew my objection to  
9 speculation also.

10 MR. HARDIN: These are all party  
11 admissions, every single one of them, Your Honor.

12 PRESIDING OFFICER: I'm sorry.

13 MR. HARDIN: These are conversations --

14 PRESIDING OFFICER: I did not hear -- I  
15 did not hear you.

16 MR. OSSO: I'll let him ask the question.  
17 I'll retract my objection.

18 PRESIDING OFFICER: Continue.

19 Q. (BY MR. HARDIN) So then when you -- when you  
20 heard those conversations, what did you hear the  
21 attorney general say and who was he talking to?

22 A. Well, there were always groups of us on the  
23 eighth floor. It's very hard to hide on the eighth  
24 floor. It's a very small floor, and it's a -- it's a  
25 square or a rectangle and so there's not a lot -- and my

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1 office was directly down the hall from his, so I was  
2 very close to his office.

3 And the summary of it was he was -- he  
4 was desirous of finding a way to either disclose that  
5 information or, at the very least, not -- not rule  
6 against the requestor.

7 Q. What was the recommendation that you were  
8 aware of, of all of the -- the deputy in charge and the  
9 people above him -- below him, what was their  
10 recommendation as to what be done -- what should be done  
11 with the request to be --

12 MR. OSSO: Objection to hearsay.

13 A. I was --

14 PRESIDING OFFICER: Sustained.

15 Sustained.

16 Q. (BY MR. HARDIN) Were you present when they  
17 made their recommendation to the attorney general?

18 A. I was personally involved in formulating a  
19 recommendation, yes.

20 Q. All right. Did you yourself make a  
21 recommendation to the attorney general?

22 A. I do not recall if I made the recommendation,  
23 but I certainly helped my colleagues formulate it --

24 MR. OSSO: Objection. Nonresponsive.

25 MR. HARDIN: Wait a second. You've got

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1 to let him finish the answer. You can't do that.

2 MR. OSSO: I'm making an objection. I'm  
3 objecting.

4 PRESIDING OFFICER: Stop.

5 THE REPORTER: Stop.

6 PRESIDING OFFICER: Please stop.

7 MR. OSSO: I had an objection.

8 PRESIDING OFFICER: No arguing. No  
9 arguing.

10 What was your objection?

11 MR. OSSO: My objection was that this  
12 witness answered counsel's question, and then the latter  
13 half of his answer was not responsive. And so my  
14 objection is nonresponsive, Your Honor.

15 MR. HARDIN: The objection --

16 PRESIDING OFFICER: Overruled. Continue.

17 MR. HARDIN: Thank you.

18 Q. (BY MR. HARDIN) Go ahead.

19 I think my question to you was: Did you  
20 yourself make a recommendation to the attorney general,  
21 or were you present when others made a recommendation to  
22 the attorney general where you could hear his response?

23 A. No.

24 Q. All right. Did you have any conversations  
25 with the attorney general after the period of time we're

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1 talking about?

2 A. Concerning this matter?

3 Q. Yes.

4 A. Not to my recollection.

5 Q. All right. At the time, were you present when

6 the decision was made that it would take no position?

7 A. I was directly involved in that decision.

8 Q. And tell us about that and how that happened.

9 A. Certainly. We were evaluating options for

10 responding to this open records request. It would have

11 been, in my view, unconscionable to do a pour out for

12 all the reasons we discussed. The law enforcement

13 exception has very strong public policy grounding in

14 this state.

15 The attorney general, based on my

16 involvement in this case, I knew was not going to

17 tolerate anything --

18 MR. OSSO: Objection. Nonresponsive,

19 Your Honor.

20 MR. HARDIN: It is responsive. Excuse

21 me. I think he is just finishing his --

22 PRESIDING OFFICER: Move along.

23 MR. OSSO: The objection is -- okay.

24 Q. (BY MR. HARDIN) Go ahead.

25 A. I understood that he was not going to tolerate

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1 anything that was viewed as unfavorable to the

2 requestor. As a result of that, an opinion was developed

3 to do a no decision or a no opinion, which was very

4 unusual.

5 Q. Do you -- you recall who came up with that --

6 that option for him?

7 A. It was a group of us; Justin Gordon,

8 Ryan Vassar, and myself, in conversations that opinion

9 was ultimately -- that approach was reached.

10 Q. And what was your position as to whether or

11 not the no-opinion option was one that should be

12 adopted?

13 A. I believed it was the wrong approach. I

14 believed it was the wrong decision. But it was the best

15 we could do, given the place that the attorney general

16 was at, at the time.

17 Q. And that was a time -- that was -- was that

18 adopted to keep him from continuing to insist on the

19 other? In other words, continuing to insist on

20 disclosure?

21 A. It was the best answer we could reach that we

22 knew would be accepted by the attorney general at the

23 time, even though I believed that it was wrong.

24 Q. Now, it's been suggested in this litigation

25 the last day and a half that that meant no harm was

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1 done, no benefit was given to Nate Paul by that. Do you

2 agree with that?

3 A. No.

4 Q. Why not?

5 MR. OSSO: Objection to speculation,

6 Judge.

7 MR. HARDIN: That's not speculation.

8 PRESIDING OFFICER: Overruled.

9 MR. HARDIN: Yeah. Thank you.

10 A. There was, at that time, pending litigation

11 concerning the open records request. We were being

12 asked at the same time to issue a ruling on that

13 request. It was my view that the ruling should have

14 denied access to those records. That at least would

15 have been persuasive authority for the Court that was

16 examining that very same issue.

17 We had a policy at the AG's office that

18 we would not withhold making a decision based on pending

19 litigation. So in effect, our no decision contravened

20 our existing policy.

21 Q. (BY MR. HARDIN) And in addition, did it

22 provide any advantage in the -- potential advantage to

23 the -- to the litigant, Mr. Paul, even though you

24 weren't recommending disclosure? By recommending no

25 opinion? Do you have any idea as to whether or not that

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1 still conferred a benefit on him?

2 A. Yes.

3 Q. And what was the benefit?

4 A. As a logical inference, any time our office

5 issued -- our office is the authority on open records

6 decisions. If our office refuses to take a position,

7 which by the way is deeply out of character and contrary

8 to our precedent --

9 MR. OSSO: Objection. Nonresponsive,

10 Your Honor.

11 MR. HARDIN: He is just finishing. Let

12 him finish the answer, then you can object.

13 PRESIDING OFFICER: You may answer.

14 A. If our office refuses to take a position on an

15 issue like that, and the Court sees that, that is a

16 strong signal I believe to the Court. And I've been a

17 lawyer for over a decade, and close to two. That's a

18 strong signal to the Court about the attorney general's

19 view of that file that we would have gone out of our way

20 to render a vastly uncharacteristic decision.

21 Q. (BY MR. HARDIN) Okay. Now, after that

22 happened and that no opinion about it occurred, did you

23 have any more contact with the open records request that

24 Mr. Paul was making?

25 A. Once the no decision was issued, no.

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1 Q. All right. And then did you -- when was the  
2 next contact you had with matters of Mr. Paul?

3 A. It was in June. I believe it was in June. It  
4 may have been in May, but it was in that time period,  
5 late May, early June 2020. The attorney general  
6 approached me personally and asked me to review a file  
7 that was -- it was a lawsuit that was pending between a  
8 charity, the Mitte Foundation, and World Class Holdings,  
9 which I very quickly recognized as one of Nate Paul --  
10 Nate Paul's company.

11 Q. Had you had a history, even in your previous  
12 jobs or even in this one, overseeing the AG's  
13 position -- the office's position of charity trust?

14 A. Yes.

15 Q. Would you tell us what basically, by both  
16 statute and mission, was the obligation of the attorney  
17 general's office as it -- as it involved a charity  
18 trust?

19 A. Generally speaking, and this is true for most  
20 attorneys general's offices that have this jurisdiction,  
21 you are there as the attorney general to protect the  
22 public interest in charity, which means that the public  
23 has an interest in ensuring that charities that are  
24 formed pursuant to state law are fulfilling their  
25 function to benefit the public interest, meaning the

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1 corpus of the proceeds the charity manages and operates  
2 on are not being squandered or wasted, that the charity  
3 is not being highjacked for improper purposes, and that  
4 it's generally discharging its role to benefit the  
5 public.

6 So that's the attorney general's role is  
7 to intervene in lawsuits, to -- and, by the way, it  
8 has -- we have authority to investigate charities that  
9 are abusing their role. The attorney general's office  
10 protects the public interest in charity.

11 Q. Is the general -- and under the law and the  
12 responsibility and the mission of the attorney general's  
13 office, is the attorney general's office in a charity  
14 trust case supposed to be intervening in any way to help  
15 one individual or the other?

16 A. The attorney general's office is to intervene  
17 to advance the public interest in charity. So it is not  
18 characteristic to intervene to assist a party in  
19 particular. Rather, the intervention is for the purpose  
20 of defending, protecting, and ensuring the public  
21 interest in charity.

22 Q. So if, in fact, a set of facts or course of --  
23 course of conduct making the decision to intervene would  
24 benefit the opposing party in the litigation to the  
25 charity trust, what would you expect the position of the

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1 attorney general's office to be?

2 A. Under that hypothetical, if we were being  
3 asked to intervene to aid a party that was actively  
4 seeking to harm a charity, we should not intervene  
5 under -- under those circumstances.

6 Q. Well, in the case you were -- are -- were you  
7 aware -- did you become aware of the Mitte Foundation?

8 A. Again, I did become aware of the Mitte  
9 Foundation. The attorney general personally brought the  
10 issue to my attention.

11 Q. And when did it -- and when did the attorney  
12 general bring that matter to your attention?

13 A. It was either toward the end of May or the  
14 beginning of June. It was sometime in that time frame.

15 Q. How did it happen that he brought it to your  
16 attention?

17 A. He asked me to review the file and consider  
18 whether or not there was a basis for our office to  
19 intervene in the litigation pursuant to our statutory  
20 authority.

21 Q. Is that the third time you've now been asked  
22 within six months to review a matter that involved  
23 Nate Paul?

24 A. Yes. And I -- yes.

25 Q. All right. So at this time, how would you

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1 characterize your feelings about whether or not the AG's  
2 office ought to be getting involved in anything that  
3 involved Nate Paul?

4 A. My feelings were that I was becoming  
5 increasingly concerned because the initial foray into  
6 the world of Nate Paul was through the open records  
7 division. That had ended with the issuance of an  
8 uncharacteristic opinion. And now it had, in my view,  
9 metastasized to a new section within the attorney  
10 general's office that had nothing to do with open  
11 records. This was a completely new front. It had  
12 nothing to do -- by the way, in my -- it had nothing to  
13 do with the criminal investigation.

14 MR. OSSO: Objection. Narrative and  
15 nonresponsive.

16 MR. HARDIN: I'll ask him another  
17 question.

18 PRESIDING OFFICER: I'll sustain the  
19 objection.

20 MR. HARDIN: Thank you.

21 Q. (BY MR. HARDIN) As you -- whether you -- when  
22 you were asked to look at this, where and when was that?

23 A. Early June.

24 Q. And how and where -- how and where did it  
25 occur?

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1 A. In the office on the eighth floor.  
 2 Q. And who was present for the conversation?  
 3 A. Based on my best recollection, it was just the  
 4 two of us. I believe it happened in my office on the  
 5 eighth floor.  
 6 Q. When the attorney general came into your  
 7 office, what did he say and what did he want?  
 8 A. He wanted me to review the litigation file and  
 9 evaluate whether or not there was a basis under our  
 10 statutory authority to intervene.  
 11 Q. At that time had you personally met Mr. Paul  
 12 yet?  
 13 A. No.  
 14 Q. And so how long did this conversation with the  
 15 attorney general who asked you to look at the file take?  
 16 A. My recollection is it was very brief. I got  
 17 the name of the case file from him, just the basic  
 18 identifying details so that I could locate it. And then  
 19 after that, he left.  
 20 Q. All right. Did you -- at that -- did -- once  
 21 you got the file, did you review it?  
 22 A. I reached out to a gentleman named Joshua  
 23 Godbey, who at the time oversaw our charitable -- our  
 24 financial litigation division. I wanted him to at least  
 25 help me evaluate this request because it was his

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1 division that had primary responsibility for deciding  
 2 whether or not to intervene.  
 3 Q. Did the attorney general tell you what he  
 4 wanted you to do at this time?  
 5 A. Beyond just the desire to review the file to  
 6 consider intervention, no. It was very -- it was very  
 7 straightforward: Consider this for intervention.  
 8 Q. How long did you talk to Mr. Godbey? And  
 9 afterwards did you review any materials, or did you stop  
 10 at your conversation with Mr. Godbey?  
 11 A. I asked Mr. Godbey to provide me background on  
 12 the case. I learned through those interactions that we  
 13 had actually waived on the case months before.  
 14 Q. All right. So at that time you became aware  
 15 that y'all had taken the position previously not to  
 16 intervene in the lawsuit?  
 17 A. That is -- that's what waiver means. When a  
 18 notice is sent to our office per statute, if there's a  
 19 charity involved in litigation, they're required to  
 20 notify our office of that and give us an opportunity to  
 21 intervene. We received that notice and we had issued a  
 22 declination of waiver.  
 23 Q. In your conversations and research, did you  
 24 discover when it was chronologically that the office had  
 25 previously declined to enter the litigation at all?

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1 A. My recollection, it was early in 2020.  
 2 Perhaps as early as January.  
 3 Q. All right. And so after that declination,  
 4 what did you learn -- what was the occasion for this  
 5 issue coming back before you?  
 6 A. My impression was it was the attorney general  
 7 asking me to review the file. And he --  
 8 Q. And at that time did you discover how long the  
 9 litigation between Mr. Paul's companies, therefore  
 10 Mr. Paul, and the Mitte Foundation, how long had they  
 11 been in litigation by that time?  
 12 A. It had been a long and sordid affair, yes.  
 13 Lots of litigation had taken place.  
 14 Q. And was it more than one year?  
 15 A. I believe it was more than that. I'm testing  
 16 my memory, but it had been -- it had been well -- the  
 17 case file was well developed.  
 18 Q. All right. So at -- in this time, once you  
 19 talked to him and once you talked to Mr. Godbey and  
 20 you've reviewed your other materials, what did you do  
 21 next?  
 22 A. Well, I -- I notified the attorney general  
 23 that we had waived. We had previously waived on the  
 24 file.  
 25 Q. And did you have a recommendation as to

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1 whether you continued that waiver?  
 2 A. Either at that time or subsequent to that, I  
 3 did. I had looked at the file. My strong belief -- and  
 4 by the way this is very common. We rarely intervene  
 5 because oftentimes the factors for intervention are  
 6 not --  
 7 MR. OSSO: Objection. Nonresponsive.  
 8 Q. (BY MR. HARDIN) Let me ask you: When you --  
 9 what was your opinion after you talked to Mr. Godbey and  
 10 looked under the circumstances -- by the time you talked  
 11 to the attorney general, what was your opinion as to  
 12 what you should do?  
 13 A. There was no basis for us to intervene in the  
 14 case.  
 15 Q. Did you have that recommendation to the  
 16 lieutenant -- I mean, did you have --  
 17 PRESIDING OFFICER: I'm going to object  
 18 again.  
 19 MR. HARDIN: I'm not suicidal, Your  
 20 Honor. I'm not. I promise.  
 21 Q. (BY MR. HARDIN) Did you have that -- did you  
 22 share that opinion with the attorney general?  
 23 A. My recollection, yes, I did share with him  
 24 what had happened. The waiver had been filed. And the  
 25 reason for the waiver was there was no basis for us to

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1 intervene.

2 Q. What was the attorney general's reaction?

3 A. He was not happy with that response.

4 Q. How did he -- how did he show he wasn't happy?

5 A. He informed me that he -- he was surprised and

6 not happy that we had waived. He wanted me to

7 reconsider the waiver. He informed me that in his view

8 it was improper for a charity to be oppressing a

9 business, especially when the charity was effectively a

10 limited investor in the business. He thought that was

11 out of bounds for a charity to do that. And it was his

12 view the litigation was somehow a form of oppression by

13 the charity toward the business.

14 Q. So if one were to ask, had he taken a

15 clear-cut position on one litigant against the other in

16 the case?

17 A. He was determined for us to intervene, and the

18 basis for that was he was concerned that the charity was

19 doing wrong to the World Class.

20 Q. And -- and when the -- did he express any kind

21 of feelings of himself against Mr. Godbey's thus far

22 resistance to entering the litigation?

23 A. Yes. Mr. Godbey was resistant to entering in

24 litigation. He and I had many conversations to that

25 effect. We were both in agreement that intervening

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1 the expenses?

2 A. The litigation had -- when I -- when I earlier

3 said it was a long and sordid affair, what I meant by

4 that was World Class was rapidly burning through law

5 firms. It had developed a history of using law firms,

6 not paying their bills, cutting them loose, going on to

7 the next law firm. So it was using law firms at a

8 frightening rate. It was filing a number of motions.

9 It was resisting discovery into its books and records --

10 MR. OSSO: Objection to nonresponsive.

11 MR. HARDIN: No, it is responsive.

12 That's exactly what I'm asking. What were they -- what

13 was causing -- what was happening with the assets, and

14 so and which one -- which one of these two parties was

15 causing the expenses.

16 PRESIDING OFFICER: Our witness, try to

17 answer the questions directly for the Court.

18 THE WITNESS: Yes, Your Honor.

19 Q. (BY MR. HARDIN) All right. Now, at the end

20 of the day, could -- would you describe the dispute

21 being a minority investor investing in a company,

22 Mr. Paul's companies, and they can't get any records --

23 books or records to tell them what the expenses are --

24 sorry, what the value is or so -- and so there's a

25 lawsuit. Is that a fair resolution --

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1 would have been a -- was a poor choice and was not

2 justified by the circumstances.

3 Q. It was the position that made its way to the

4 attorney general?

5 A. Yes.

6 Q. How would you describe why you and Mr. Godbey

7 had concluded that you should not change the earlier

8 decision and should not intervene in the lawsuit?

9 A. The charity was represented by competent and

10 able counsel. It was taking legal positions that we

11 believe were justifiable. It was largely, from our

12 view, doing well in the litigation. The litigation

13 involved a request to -- for World Class to produce

14 books and records concerning the investments the charity

15 had made, and World Class was refusing to provide those,

16 which any good corporate lawyer knows is improper. And

17 so the charity was defending its interest in its

18 investment aggressively and appropriately.

19 Q. And -- and was the charity itself simply

20 seeking to -- to find out what the value of their

21 investment was?

22 A. Yes. Among other things, yes.

23 Q. Among that. And among that and others.

24 And whatever expenses that have been

25 incurred when y'all looked at the file, who was causing

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1 A. That is --

2 Q. -- a fair description?

3 A. That is my understanding of the basis for the

4 lawsuit, yes.

5 Q. All right. And so when -- when all of this

6 was going on, what was -- once you told the attorney

7 general that you and Mr. -- you agreed with Mr. Godbey

8 you should not interfere, what happened?

9 A. He effectively directed us to intervene.

10 Q. Pardon me?

11 A. He -- he directed us to intervene.

12 Q. He instructed y'all to?

13 A. Yes.

14 Q. So did he interfere in a lawsuit -- that

15 interference, did that ultimately turn out to be on the

16 side and effect of Mr. Paul?

17 MR. OSSO: Objection to leading.

18 Q. (BY MR. HARDIN) How did it --

19 PRESIDING OFFICER: Sustained.

20 Q. (BY MR. HARDIN) How did it end up? I mean,

21 was there anybody that benefited from that by the fact

22 that the attorney general's office came in?

23 A. Yes.

24 MR. OSSO: Objection to speculation. And

25 an improper opinion, Your Honor.

MARY ORALIA BERRY, CSR, RDR, CRR, CBC

1 MR. HARDIN: Well --

2 PRESIDING OFFICER: Sustained.

3 Q. (BY MR. HARDIN) Well, you clearly, though,

4 knew what the result was going to be, did you not?

5 MR. OSSO: Objection to improper opinion

6 and speculation.

7 MR. HARDIN: Excuse me. Just let me

8 finish, please, the question.

9 PRESIDING OFFICER: Let him finish the

10 question.

11 MR. HARDIN: Thank you.

12 Q. (BY MR. HARDIN) When you were opposed to the

13 intervention, whom did you believe would benefit from

14 the intervention?

15 MR. OSSO: Objection to speculation and

16 improper opinion.

17 MR. HARDIN: I've asked what his opinion

18 is. That's very relevant here.

19 MR. OSSO: And I'm objecting to the

20 opinion.

21 MR. HARDIN: Excuse me. He's --

22 PRESIDING OFFICER: Overruled.

23 MR. HARDIN: Thank you.

24 Q. (BY MR. HARDIN) Whom did you believe would

25 benefit from the intervention?

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1 A. It was clear to me that the intervention --

2 Q. Use your microphone, please.

3 A. It was clear to me the intervention would

4 benefit World Class Holdings and Nate Paul.

5 Q. All right.

6 A. There was no question about that.

7 Q. And what was your position expressed to the

8 attorney general as to whether that was appropriate or

9 not?

10 A. It was not appropriate.

11 Q. All right. In spite of that, there was an

12 intervention?

13 A. There was an intervention. It was directed by

14 the attorney general to do so. I instructed Josh Godbey

15 to make the intervention. We justified it on the basis

16 that we would intervene for the purpose of bringing the

17 parties together for a mediation. That's honestly how I

18 put lipstick on that pig.

19 Q. Had there -- what was your knowledge as to

20 whether there had already been one mediation that was

21 unsuccessful?

22 A. Yes, there had been.

23 Q. Had there been an agreement previously?

24 A. Yes.

25 Q. And do you remember how much that mediation

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1 that there was an agreement for, that -- that the Mitte

2 Foundation would receive?

3 A. Yes.

4 Q. How much was that?

5 A. My recollection was around \$10 million.

6 Q. And then was that -- that agreement breached?

7 A. Yes.

8 Q. By whom?

9 A. World Class.

10 Q. And by the time that y'all were asked to

11 intervene -- or instructed and ordered to intervene,

12 what was the status of the litigation?

13 A. The Mitte Foundation was pressing -- my

14 best -- based on my recollection, they were pressing

15 hard for discovery into World Class, and World Class was

16 approaching a point where they were risking sanctions

17 for discovery noncompliance.

18 Q. What was your experience, both then and later,

19 that even has to do with this case in terms of was there

20 a particular consistent approach of Mr. Paul whenever he

21 got into civil litigation as it applied to discovery?

22 A. He resisted it strongly, based on what I could

23 tell from the file.

24 Q. All right. And so what did you do in terms of

25 your position in the office after you were instructed to

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1 intervene?

2 A. I advised Mr. Godbey of the decision to

3 intervene in the case. The basis for that intervention

4 would be to formulate a mediation to bring the parties

5 back together again. Again, that was a post hoc

6 rationalization. And we began speaking with the parties

7 involved in the lawsuit.

8 Q. Did you have any reason or belief that that

9 was going to be successful?

10 A. No.

11 Q. And ultimately was it successful?

12 A. No.

13 Q. And was there another final thing that you

14 were instructed to do with the case that ended up with

15 you being not involved any longer?

16 A. Following our intervention, Mr. Paxton -- the

17 attorney general asked if we could also file a motion to

18 stay the proceedings.

19 Q. Would that have stayed the discovery?

20 A. Yes.

21 Q. And how was it that you knew that's what the

22 attorney general wanted to do?

23 A. He conveyed that to me himself.

24 Q. What was your reaction?

25 A. I could see no justification for that. That

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1 would have been directly against the public interest in  
2 charity and directly for the benefit of only one party,  
3 World Class.

4 Q. Did you inform the attorney general of that?

5 A. I told him that I was very uncomfortable  
6 filing a motion to stay and resisted it, yes.

7 Q. So what was his reaction to that?

8 A. He was not pleased with that. I was  
9 subsequently removed from the file by Mr. Mateer.

10 Q. And did Mr. -- without going into what he  
11 said, what was your understanding as to why you were no  
12 longer going to be there with the file?

13 A. My understanding was that Mr. Mateer believed  
14 that I was wasting time dealing with Nate Paul, and that  
15 I needed to stop wasting time dealing with matters  
16 concerning Nate Paul.

17 Q. So then after that -- and were you opposed to  
18 being removed from that file?

19 A. I was very happy to be removed from that file.  
20 I was quite frankly sick of dealing with Nate Paul.

21 Q. Did you do anything like the equivalent of a  
22 high five or go out and visit, have a nice dinner or  
23 anything?

24 A. I was very relieved.

25 Q. And so at the end of the time when you left

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1 that file then, did you -- was that it? The rest of  
2 your professional career, was that your last contact  
3 with anything having to do with Nate Paul?

4 A. No.

5 Q. When is the next time that Nate Paul appears  
6 on your radar screen?

7 A. So this is the summer of 2020. We are still  
8 working around the clock on COVID matters, which was my  
9 primary focus. And in late July -- and, again,  
10 Mr. McCarty and others had taken over the Mitte  
11 Foundation file. I was approached by the attorney  
12 general again, this time to evaluate a matter related to  
13 COVID, and in particular the governor's order, GA -- I  
14 believe it was GA-28. It was one of the closure  
15 orders -- as it pertained to foreclosures of real  
16 estate.

17 Q. Now, at this time did you have any idea or any  
18 inclination at all that this also was going to involve  
19 Mr. Paul?

20 A. No.

21 Q. Do you recall approximately -- when you say in  
22 the summer, I think you just said July now, because it's  
23 September and it's hard to tell this between July, if  
24 it -- did you say July 31st or was it earlier than that?

25 A. It was earlier in the week, yes.

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1 Q. All right. And how did the attorney general  
2 contact you and what did he want to know?

3 A. He came to me in person, and he asked me to  
4 evaluate whether or not foreclosure sales should be  
5 allowed or could be allowed to continue, given the  
6 current state of the governor's -- or COVID orders.

7 Q. All right. So now we're late July. The  
8 governor's orders roughly come out the middle of March  
9 of that same year, correct?

10 A. And they were continuing to come out  
11 thereafter.

12 Q. There would be periodic orders issued. Did  
13 the attorney general express any interest in what he  
14 wanted to happen?

15 A. Not at the -- not at first, no.

16 Q. All right. So did you do anything in response  
17 to his immediate question?

18 A. I did not.

19 Q. And why -- and why was that?

20 A. It was sort of an offhanded request, and we  
21 were busy dealing with a whole litany of matters related  
22 to COVID. It was also one of those sort of, hey, take a  
23 look at this, type of request. There was no real  
24 timeframe associated with it. So I put it on my to-do  
25 list, but it didn't get high priority at that moment.

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1 Q. And then when was the next time he contacted  
2 you about it, if he did?

3 A. A few days later he approached me and wanted  
4 to know if we had done the research and it was  
5 completed.

6 Q. Do you recall which day of the week it was he  
7 approached you?

8 A. I believe it was Thursday. Yes, I believe it  
9 was that Thursday.

10 Q. And what did you tell him?

11 A. I said, no, it was not.

12 Q. All right. So then did he say anything  
13 further?

14 A. Yes. He said, get on it. We need to get this  
15 done right away.

16 Q. Did he express what he meant by right away?

17 A. He said this needs to happen within the next  
18 few days.

19 Q. And that was on a Thursday?

20 A. Yes.

21 Q. Well, the next few days is -- takes into a  
22 weekend, right?

23 A. That's right.

24 Q. Did he express why he needed something done  
25 that weekend?

MARY ORALIA BERRY, CSR, RDR, CRR, CBC

1 A. He did.  
 2 Q. What did he say?  
 3 A. He said that homeowners across Texas would  
 4 benefit from an opinion dealing with foreclosures.  
 5 Q. Now, you don't know anybody else is going to  
 6 benefit from this. What was your reaction to that? Did  
 7 you -- did you believe --  
 8 MR. OSSO: Objection to leading.  
 9 Q. (BY MR. HARDIN) -- it really was focusing on  
 10 homeowners?  
 11 PRESIDING OFFICER: Overruled.  
 12 MR. OSSO: Objection overruled. okay.  
 13 PRESIDING OFFICER: Overruled.  
 14 Answer the question.  
 15 A. I quite frankly wasn't quite sure what to  
 16 think about it because I was scrambling to pull together  
 17 the research. I had no basis to know whether or not  
 18 homeowners would benefit or not.  
 19 Q. (BY MR. HARDIN) All right. So did he -- did  
 20 he provide you any evidence or any -- anything to -- to  
 21 help you understand whether this was really about  
 22 helping homeowners or not?  
 23 A. No, but he did -- I did ask him directly if  
 24 there was someone I could speak to who was cognizant of  
 25 the issues or perhaps that even made the request.

MARY ORALIA BERRY, CSR, RDR, CRR, CBC

1 Q. What did he tell you?  
 2 A. We were standing in the hallway of the eighth  
 3 floor --  
 4 Q. Let me stop you. What day?  
 5 A. This was Thursday, I believe.  
 6 Q. All right.  
 7 A. Yes.  
 8 Q. Go ahead.  
 9 A. We were standing out in the hallway. And I  
 10 asked him if there was someone I could speak with who  
 11 had knowledge of the request.  
 12 Q. Now, let me stop you there. Let's explain to  
 13 the jury as quickly as we can why that was relevant.  
 14 What -- what is the law that would require you to have  
 15 some type of requestor?  
 16 A. Well, the law, based on the Government Code  
 17 402, I think it's 045 or thereabouts, our office is not  
 18 allowed to issue opinions to individuals, unless those  
 19 individuals are called out in the code specifically.  
 20 Q. And did -- and did he give you any suggestion  
 21 as to who was asking for this or who wanted it or  
 22 anything?  
 23 A. He did -- he went back to his office and  
 24 returned in a few minutes and handed me a scrap of paper  
 25 with a phone number on it.

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1 Q. And did it have a name as well as a phone  
 2 number?  
 3 A. I can't recall, but I just -- I recall the  
 4 phone number for sure.  
 5 Q. So what did you --  
 6 A. If it was a name, I don't -- it didn't ring a  
 7 bell.  
 8 Q. What did you do with his phone number?  
 9 A. I put it in my pocket -- it was toward the end  
 10 of the day -- and committed to call the phone number  
 11 that day.  
 12 Q. What, on the way home or what?  
 13 A. It was late. We were pulling very late hours  
 14 at that time because of COVID. So I do recall it was in  
 15 my pocket. I was dealing with some other exigent  
 16 circumstances. And I recall pulling into my driveway  
 17 that evening. It was dark. So I got home very late.  
 18 Q. So did you call this guy?  
 19 A. I did.  
 20 Q. And -- and tell us what happened.  
 21 MR. OSSO: Objection to hearsay. This  
 22 question calls for hearsay, Judge.  
 23 MR. HARDIN: Well, actually -- actually  
 24 this isn't offered for the truth of the matter. This is  
 25 simply an operative fact of this particular event, Your

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1 Honor.  
 2 MR. OSSO: Judge, he's asking --  
 3 PRESIDING OFFICER: Stop.  
 4 MR. HARDIN: Excuse me.  
 5 PRESIDING OFFICER: Sustained. Rephrase.  
 6 Q. (BY MR. HARDIN) Did you call this guy?  
 7 A. I did.  
 8 Q. And did he answer?  
 9 A. Yes.  
 10 Q. And did you have a conversation?  
 11 A. I did have a conversation.  
 12 Q. And did he know anything about what you were  
 13 calling about?  
 14 MR. OSSO: Objection to hearsay.  
 15 MR. HARDIN: That is not hearsay.  
 16 MR. OSSO: Backdoor hearsay, Your Honor.  
 17 MR. HARDIN: Excuse me. It is not  
 18 hearsay.  
 19 MR. OSSO: His question insinuates an  
 20 answer from this individual, which would be hearsay.  
 21 MR. HARDIN: It doesn't matter. Hearsay  
 22 is a communication. This is a -- he -- he did not  
 23 answer -- I did not --  
 24 PRESIDING OFFICER: Sustained.  
 25 MR. HARDIN: -- ask him if he

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1 communicated. Thank you.

2 Q. (BY MR. HARDIN) Well, did you find out  
3 whether this guy knew anything about it?

4 MR. OSSO: Objection, Your Honor, to  
5 hearsay.

6 PRESIDING OFFICER: I sustain the  
7 objection.

8 MR. HARDIN: Surely -- surely the  
9 question of did you find out whether this guy knew  
10 anything about it is not hearsay, in all due respect.

11 MR. OSSO: It's the same conversation,  
12 Your Honor. It's hearsay.

13 MR. HARDIN: I haven't asked him, Your  
14 Honor, what the conversation was. I haven't asked him  
15 what the person said.

16 PRESIDING OFFICER: Just answer yes or no  
17 to the question, not go into the contents of the  
18 conversation.

19 A. Could you please restate the question?

20 Q. (BY MR. HARDIN) I asked you, well, did you  
21 find out whether this guy knew anything about the matter  
22 that you were calling about?

23 MR. OSSO: Judge, I'd reurge my objection  
24 that --

25 MR. HARDIN: The judge has already ruled.

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1 Q. (BY MR. HARDIN) Would you answer yes or no?

2 MR. OSSO: Judge, I reurge the objection  
3 that it is hearsay. Anything --

4 PRESIDING OFFICER: He can answer yes or  
5 no.

6 MR. OSSO: Yes, Judge.

7 A. I did learn whether or not this gentleman knew  
8 anything about the file.

9 Q. (BY MR. HARDIN) All right. So as a result of  
10 what you -- what you learned from that conversation, did  
11 you go then back to the attorney general, or -- or  
12 contact him one way or the other?

13 A. I returned to the attorney general to seek  
14 additional assistance because I still had no assistance.

15 Q. All right. And did you -- what did you tell  
16 the attorney general and what did he say to you?

17 A. Well, I went back to the attorney general, and  
18 we still did not have an authorized requestor in the  
19 code.

20 Q. Did you tell him that this guy didn't know  
21 anything about it?

22 MR. OSSO: Objection, Your Honor, to  
23 hearsay.

24 MR. HARDIN: No, excuse me.

25 MR. OSSO: His question --

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1 MR. HARDIN: Let the --

2 MR. OSSO: The form of this question --  
3 (Simultaneous crosstalk)

4 PRESIDING OFFICER: Stop arguing with  
5 each other.

6 MR. HARDIN: Let --

7 PRESIDING OFFICER: Finish your  
8 objection. Your objection is?

9 MR. OSSO: The form of Mr. Hardin's  
10 question is hearsay. He is insinuating and stating  
11 hearsay in his question.

12 MR. HARDIN: The difference is he's in  
13 the presence of the attorney general. And we're about  
14 to have, by acquiescence, by silence in this, and it is  
15 not being offered for the truth of the matter. It's  
16 being offered the fact that he told the attorney  
17 general, which then has -- then influences the attorney  
18 general's conduct following.

19 MR. OSSO: Judge, he's backdooring  
20 hearsay through a witness that he -- the witness hasn't  
21 even stated his name.

22 PRESIDING OFFICER: Sustained.  
23 Continue.

24 MR. HARDIN: It -- may I be heard  
25 briefly? Just -- I just want to point out one thing.

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1 I'm not arguing with you at all.

2 It's important to understand that when  
3 we're talking about hearsay, this man is the witness.  
4 Hearsay is designed to prevent people from coming into  
5 court and repeating something that can't be  
6 cross-examined. This man can be cross-examined about  
7 the conversations that he had previously. But more  
8 importantly, he's there having a conversation with the  
9 attorney general.

10 The attorney general is the one who has  
11 sent him on the mission. And the attorney general, by  
12 acquiescence, is acceding to the comment. And when you  
13 put all that together, I'd respectfully ask the Court to  
14 reconsider.

15 MR. OSSO: And, Your Honor, we're talking  
16 about a conversation with an unnamed witness on an  
17 unknown number on a sheet of paper we don't have. This  
18 is hearsay.

19 PRESIDING OFFICER: Try rephrasing the  
20 question one more time. Would you rephrase the question  
21 one more time?

22 MR. HARDIN: Thank you. Thank you,  
23 Judge.

24 Q. (BY MR. HARDIN) When you -- when you talked  
25 to the attorney general, what did you tell him about

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1 your conversation and what was his response?  
 2 MR. OSSO: Objection. Hearsay, Judge.  
 3 PRESIDING OFFICER: Overruled.  
 4 Continue. Answer the question.  
 5 MR. HARDIN: Thank you.  
 6 A. I shared with the attorney general that the  
 7 random number he had provided me and the gentleman had  
 8 yielded no helpful information to me whatsoever.  
 9 Q. (BY MR. HARDIN) Did he know anything about  
 10 what you were calling about?  
 11 A. The attorney general?  
 12 Q. No. The man you called.  
 13 A. No.  
 14 Q. All right. And so when you told the attorney  
 15 general that, what was his reaction?  
 16 A. He shrugged it off and said let's proceed  
 17 anyways.  
 18 Q. All right. So you went and searched then for  
 19 a requestor, did you?  
 20 A. I -- I enlisted the assistance of Ryan Fisher.  
 21 Q. All right. So now what would you need to be  
 22 able to render this opinion that the attorney general  
 23 had requested?  
 24 A. Well, if we were going to issue an opinion to  
 25 an individual, we needed someone who was authorized to

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1 make a request to our office.  
 2 Q. All right. And were you ultimately informed  
 3 that Mr. Fisher had -- without going into what he said  
 4 one way -- located a requestor?  
 5 A. Yes.  
 6 Q. And who was the requestor?  
 7 A. senator Bryan Hughes.  
 8 Q. All right. Now, I want to be very clear. Do  
 9 you have any evidence from any source or any reason to  
 10 believe that at the time that Senator Hughes was asked  
 11 to be the requestor that he had any idea that that would  
 12 benefit any particular individual at all?  
 13 A. No.  
 14 Q. All right. And we're now three years later.  
 15 Would it be your opinion that Senator Hughes had no idea  
 16 that the request he's making might be used in a way that  
 17 wasn't --  
 18 MR. OSSO: Objection to leading. And  
 19 improper opinion.  
 20 MR. HARDIN: Excuse me. You have to let  
 21 me finish the sentence.  
 22 MR. OSSO: It calls --  
 23 MR. HARDIN: Excuse me, sir. I want it  
 24 in the record I finish the sentence, he can object, and  
 25 the Court can rule.

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1 PRESIDING OFFICER: Finish the sentence.  
 2 Finish the sentence.  
 3 MR. HARDIN: Thank you very much.  
 4 Q. (BY MR. HARDIN) Either then or since, do you  
 5 have any belief that yourself, you yourself, that  
 6 Senator Hughes had any idea that by being asked to be a  
 7 requestor for an opinion, that opinion was going to be  
 8 used to either help or hurt anybody else?  
 9 A. No, no basis for that.  
 10 Q. All right. And, of course, was Nate -- was  
 11 Nate Paul's name ever mentioned in this at all?  
 12 A. The attorney general studiously avoided using  
 13 the name Nate Paul.  
 14 MR. OSSO: Objection. Improper opinion.  
 15 Speculation.  
 16 Q. (BY MR. HARDIN) All right. And then --  
 17 MR. OSSO: I would ask that the answer --  
 18 I'd ask -- I'd ask that the objection be ruled on,  
 19 Judge, and to strike this witness's testimony based on  
 20 the ruling.  
 21 MR. HARDIN: Well, I --  
 22 PRESIDING OFFICER: Overruled.  
 23 Q. (BY MR. HARDIN) All right. Now, when you  
 24 then -- what was -- what was the mission you were then  
 25 going to have to do after you got the request from

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1 Senator Hughes, and was the request done by text or  
 2 what? Or did you have any contact with him, or -- or  
 3 just with Mr. Fisher?  
 4 A. I did not personally have any contact with the  
 5 senator, no.  
 6 Q. All right. And so then what was your mission?  
 7 What was your obligation to do?  
 8 A. My assignment was to prepare the opinion with  
 9 the assistance of deputy for legal counsel Ryan Vassar.  
 10 Q. How were you going to do that? What were you  
 11 going to do?  
 12 A. I assigned the research to Ryan Vassar. He  
 13 began the process of researching on Friday. And the  
 14 plan was for him to send me some -- a draft the next  
 15 day.  
 16 Q. All right.  
 17 A. On Saturday.  
 18 Q. And when he did, what time of day -- well,  
 19 when did y'all start conversing? Did you have  
 20 conversations with him on Friday night?  
 21 A. I did speak with him on Friday, yes.  
 22 Q. Who was doing the drafting Friday night?  
 23 A. Ryan Vassar.  
 24 Q. And what were y'all doing about drafts?  
 25 A. Ryan Vassar was preparing the initial draft,

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1 and then he would share it with me by e-mail.  
 2 Q. Now, was the attorney general involved in this  
 3 process at all?  
 4 A. Initially, no. But subsequently, yes.  
 5 Q. When did he become involved?  
 6 A. Saturday.  
 7 Q. And what happened Saturday that ended up  
 8 having to -- getting the attorney general involved?  
 9 A. After we completed what we believed was a  
 10 satisfactory draft, we provided it to the attorney  
 11 general by e-mail.  
 12 Q. And when you did so, would you estimate what  
 13 time of day it was?  
 14 A. It was late morning, if I recall correctly.  
 15 Q. And what conclusion did you and Mr. Vassar  
 16 reach as to what the answer should be?  
 17 A. Generally speaking, no, that -- that the  
 18 governor's orders would not prevent foreclosure sales  
 19 from going forward.  
 20 Q. And that -- and I'm not sure we made clear  
 21 just exactly what the mission was. What -- what issue  
 22 were you researching and going to issue an opinion on?  
 23 A. Whether or not the governor's COVID orders  
 24 would preclude foreclosure sales from taking place.  
 25 Q. And would it -- was there a limit? Was it a

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1 location?  
 2 A. My recollection -- and, again, it's been a  
 3 while -- is that these foreclosure sales generally  
 4 happened in person on a certain day of the month. And  
 5 there was a question as to whether or not guidelines  
 6 governing the number of persons who could gather in one  
 7 place would prohibit or restrict a foreclosure sale from  
 8 going forward.  
 9 Q. And the issue of the numbers of people as to  
 10 whether they could gather here was what? Do you  
 11 remember the numbers?  
 12 A. Oh, the governor's orders?  
 13 Q. Yes.  
 14 A. There were -- there were county, city orders,  
 15 the governor's orders. I -- the number 10 sticks in my  
 16 mind, but that was my recollection.  
 17 Q. And were -- and were these -- were these  
 18 foreclosure events to occur outside?  
 19 A. Yes.  
 20 Q. What had been, as of the July 31st, August 1st  
 21 time frame, the attorney general's office's position,  
 22 and the attorney general's position himself, as to  
 23 whether events like this should be open?  
 24 A. Ideologically we were vastly in favor of  
 25 openness. We were looking for every opportunity to

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1 signal to the public that Texas should be open for  
 2 business.  
 3 Q. So if one were to close those foreclosure  
 4 events, would that have been consistent or inconsistent  
 5 with the position that the attorney general's office and  
 6 the attorney general himself had been taking in the  
 7 months before July 31st and August 1st?  
 8 MR. OSSO: Objection. Improper opinion.  
 9 MR. HARDIN: Excuse me. He's entitled to  
 10 express whether --  
 11 PRESIDING OFFICER: Overruled.  
 12 Overruled.  
 13 MR. HARDIN: Thank you, Judge. Thank  
 14 you.  
 15 A. It would have been contrary.  
 16 Q. (BY MR. HARDIN) All right. Now, the opinion  
 17 that -- that you reached, what did you inform -- did  
 18 you -- who called the attorney general, or whatever  
 19 communication you used, to let him know what your  
 20 position was?  
 21 A. I e-mailed him the draft that Mr. Vassar had  
 22 prepared and that I had reviewed.  
 23 Q. And at that time, who signed the draft, or was  
 24 it signed at all? Was it still a draft?  
 25 A. Still a draft. Although I -- if my

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1 recollection serves me right, it was set up for  
 2 Mr. Vassar's signature.  
 3 Q. All right. And so -- and your conclusion was  
 4 that you notified him, other than that draft, was what?  
 5 A. Generally speaking foreclosures could go  
 6 forward.  
 7 Q. All right. And then what response did you get  
 8 from the attorney general?  
 9 A. At some point that afternoon he informed me  
 10 that that was not --  
 11 Q. What time -- what time of day and how?  
 12 A. Mid-afternoon is my best recollection.  
 13 Q. What did he tell you?  
 14 A. That was not the answer that he wanted or that  
 15 he was looking for.  
 16 Q. So what did he instruct you to do?  
 17 A. The opposite. Do the opposite.  
 18 Q. Do you recall what he said?  
 19 A. It was effectively this is not going to work.  
 20 We need to do something very different. We need to  
 21 write this a different way so that foreclosure sales  
 22 don't go forward. And, of course, he repeated his  
 23 mantra about helping homeowners in Texas. And, of  
 24 course, at that point I understood sort of what his  
 25 argument -- I mean, I could -- I could understand why he

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1 was arguing that, but he did say let's reverse it and go  
2 this direction.

3 Q. Let's reverse what?

4 A. The opinion that we had reached.

5 Q. And so what did you and Mr. Vassar do?

6 A. We wrote it the way that the attorney general  
7 had asked. I -- I specifically asked Mr. Vassar if it  
8 was an 80/20 or 90/10 proposition, if it could pass the  
9 laugh test. And he thought he could write it in a way  
10 that it could pass the laugh test.

11 Q. And when you -- did -- had you begun to wonder  
12 why he was so involved in this?

13 A. It was very uncharacteristic for the attorney  
14 general.

15 Q. Pardon me?

16 A. It was exceptionally uncharacteristic for the  
17 attorney general to be involved in an opinion like this.

18 Q. Now -- so what did you guys do to go draft the  
19 opposite opinions, or did you just deliver it?

20 A. I assigned it to Mr. Vassar and he got to  
21 work.

22 Q. And how did y'all get to work? What -- what  
23 were the next seven or eight hours like?

24 A. He prepared the draft. He sent me the draft.  
25 We edited it. I provided it to the attorney general

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1 that evening. He had some additional comments and  
2 requests for changes to the opinion. We worked past  
3 midnight.

4 Q. How many times did you talk to the attorney  
5 general?

6 A. Several.

7 Q. Did the attorney general initiate calls with  
8 you during this period of time?

9 A. Yes.

10 Q. And if you had to estimate, how many times did  
11 the attorney general reach out to you about the language  
12 of your opinion and what he wanted in it that night?

13 A. Multiple times. It was at least three or  
14 four, probably more.

15 Q. Would the phone records going back and forth  
16 from your numbers be the best judgment? If the -- if  
17 the phone records show calls that particular night --

18 MR. OSSO: Objection to leading and  
19 attorney testifying about facts not in evidence.

20 MR. HARDIN: Excuse me. I still get to  
21 finish the question.

22 MR. OSSO: I'm objecting to the line of  
23 questioning.

24 PRESIDING OFFICER: Overruled.

25 Q. (BY MR. HARDIN) How many times did the

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1 attorney general call you with suggested language?

2 A. Several.

3 Q. And then when he did that, were you at any  
4 time going back and initiating calls to him?

5 A. Generally speaking, I was calling Mr. Vassar.  
6 And yes, I do believe I called the attorney general a  
7 few times, if I recall correctly.

8 Q. All right.

9 PRESIDING OFFICER: Counsel, we're going  
10 to -- about -- are you in a good position here? Say  
11 another five, 10 minutes, is that a good break point, or  
12 do you want --

13 MR. HARDIN: That would be -- that would  
14 be fine. I won't -- I'm not going to be able to finish,  
15 I'm afraid.

16 PRESIDING OFFICER: Right. I assume you  
17 would be back to it. So five or 10 minutes?

18 MR. HARDIN: Sure.

19 PRESIDING OFFICER: Is that?

20 MR. HARDIN: That's great. That's  
21 perfect. Thank you, sir.

22 Q. (BY MR. HARDIN) All right. Now, on this  
23 particular issue, what time in the morning did you guys  
24 complete the opinion giving the attorney general the  
25 result he wanted?

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1 A. It was after midnight.

2 Q. Okay. And did you -- by the time midnight  
3 came around, how would you describe the attorney  
4 general's conduct that night in terms of his involvement  
5 with you?

6 A. It was bizarre.

7 Q. And why was it bizarre?

8 A. He was acting like a man with a gun to his  
9 head.

10 Q. In what way?

11 A. Anxious, desperate, urging me to get this out  
12 as quickly as humanly possible. I was very concerned --

13 MR. OSSO: Objection to speculation, Your  
14 Honor, speculating about what Mr. Paxton felt at the  
15 time.

16 MR. HARDIN: My question is directed  
17 toward his reaction and observation as to the way the  
18 attorney general was acting.

19 PRESIDING OFFICER: Overruled.

20 Continue.

21 Q. (BY MR. HARDIN) Go ahead, sir.

22 A. All of those things. He was desperate to get  
23 it out quickly.

24 MR. OSSO: Objection to speculation,  
25 Judge. And improper opinion.

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1 PRESIDING OFFICER: Overruled, Counselor.  
 2 Q. (BY MR. HARDIN) Did he have a deadline for  
 3 you guys that he told you when he wanted to get it done  
 4 by?  
 5 A. It had to be done that weekend.  
 6 Q. Pardon me?  
 7 A. It had to be done that weekend.  
 8 Q. Okay. You have to keep by the microphone --  
 9 I'm sorry.  
 10 Now, when were -- were you supposed to  
 11 have it done -- when -- did he give you a day? Because  
 12 I didn't quite understand your answer before. I  
 13 apologize.  
 14 A. Yes. It had to be done that weekend.  
 15 Q. That weekend. Did he tell you why?  
 16 A. He continued to repeat his mantra that this  
 17 was going to help homeowners.  
 18 Q. All right. And did he explain to you any  
 19 homeowners were in crisis by Monday morning?  
 20 A. No.  
 21 Q. Did you yourself start connecting any dots as  
 22 to what this might involve as a result of all of this?  
 23 A. I began to form an opinion, yes, about what  
 24 was happening.  
 25 Q. And what was that?

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1 A. He had asked us to completely rewrite the  
 2 opinion, to change the conclusion. He had done so in a  
 3 whirlwind of activity --  
 4 MR. OSSO: Objection to nonresponsive.  
 5 MR. HARDIN: I think it's very  
 6 responsive.  
 7 PRESIDING OFFICER: Overruled.  
 8 MR. HARDIN: Thank you.  
 9 Q. (BY MR. HARDIN) Go ahead.  
 10 A. Based on those observations, I was very --  
 11 given the fact that there had been no profit from prior  
 12 interactions with the phone number he gave me, I was  
 13 very concerned that something unusual was going on.  
 14 MR. OSSO: Objection to speculation.  
 15 Q. (BY MR. HARDIN) Let me ask you this.  
 16 MR. HARDIN: I didn't hear the last  
 17 answer.  
 18 MR. OSSO: I objected to speculation.  
 19 MR. HARDIN: Excuse me. May I?  
 20 PRESIDING OFFICER: Overruled.  
 21 MR. HARDIN: Thank you.  
 22 May I point out, she can't get both of  
 23 us, and it's just a nightmare for the court reporter --  
 24 MR. OSSO: I'm objecting to sidebar,  
 25 Judge.

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1 MR. HARDIN: Excuse me, sir.  
 2 PRESIDING OFFICER: Excuse me. Both of  
 3 you, you're correct. She can't record two people at one  
 4 time so try not to talk over each other.  
 5 MR. OSSO: Yes, Your Honor.  
 6 PRESIDING OFFICER: Thank you, Counselor.  
 7 MR. HARDIN: Thank you.  
 8 Q. (BY MR. HARDIN) Now, after that, did you  
 9 learn of any particular event that involved Nate Paul  
 10 that would indicate a potential benefit from the ruling  
 11 that you would ultimately issue?  
 12 MR. OSSO: Objection to leading and  
 13 speculation.  
 14 MR. HARDIN: I asked what he learned.  
 15 It's not speculation.  
 16 MR. OSSO: He insinuated.  
 17 PRESIDING OFFICER: I'll sustain that  
 18 one. Rephrase.  
 19 MR. HARDIN: All right. Thank you,  
 20 Judge.  
 21 Q. (BY MR. HARDIN) Did you yourself also find  
 22 out anything about Nate Paul and a foreclosure event?  
 23 MR. OSSO: Objection to relevance.  
 24 MR. HARDIN: Oh, I think it's very  
 25 relevant.

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1 MR. OSSO: And speculation as well,  
 2 Judge.  
 3 MR. HARDIN: It's very relevant and  
 4 that's -- that's -- I'm sorry.  
 5 PRESIDING OFFICER: Rephrase one more  
 6 time.  
 7 MR. HARDIN: Yes.  
 8 Q. (BY MR. HARDIN) Did you yourself ultimately  
 9 discover a benefit to Nate Paul from what y'all had  
 10 done?  
 11 A. Yes.  
 12 Q. And what was that?  
 13 MR. OSSO: Objection to lack of personal  
 14 knowledge. This witness -- he's not laid the foundation  
 15 to show how Mr. Bangert would have this found out,  
 16 Judge. So lack of personal knowledge.  
 17 MR. HARDIN: I -- I don't know how -- if  
 18 he knows it and he learned it, he can then challenge how  
 19 he learned it. He can challenge that. But whether or  
 20 not he learned of a benefit to Nate Paul, I -- I don't  
 21 know what the objection to that is.  
 22 MR. OSSO: I'm -- I'll be happy to take  
 23 him on voir dire, Judge.  
 24 PRESIDING OFFICER: I'll sustain it.  
 25 Q. (BY MR. HARDIN) Now, in -- ultimately, did

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1 you have any more -- the opinion that you issued, you  
 2 explained that it was contrary to the law as y'all  
 3 researched and issued your first opinion, correct?  
 4 A. It was not the best interpretation of the law,  
 5 by a long shot.  
 6 Q. Had -- had the attorney general ever, ever  
 7 inserted himself in a particular opinion during the time  
 8 you were there?  
 9 MR. OSSO: Objection to speculation.  
 10 MR. HARDIN: I asked whether he knows of  
 11 any time ever the attorney general had ever interfered  
 12 with an opinion like this.  
 13 PRESIDING OFFICER: Overruled.  
 14 MR. HARDIN: Thank you.  
 15 PRESIDING OFFICER: Answer the question.  
 16 A. I oversaw the opinion committee for over --  
 17 Q. (BY MR. HARDIN) Pardon?  
 18 A. I oversaw the opinion committee for over a  
 19 year. And in my time overseeing the opinion committee,  
 20 he never interjected himself in that way.  
 21 Q. During that year you were there, had he ever  
 22 interfered with the conclusions that the opinion  
 23 committee or anybody working in that committee had  
 24 issued?  
 25 A. On occasion he would have suggestions, but the

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1 degree of interference here was completely  
 2 unprecedented.  
 3 Q. Had you ever had him participate in the actual  
 4 drafting of an opinion?  
 5 A. No.  
 6 Q. In this particular time that you were talking  
 7 to him, and were there any -- when -- on that Saturday,  
 8 how many times would you estimate that he would call and  
 9 ask you how much longer?  
 10 A. Toward the end, it was repeatedly. He would  
 11 text me. If I recall correctly, he also called. But it  
 12 was a constant stream of communications.  
 13 Q. And did you ever see -- did he ever send back  
 14 to you some suggested change in language?  
 15 A. They were by phone call.  
 16 Q. All right. Did he ever call and discuss any  
 17 change of language?  
 18 A. Yes.  
 19 Q. Had you ever experienced anything like that  
 20 with the attorney general?  
 21 A. I had not.  
 22 Q. The final particular opinion, who initially  
 23 assigned -- signed it? At first which one of the two of  
 24 you signed it?  
 25 A. It was set up for Ryan Vassar's signature

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1 initially.  
 2 Q. Did the draft have that for him to sign  
 3 initially?  
 4 A. Yes.  
 5 Q. Did you change that?  
 6 A. I did.  
 7 Q. And what -- how did you change it and for what  
 8 reason?  
 9 A. I changed it to go out under my signature.  
 10 Q. And why?  
 11 A. At the end of the process, I had become very  
 12 alarmed by the attorney general's behavior. I had  
 13 promoted Ryan Vassar into that position myself and I  
 14 felt a degree of responsibility to him. He was still  
 15 building his career. And my sense was if something  
 16 broke bad with this, I did not want it to tarnish his  
 17 career.  
 18 MR. HARDIN: I think that's a good place  
 19 to stop, Your Honor.  
 20 PRESIDING OFFICER: Thank you,  
 21 Mr. Hardin.  
 22 We will adjourn until 9:00 a.m. tomorrow  
 23 morning. Thank you.  
 24 \*-\*-\*-\*-\*  
 25 (Proceedings adjourned at 6:19 p.m.)

MARY ORALIA BERRY, CSR, RDR, CRR, CBC

1 C E R T I F I C A T E  
 2 STATE OF TEXAS )  
 3 COUNTY OF TRAVIS )  
 4 I, MARY ORALIA BERRY, Certified Shorthand  
 5 Reporter in and for the State of Texas, Registered  
 6 Diplomat Reporter, Certified Realtime Reporter, and  
 7 Certified Realtime Captioner, do hereby certify that the  
 8 above-mentioned matter occurred as hereinbefore set out.  
 9 I further certify that I am neither counsel  
 10 for, related to, nor employed by any of the parties or  
 11 attorneys in the action in which this proceeding was  
 12 taken, and further that I am not financially or  
 13 otherwise interested in the outcome of the action.  
 14 Certified to by me this 6th day of September,  
 15 2023.  
 16  
 17 \_\_\_\_\_  
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 21 email: maryoberry@gmail.com  
 22  
 23  
 24  
 25

MARY ORALIA BERRY, CSR, RDR, CRR, CBC

1 THE SENATE OF THE STATE OF TEXAS  
 2 SITTING AS A HIGH COURT OF IMPEACHMENT  
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 4 THE MATTER OF                               Steno  
 WARREN KENNETH  
 PAXTON, JR.  
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 12 TRIAL  
 13 VOLUME 3 - AM SESSION  
 14 SEPTEMBER 7, 2023  
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 24 Stenographically Reported by  
 25 Mary Oralia Berry, CSR, RDR, CRR, CBC

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VOLUME 3 -- AM SESSION  
SENATE IMPEACHMENT TRIAL

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PROCEEDINGS  
THURSDAY, SEPTEMBER 7, 2023  
(8:57 a.m.)

THE BAILIFF: All rise. The Court of Impeachment of the Texas Senate is now in session. The Honorable Lieutenant Governor and President of the Senate, Dan Patrick, now presiding.

PRESIDING OFFICER: Good morning, everyone. Please bring in the jury.

MR. OSSO: And, Judge, at this time I would -- I do have a matter I would like to bring up at the -- at the bench, if that's okay.

PRESIDING OFFICER: After the prayer.

MR. OSSO: Yes, Judge.

PRESIDING OFFICER: And after the jury comes in.

MR. OSSO: Yes, Judge.  
(Jury enters the chambers.)

PRESIDING OFFICER: Good morning, Members of the Jury.

Senator Hinojosa, I understand you're going to do the prayer this morning. Please come forward.

SENATOR HINOJOSA: Good morning.

THE JURY: Good morning.

SENATOR HINOJOSA: Please, let's bow our heads.

Lord, we come before you today, acknowledging that our understanding is imperfect and limited. We ask for your guidance and direction in every aspect of our lives. As we walk down unfamiliar paths, we ask for your guidance.

Open our eyes, sharpen our senses so -- so that we may use good judgment in every situation and decision we encounter. Help us to be patient. Help us to avoid making rash decisions and impulsive actions that may lead us astray.

We understand that our choices have the power to shape our future. For that reason, we ask for your wisdom and guidance. Help us make wise decisions as we trust in you.

In Jesus' name we pray. Amen.

PRESIDING OFFICER: Thank you, Senator. Please be seated.

Counselor, you wanted to approach the bench?

MR. OSSO: Yes, Judge.  
(At the bench, off the record.)

PRESIDING OFFICER: Quiet, please.  
(At the bench, off the record.)

PRESIDING OFFICER: The court will come to order.

Members, the -- the motion made, you asked if there are any statements from this witness.

Are there any statements from this witness you have not turned over?

MR. HARDIN: No, Your Honor.

PRESIDING OFFICER: Okay. Anything you have are work product notes?

MR. HARDIN: That's all we have. My notes specifically state they're not --

THE REPORTER: I'm sorry?

PRESIDING OFFICER: Be at -- be at the microphone, please.

MR. HARDIN: That's correct, Your Honor.

There are -- there are no statements from this witness. We -- we have -- notes that we have are our mental processes and everything as to what he said, a summary of different things and issues. But no notes and no statement -- and no notes have any statement from the witness.

PRESIDING OFFICER: If there are any statements you discover, they need to be turned over.

MR. HARDIN: That's absolutely right.

PRESIDING OFFICER: All right. Motion is

1 denied.

2 MR. OSSO: Yes, Judge.

3 PRESIDING OFFICER: The bailiff will call

4 the witness in.

5 (Witness enters the courtroom.)

6 THE WITNESS: Are you going to swear me

7 again?

8 PRESIDING OFFICER: No. You're still

9 under oath from yesterday, Mr. Bangert. Please be

10 seated.

11 Counselor, you can continue.

12 MR. HARDIN: Good morning. Thank you.

13 RYAN LEE BANGERT,

14 having been first duly sworn, testified as follows:

15 DIRECT EXAMINATION (CONTINUED)

16 BY MR. HARDIN:

17 Q. Good morning.

18 A. Good morning.

19 Q. Thank you. I want to go, if I can, back a

20 little bit from where we broke up yesterday, back to the

21 Mitte Foundation issue, and your involvement in that.

22 After the -- the intervention that you've

23 testified about on June the 2nd of 2020, did the

24 attorney general contact you personally about that issue

25 again?

1 A. We did have conversations subsequent to the

2 intervention, yes.

3 Q. All right. And what was the occasion? Did

4 you attend any meeting with the attorney general about

5 it?

6 A. I did attend a meeting with him. We were

7 having a senior staff meeting. We had a weekly meeting

8 every week where all of the deputies would gather in the

9 main conference room, and he did request my presence at

10 a off-site meeting to discuss the Mitte Foundation.

11 Q. Can you give us a time?

12 A. The meetings happened in the morning, roughly

13 midmorning. It was, I believe, after the intervention,

14 but it was prior to my being removed from the case by

15 First Assistant Mateer.

16 Q. All right. So what would -- what did he say?

17 Just, if you could, repeat what he said to you and asked

18 for.

19 A. He came to me in the meeting. The meeting had

20 already started. He approached me and said I need you

21 to come with me to lunch.

22 Q. And did he say any further who was the lunch

23 going to be with?

24 A. Nate Paul.

25 Q. What did he say to you as to why he wanted you

1 to go to lunch with Nate Paul?

2 A. He didn't say specifically at that time. He

3 just said we needed to go and have lunch with Nate Paul.

4 Q. Did he indicate why he wanted you to go to

5 lunch with Nate Paul?

6 A. It became clear subsequent to that what the

7 meeting was about, yes.

8 Q. What was your position at that time that --

9 that you had stated to him before the intervention and

10 even at the time of the intervention as to whether you

11 were opposed or unopposed to it?

12 A. I was very uncomfortable with the

13 intervention. We had discussed it. There were ongoing

14 conversations after the intervention that made me even

15 more uncomfortable with our position in that case. And

16 I had communicated to him what I believed were the pros

17 and cons, and we were very heavy on the con side.

18 Q. So where did you go to lunch?

19 A. I believe it was Polvos. It was a Mexican

20 restaurant downtown.

21 Q. And who went to the lunch with you?

22 A. Well, it was -- we had to go through some

23 gymnastics to even make the lunch happen. I -- it was

24 with the attorney general and Drew Wicker from the

25 attorney general's office and Nate Paul, of course.

1 Q. How many weeks after the intervention and

2 after you had expressed your opposition to it, how many

3 weeks after that would this luncheon have been?

4 A. It would have been one to two weeks after is

5 my best guess. I can't tell you precisely, but it

6 was -- it was sometime in mid-June. It was very warm.

7 Q. Did he ever ask you to go to lunch with

8 anybody that represented the Mitte Foundation?

9 A. No.

10 Q. Did he ever ask you to go to lunch with the

11 lawyers representing the Mitte Foundation?

12 A. No.

13 Q. In the entire litigation that had been going

14 on for several years, did he ever ask you to meet with

15 anybody other than Nate Paul, one of the parties to the

16 litigation?

17 A. In connection with that case, no.

18 Q. All right. Now, when you arrived at lunch,

19 can you describe the lunch for us, please?

20 A. We -- the -- attorney general drove us over to

21 Nate Paul's office, which is not far from our office,

22 and left his car there. And as I recall, we piled into

23 Nate -- Nate Paul's car. And then he drove to Polvos.

24 Q. As a lawyer, what was your reaction to being

25 asked -- did you consider it an ask or a directive? Let

1 me ask you that first.

2 MR. OSSO: Objection. Relevance.

3 MR. HARDIN: I -- I've simply asked him

4 and gave him a choice. I am not telling him what to --

5 PRESIDING OFFICER: Overruled. You can

6 ask the question.

7 MR. HARDIN: Thank you.

8 A. It was not a request to which I could say no

9 for reasons that I can explain.

10 Q. (BY MR. HARDIN) Please.

11 A. The reasons why were Jeff Mateer and I

12 discussed briefly the request that I go to lunch with

13 Nate Paul, and we very quickly determined that it would

14 be inappropriate --

15 MR. OSSO: Objection to hearsay. He's

16 talking about a conversation with Jeff Mateer.

17 MR. HARDIN: Let me reask it a certain

18 way, if I can. Thank you, Your Honor.

19 PRESIDING OFFICER: Please. Sustain

20 that, and reask.

21 MR. HARDIN: Thank you very much.

22 Q. (BY MR. HARDIN) All right. Let's go back now

23 to apparently what happened on the initial request.

24 Let's go back to when at the meeting he wanted you to go

25 to lunch with Nate Paul. What was your initial reaction

1 when he asked you that?

2 A. I was concerned that I was being asked to meet

3 with the principal of a party in a lawsuit to which we

4 had intervened.

5 Q. And so without going into what Mr. Mateer and

6 you said, who did you go to talk to?

7 A. I visited with the attorney general, and I

8 explained to him that there were ethical concerns

9 because, as counsel for the State of Texas, I would be

10 meeting with a represented party in a lawsuit to which

11 the State of Texas had intervened.

12 Q. So what did you ask him if you could do and

13 what did you do?

14 A. I explained to him that --

15 MR. OSSO: Objection. Hearsay.

16 MR. HARDIN: What? It's a conversation

17 with the attorney general.

18 MR. OSSO: It's hearsay.

19 PRESIDING OFFICER: Overruled.

20 A. I explained to the attorney general that the

21 only way that we could properly make this work under the

22 rules of ethics is if there was a waiver from

23 Nate Paul's counsel allowing me to speak directly with a

24 represented party. My assumption was that that would

25 terminate the request and we could go back to the

1 meeting.

2 Q. (BY MR. HARDIN) So was that the course that

3 you took after you privately consulted with Mr. Mateer?

4 A. Yes.

5 Q. All right. And then when you told the

6 grand -- the attorney general that, what did he do?

7 A. He went back to his office for a short amount

8 of time and emerged with a document that purported to be

9 a written waiver from Nate Paul's counsel giving me

10 permission to meet with Nate Paul without his lawyers

11 present.

12 Q. Mr. Bangert, how long did it take the Attorney

13 General of the State of Texas to go into his office,

14 contact the counsel for Nate Paul, and get a document

15 prepared that waived any objection that lawyer would

16 have to you talking directly to Mr. Paul?

17 MR. OSSO: Objection. Speculation. This

18 witness doesn't know what Mr. Paxton did in his office.

19 MR. HARDIN: I -- the question was

20 whether -- how long it took --

21 PRESIDING OFFICER: Overruled.

22 MR. HARDIN: Thank you. Excuse me.

23 Thank you.

24 A. No more than 15 minutes.

25 Q. (BY MR. HARDIN) And what was the -- what was

1 the document he brought up back to you in 15 minutes?

2 A. I will -- my recollection is it was a document

3 that had been faxed or e-mailed to him. It was not

4 something that I believe he had prepared. The

5 appearance of it was not something that he would have

6 prepared, but it was a document that had prepared --

7 been prepared by one of Nate Paul's lawyers, waiving any

8 conflicts that might arise from me, as counsel for the

9 State of Texas, meeting with a represented party.

10 Q. All right. Well, after that process and all,

11 did you feel free to decline the lunch meeting, or what

12 was your reaction? What did you do?

13 A. Well, I told Mr. Mateer that he had gotten a

14 waiver, and I was pretty much straight out of luck at

15 that point. I had to go.

16 Q. Now, when you -- when you went to Mr. Paul's

17 office -- where was his office by the way?

18 A. It was in downtown Austin, south of here, but

19 I don't recall specifically the location.

20 Q. And when you went -- I mean, actually -- you

21 guys actually went and got in his office and got in his

22 car -- and went in his car?

23 A. We went and parked in his parking lot and got

24 in his car.

25 Q. Describe the lunch for us. Where -- you know,

1 did you sit in a -- in a public area or a private area  
 2 or what?  
 3 A. We went to Polvos. Yeah, I recall the layout  
 4 of the restaurant. It was Polvos downtown. We went  
 5 into the restaurant. If I recall correctly, Nate Paul  
 6 wanted to sit outside even though it was warm, so we sat  
 7 out on the porch. It was very uncrowded. There weren't  
 8 many people there. And we sat down for lunch.  
 9 Q. And how did the conversation go? Did  
 10 Mr. Paxton introduce the subject, or did you introduce  
 11 it, or did -- somebody else did?  
 12 A. I was not entirely sure why I was there, but  
 13 it became very clear Nate Paul the moment we sat down.  
 14 MR. OSSO: Objection. Nonresponsive.  
 15 MR. HARDIN: I'll -- I'll go -- I'll take  
 16 care of it. Thank you, Judge. If it's okay, I'll take  
 17 care it.  
 18 PRESIDING OFFICER: Sustained. And  
 19 continue.  
 20 MR. HARDIN: Thank you very much.  
 21 Q. (BY MR. HARDIN) Who was the first person to  
 22 speak, if you recall?  
 23 A. Nate Paul did almost all of the talking.  
 24 Q. Did the attorney general do any kind of  
 25 introduction or anything? What was his role in this

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1 conversation?  
 2 A. It was nothing more than, Ryan, this is  
 3 Nate Paul, and there are some things he would like you  
 4 to hear. That was effectively the upshot of it.  
 5 Q. There were some things -- he said -- he said  
 6 what?  
 7 A. I'm paraphrasing now, but it was to the effect  
 8 of, This is Nate Paul and he has some things to share  
 9 with you.  
 10 Q. So then what did Mr. Paul do?  
 11 A. He proceeded to lay out his theory of the case  
 12 on --  
 13 MR. OSSO: Objection. Hearsay. He's  
 14 talking about a statement by Nate Paul.  
 15 PRESIDING OFFICER: Sustained.  
 16 Q. (BY MR. HARDIN) Did the attorney general,  
 17 during this entire conversation, reject anything that  
 18 Mr. Paul was saying?  
 19 A. No.  
 20 Q. Did the Attorney General of the State of Texas  
 21 do anything to show that he did not agree with the  
 22 things that Mr. Paul was saying?  
 23 A. No.  
 24 Q. So once again, this conversation with Mr. Paul  
 25 that was held -- had in the presence of the attorney

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1 general, what did Mr. Paul say?  
 2 MR. OSSO: Objection. Hearsay.  
 3 MR. HARDIN: Your Honor, the reason for  
 4 this is, this is all in the presence of the party, the  
 5 attorney general, and his silence or his statements are  
 6 acquiescence in -- in adopting the statements of  
 7 Mr. Paul. That's why I don't believe it is subject to  
 8 the hearsay exception.  
 9 MR. OSSO: Judge, permission to respond?  
 10 PRESIDING OFFICER: Respond.  
 11 MR. OSSO: There is no evidence that this  
 12 witness can talk about that Mr. Paxton has adopted any  
 13 statements made by Mr. Paul during that conversation.  
 14 And because of that, it is not a statement that is  
 15 adopted by a party opponent. And for that reason, it's  
 16 still hearsay. Any statement by Nate Paul is hearsay at  
 17 that -- at that meeting.  
 18 PRESIDING OFFICER: Overruled.  
 19 Continue.  
 20 MR. HARDIN: Thank you.  
 21 Q. (BY MR. HARDIN) What did he say?  
 22 A. Mr. Paul laid out his theory of grievances  
 23 against the Mitte Foundation. He described to me how  
 24 unfair it was that a charity that was a limited investor  
 25 would be able to assume control over assets that were

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1 owned by World Class. He was very vehemently opposed to  
 2 the receivership.  
 3 He, as I recall, was more or less railing  
 4 on the way that Ray Chester and the counsel for Mitte  
 5 Foundation had handled the case. And more or less went  
 6 through a number of different complaints that had been  
 7 raised in a memorandum that had been provided to me by  
 8 his sister, Sheena Paul.  
 9 Q. I think it will become clear in later -- later  
 10 testimony from others, but Sheena Paul is a lawyer; is  
 11 that correct?  
 12 A. Yes.  
 13 Q. And she's the sister of Mr. Nate Paul; is that  
 14 correct?  
 15 A. That's correct.  
 16 Q. And, well, your familiarity with the case, had  
 17 she been actively involved in the litigation on behalf  
 18 of her brother?  
 19 A. I don't know how actively involved she was.  
 20 My impression was she was involved as general  
 21 in-house -- or in-house counsel for World Class, yes.  
 22 Q. All right. Fair enough.  
 23 How long did this expo- -- this  
 24 description of his complaints and his position with  
 25 Mr. -- by Mr. Paul, how long did that last?

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1 A. The lunch lasted for a good 30, 35 minutes, if  
2 not 40 --  
3 Q. Did you folks --  
4 A. -- in that range.  
5 Q. Did you folks have food?  
6 A. We did order food. I don't think I ate very  
7 much.  
8 Q. Did the attorney general, during this meeting,  
9 ever reject or try to modify, or ask questions, or do  
10 anything during the time that Mr. Paul was pleading his  
11 case to you?  
12 A. He did not, no.  
13 Q. How did the luncheon end?  
14 A. Mr. Paul completed his exposition, and that  
15 was a signal for the lunch to end.  
16 Q. Did you ask any questions?  
17 A. I may have asked a few questions. I don't  
18 recall. But it was -- it very much had the feeling that  
19 I had been summoned to a lunch.  
20 MR. OSSO: Objection. Nonresponsive.  
21 MR. HARDIN: Excuse me. I don't know  
22 whether it was or not, I don't know what the answer was.  
23 PRESIDING OFFICER: I'll sustain the  
24 objection.  
25 Rephrase.

MARY ORALIA BERRY, CSR, RDR, CRR, CBC

1 MR. HARDIN: Thank you.  
2 Q. (BY MR. HARDIN) What was your impression  
3 about that, what that whole meeting was about?  
4 A. The strong impression that I had developed was  
5 I had been summoned to that lunch by Nate Paul to hear  
6 out his grievances and to convince me to get onboard  
7 with the Mitte Foundation intervention program.  
8 Q. So how did it -- once it ended, what did y'all  
9 do?  
10 A. We parted ways, drove back, got back in the  
11 attorney general's car, and came back to the office.  
12 Q. Did the attorney general say anything to you  
13 about the case after y'all left Mr. Paul at his office?  
14 A. Very little.  
15 Q. Did y'all just sort of sit there silently?  
16 A. I -- as I recall, it was a very quiet ride  
17 back, yes.  
18 Q. Then was Mr. Wicker present for this whole  
19 conversation?  
20 A. He was, yes.  
21 Q. Did you talk to Mr. Wicker about that after  
22 you came back?  
23 A. I did.  
24 Q. All right. Did you, yourself, express  
25 yourself as to what you thought about the lunch?

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1 A. Yes, I did.  
2 Q. What did you say?  
3 MR. OSSO: Objection. Hearsay.  
4 MR. HARDIN: This man is here. It's not  
5 hearsay. A statement by the witness, Your Honor, is not  
6 hearsay.  
7 PRESIDING OFFICER: Overruled.  
8 MR. HARDIN: Thank you.  
9 Q. (BY MR. HARDIN) What did you say?  
10 A. I told him, Drew, that was one of the craziest  
11 things I have ever seen.  
12 Q. His response?  
13 A. He --  
14 MR. OSSO: Objection. Hearsay.  
15 MR. HARDIN: Thank you.  
16 PRESIDING OFFICER: Sustained.  
17 MR. HARDIN: Thank you, Your Honor.  
18 Thank you, Your Honor. I'll move on.  
19 Q. (BY MR. HARDIN) Now, let me -- how old were  
20 you at that time of that conversation?  
21 A. How old was I?  
22 Q. How old were you in the summer of 2020?  
23 A. I was 42 or 43. I'm trying to do the math in  
24 my head. Forty-two, I believe.  
25 Q. How long had you been a lawyer?

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1 A. I had been a lawyer since -- for about 15 --  
2 well, I think I was 43 now that you mention it, because  
3 I'm doing the math. I was 43. And I had been a lawyer  
4 for the better part of 15 years at least.  
5 Q. Had you ever, in 15 years as a lawyer,  
6 experienced anything like that?  
7 MR. OSSO: Objection. Relevance. And an  
8 improper opinion, Judge.  
9 MR. HARDIN: I'm just asking him if he,  
10 in his experience, did he ever have anything similar as  
11 a lawyer.  
12 PRESIDING OFFICER: Overruled.  
13 Continue.  
14 Q. (BY MR. HARDIN) Go ahead.  
15 A. It was, as we say in the Latin, sui generis.  
16 It was one of a kind. I'd never seen anything like it.  
17 Q. All right. Now, again, if -- by the way,  
18 there is one fact -- I want to try to move on to another  
19 subject. But at this time that y'all are spending this  
20 time dealing with Mr. Paul's issues, what all is going  
21 on in the attorney general's office as far as real work  
22 that you guys and women were responsible for doing?  
23 What -- what's happening on the landscape in the State  
24 of Texas and in the attorney general's office that y'all  
25 wanted to be working on?

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1 A. We were working around the clock on  
 2 COVID-related issues. And we were also preparing a  
 3 major multistate lawsuit against Google.  
 4 Q. And is that Google lawsuit still pending?  
 5 A. As far as I know it is.  
 6 Q. But has it since been given to an outside law  
 7 firm?  
 8 A. Yes.  
 9 Q. At the time you were there, was it being  
 10 handled in-house or by an outside law firm?  
 11 A. In-house.  
 12 Q. All right. Did it remain being -- have --  
 13 having the inside -- inside the firm -- inside the  
 14 agency -- excuse me, until after all of you resigned or  
 15 were fired?  
 16 MR. OSSO: Objection. This witness  
 17 doesn't have personal knowledge of that.  
 18 Q. (BY MR. HARDIN) Let me put it this way. Of  
 19 the people that left on --  
 20 PRESIDING OFFICER: Sustained.  
 21 Q. (BY MR. HARDIN) -- on the top floor that were  
 22 all terminated ultimately, the eight, what people have  
 23 called colloquially the eight whistleblowers, was Google  
 24 ultimately farmed out to a private law firm after all of  
 25 y'all were gone?

1 MR. OSSO: Objection. Hearsay.  
 2 Objection. Lack of personal knowledge.  
 3 MR. HARDIN: Hearsay is a --  
 4 PRESIDING OFFICER: Overruled.  
 5 MR. HARDIN: Thank you.  
 6 A. I believe more than one law firm, yes.  
 7 Q. (BY MR. HARDIN) Pardon me?  
 8 A. I believe more than one, yes, outside firms.  
 9 Q. All right. Now, if you -- the microphone, I  
 10 can't tell -- I don't know whether it's being picked up  
 11 behind me. So if you can just -- maybe -- if it's  
 12 louder to me, then maybe it will be louder back there.  
 13 Okay?  
 14 In -- in addition to Google, were there  
 15 other major pieces of litigation going on that you were  
 16 responsible for?  
 17 A. Yes, there were.  
 18 Q. What?  
 19 A. The special litigation unit was very busy  
 20 handling a number of election-related lawsuits.  
 21 Q. All right. And were there other areas? Were  
 22 there -- what was y'all's experience or involvement at  
 23 that time in trying to cope with COVID-related legal  
 24 issues?  
 25 A. We had a section called the Disaster Counsel

1 Advice section under the general counsel. That was  
 2 handling a flood of requests from local officials as to  
 3 how to handle COVID.  
 4 Q. Well, when the attorney general kept raising  
 5 Nate Paul issues of the ones that we've gone through so  
 6 far and later in the future, do you have any idea what  
 7 kind of -- how much time or resources that were devoted  
 8 to dealing with Nate Paul instead of real concerns?  
 9 A. We were devoting far more resources to  
 10 Nate Paul than we ever should have, given the importance  
 11 of those issues.  
 12 Q. Do you -- can you put any kind of quantifying  
 13 amount on it as you sit there?  
 14 A. Well, certainly the opinion that we discussed  
 15 yesterday consumed the better part of three days of my  
 16 time that could have been spent working on other  
 17 matters. And, of course, the Mitte Foundation consumed  
 18 a lot more time than that.  
 19 Q. Now, I want to ask you if I can -- and then,  
 20 of course, we haven't gotten to whatever time was  
 21 expended on the hiring of a special -- of somebody  
 22 purportedly being a special prosecutor. In other words,  
 23 the hiring of an outside counsel, we haven't even  
 24 discussed that --  
 25 MR. OSSO: Objection. The attorney is

1 testifying --  
 2 MR. HARDIN: Excuse me. Let me finish my  
 3 question, please.  
 4 MR. OSSO: Judge, my objection is to  
 5 his --the call of his counsel --  
 6 MR. HARDIN: Please --  
 7 PRESIDING OFFICER: Counsel, let him  
 8 finish --  
 9 MR. OSSO: Yes, Judge.  
 10 PRESIDING OFFICER: -- and then you can  
 11 object.  
 12 Mr. Hardin, you can finish the question.  
 13 MR. HARDIN: Thank you.  
 14 Q. (BY MR. HARDIN) Do you have any idea how much  
 15 more time and resources were devoted to once the -- you  
 16 discovered this issue of a -- of an outside counsel  
 17 being considered and then being done?  
 18 A. It was many, many hours. We spent days  
 19 dealing with the fallout of that. And that was all of  
 20 us together, so seven, eight of us at least, plus  
 21 support -- a few support staff. So it would be hundreds  
 22 of manhours.  
 23 Q. All right. Now, Mr. Bangert, I want to go  
 24 to -- you mentioned the -- what some of us colloquially  
 25 have called "the midnight opinion."

1 Can you tell us without a, you know, not  
 2 necessarily a long legal description, is there a section  
 3 in the Government Code that deals with these opinions?  
 4 A. There are -- there's a very distinct section  
 5 in the Government Code that deals with our authority to  
 6 issue opinions, yes.  
 7 Q. All right. So when we talk about opinions  
 8 very briefly that come out of -- of the attorney  
 9 general's office, how many types of opinions would you  
 10 say there are involved?  
 11 A. There are two types -- there are a handful of  
 12 types of opinions involved. The first would be an  
 13 opinion issued pursuant to our Government Code 402  
 14 authority to issue opinions to individuals who are  
 15 authorized requestors.  
 16 Q. All right. Let me stop there. So Section 402  
 17 of the Government Code authorizes you to produce  
 18 opinions in response to whom?  
 19 A. Very specific individuals. They have to --  
 20 there's a list in the code, legislative -- chairmen of  
 21 legislative committees are one. Certain statewide  
 22 officials. There are a handful, I believe, of local  
 23 government officials who would be authorized, but it's a  
 24 very distinct list, and that list cannot be waived.  
 25 Q. And is there any distinction in the Government

1 Code between an informal and a formal opinion?  
 2 A. No.  
 3 Q. Do you recall whether or not in the opinion  
 4 that y'all wrote for -- at the attorney general's  
 5 request, do you recall any language at the end of it  
 6 that talked about it was an informal opinion guidance?  
 7 MR. HARDIN: Can I put up -- do we have  
 8 an exhibit number for -- can I step over just to get an  
 9 exhibit number, please?  
 10 PRESIDING OFFICER: Yes, sir.  
 11 MR. HARDIN: Thank you.  
 12 Stacy, can I ask you to put up  
 13 Exhibit 115, which is in evidence. And can we go to the  
 14 end of that opinion, please.  
 15 Q. (BY MR. HARDIN) Well, first of all, do you  
 16 recognize --  
 17 PRESIDING OFFICER: Counselor, has this  
 18 already -- on the list of admitted evidence?  
 19 MR. HARDIN: This has already been  
 20 admitted.  
 21 PRESIDING OFFICER: It has been admitted.  
 22 Okay.  
 23 MR. HARDIN: Yes, this is one that is  
 24 agreed. Thank you, Your Honor.  
 25 Q. (BY MR. HARDIN) Do you recognize this

1 exhibit?  
 2 A. I do.  
 3 Q. And what is it?  
 4 A. The first page -- this is the opinion that we  
 5 worked on and issued August 1st in response to the  
 6 attorney general's request concerning foreclosures.  
 7 Q. All right. And this is the opinion you've  
 8 talked about earlier that was completed at about  
 9 1:00 o'clock in the morning on that Sunday?  
 10 A. It is.  
 11 MR. HARDIN: All right. Now, if you  
 12 would, Stacey, would you scroll to sort of the end of  
 13 the opinion.  
 14 Q. (BY MR. HARDIN) Now, could you explain to  
 15 us -- I believe you just testified there's not a  
 16 difference -- there's not a distinction in the code  
 17 between informal and formal --  
 18 MR. OSSO: And, Judge, I'd object that  
 19 that is an improper legal conclusion by this witness.  
 20 MR. HARDIN: What? I'm sorry.  
 21 PRESIDING OFFICER: Overruled.  
 22 MR. HARDIN: Thank you.  
 23 Q. (BY MR. HARDIN) This opinion that you  
 24 drafted -- and this is actually an opinion that you  
 25 signed, correct?

1 A. Yes.  
 2 Q. And was this division and this matter under  
 3 your supervision and control?  
 4 A. It had been.  
 5 Q. All right. Before you became the deputy first  
 6 assistant, is that what you mean?  
 7 A. Yes.  
 8 Q. Okay. All right. So the language says -- I'm  
 9 trying to stay with the microphone to be able to read.  
 10 It says, Please note this letter is not a formal  
 11 attorney general opinion under Section 402.042 of the  
 12 Texas Government Code. Rather, it is intended only to  
 13 convey informal legal guidance.  
 14 Explain to me what the significance of  
 15 that -- is that inconsistent with your previous  
 16 testimony?  
 17 A. No, it is not.  
 18 Q. All right. Explain, please.  
 19 A. Well, I would analogize this to the practice  
 20 in Texas courts of issuing published and unpublished  
 21 opinions. We have an obligation under 402.045, which is  
 22 part of the opinions authority, only to issue opinions  
 23 to individuals if they are authorized requestors. They  
 24 have -- you cannot simply issue opinions as the attorney  
 25 general's office to any individual who asks because we

1 are not a private law firm --  
 2 Q. So if I walked --  
 3 A. -- in the best interest of the State.  
 4 Q. So if I walked in off the street or have  
 5 something in my business or so that I really want an  
 6 opinion for it, am I entitled to ask the attorney  
 7 general's office to -- to get -- give me an opinion,  
 8 just to give me the legal advice?  
 9 A. No, not unless you're one of the listed  
 10 statutory requestors.  
 11 Q. Is a legislator one of those people that is  
 12 authorized to ask?  
 13 A. The chairman, yes.  
 14 Q. All right. And is -- oh, it has to be a  
 15 chairman of a committee?  
 16 A. Yes.  
 17 Q. And in this case, as we've talked about  
 18 yesterday, that's what happened, correct?  
 19 A. Yes, I believe Senator Hughes at this time was  
 20 chair of the State Affairs Committee and possibly one  
 21 other.  
 22 Q. All right. Now, was there a time in the  
 23 history of the attorney general's office in which the  
 24 office did issue informal opinions?  
 25 A. The -- my recollection was that, yes, there

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1 was a time when we would post opinions on our website  
 2 that were informal in nature.  
 3 Q. All right. And -- and are you aware that  
 4 the -- the -- the website -- that their website now, the  
 5 attorney general's website now, indicates that that  
 6 stopped in 1979? Is that anywhere consistent with your  
 7 understanding?  
 8 A. That would not surprise me.  
 9 Q. All right. Now, go here to explain to me why  
 10 you put this language in here then that said it's not a  
 11 formal attorney general opinion, it is -- rather, it is  
 12 intended only to convey informal legal guidance.  
 13 Explain why that's okay or why you put it there even.  
 14 A. Yes. The normal opinions process involves  
 15 going through the opinion committee. It's a very  
 16 rigorous process of drafting, review, approval. It goes  
 17 up through a number of different layers of review. This  
 18 did not follow that normal process. It did not go out  
 19 for briefing, for third parties to evaluate and consider  
 20 whether they wanted to brief on this. So none of those  
 21 procedural aspects were associated with this opinion,  
 22 nor did it receive a -- what we call a KP number, which  
 23 is a formal opinion assignment number for publication on  
 24 the website, and ultimately publication on Westlaw.  
 25 Q. Well, as far as the statute is concerned, is

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1 there a distinction by what you did -- did on this  
 2 opinion that night any different? Is that opinion and  
 3 its consequences any different than a -- in terms of its  
 4 effect on the outside world?  
 5 MR. OSSO: Objection. It --  
 6 MR. HARDIN: Excuse me. Let me finish my  
 7 question.  
 8 Q. (BY MR. HARDIN) As opposed -- I don't  
 9 remember what it was. Let me start over.  
 10 Is there any difference on the impact on  
 11 the outside world of what you did here in this  
 12 particular opinion and what -- and an opinion that you  
 13 might have issued that went through the formal process  
 14 that you say takes up to six months or so?  
 15 A. No. All of our opinions have persuasive --  
 16 MR. OSSO: Objection. Improper legal  
 17 opinion.  
 18 PRESIDING OFFICER: Overruled.  
 19 Continue.  
 20 Q. (BY MR. HARDIN) Why did you say that then?  
 21 A. This signaled to the reader that this opinion  
 22 had not gone through the formal rigorous process of  
 23 review by the opinion committee. It had not gone out  
 24 for briefing. It had not gone through the normal  
 25 process that can take up to 180 days of time. And it

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1 was also not going to be receiving a KP number. And I  
 2 don't believe this is published on Westlaw. I haven't  
 3 checked, but I would be surprised if it were.  
 4 Q. So why did the two of you decide to do it this  
 5 way, to put that sentence in there? Would you  
 6 ordinarily have put that sentence in a -- in an opinion  
 7 where, say, another chairman of another committee asked  
 8 for it, et cetera? Would you have normally put this  
 9 sentence in there?  
 10 A. We would not put this sentence in an opinion  
 11 that went through the normal formal process. There were  
 12 other opinions that contained this language, but all of  
 13 them had similar characteristics. They were requested  
 14 by someone who was an authorized requestor and they did  
 15 not go through the formal process.  
 16 Q. And does that not going through the formal  
 17 process and your communicating that to the outside  
 18 world, is there a reason you do that?  
 19 A. This signals that it did not receive the  
 20 rigorous review that an opinion of our office normally  
 21 would.  
 22 Q. So if lawyers in court are contesting --  
 23 having a controversial issue and their opposing side  
 24 sought to introduce this, is that sort of a signal to  
 25 anybody that knew about the process that they might have

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1 an argument to the judge, Wait a minute. This is --  
 2 this is not -- there's no such thing -- may not be such  
 3 a thing as an informal opinion, Judge, but this opinion  
 4 did not go through the rigorous process a normal opinion  
 5 did. Would that argument be available to them?

6 A. I presume it would be. Certainly our intent  
 7 was to signal this had not gone through the formal  
 8 process.

9 Q. All right. I notice your eyebrows go up when  
 10 you're thinking. Does that mean that you never had  
 11 thought about it before I just asked this?

12 A. Oh, no. No, this is -- this is something that  
 13 we were dealing with en masse.

14 MR. OSSO: Objection. Nonresponsive.  
 15 There wasn't a question asked.

16 Q. (BY MR. HARDIN) Okay. Were you having these  
 17 kind --

18 PRESIDING OFFICER: Sustained.

19 MR. HARDIN: Excuse me.

20 Q. (BY MR. HARDIN) Were you having these kind of  
 21 questions all the time? Or not all the time. Let me  
 22 put it another way.

23 Were you frequently having to deal with  
 24 this kind of issue?

25 A. At this time, the specific moment we were

1 dealing with an unusual influx of requests for advice.

2 Q. And was there a process in which you could  
 3 provide -- are there other ways that you could provide,  
 4 rather than just this, could you do things in another  
 5 way, like press releases or things like that?

6 A. Certainly. If we're not providing legal  
 7 advice to an individual, we can send out press  
 8 statements, we can send out bulletins or announcements.  
 9 I don't see anything that would preclude us from doing  
 10 this. But the code 402.045 is very clear that if we're  
 11 providing advice to an individual, then that individual  
 12 must be an authorized requestor for the purpose of  
 13 ensuring that the interests of the State are being  
 14 represented by that request.

15 Q. Are you aware one way or the other whether  
 16 opinions like this might be used by litigants in private  
 17 litigation?

18 A. I assume they are because that's why they  
 19 are placed in Westlaw --

20 MR. OSSO: Objection. Speculation. This  
 21 witness was not there for the litigants.

22 MR. HARDIN: I withdraw.

23 PRESIDING OFFICER: Overruled.

24 MR. HARDIN: Your Honor, I'm going to ask  
 25 if the Court might -- I say this nicely -- instruct

1 counsel, when he has an objection to wait until the  
 2 answer is completed, and then he can object and ask  
 3 for some -- if the Court sustains it, he can ask for  
 4 other things. But this constant interrupting the  
 5 witness in the middle of the statement or the question  
 6 in the middle of the statement is unduly time-consuming.

7 MR. OSSO: Your Honor, may I respond to  
 8 that?

9 PRESIDING OFFICER: Yes.

10 MR. OSSO: I have to object if the  
 11 witness is testifying to things that shouldn't be  
 12 admissible into evidence. I shouldn't have to wait for  
 13 him to say "hearsay" before I make that objection. And  
 14 so I would request to wait till Mr. Hardin finishes his  
 15 question and then lodge my objection.

16 PRESIDING OFFICER: If you're talking  
 17 over each other, the court reporters can't report  
 18 accurately what either of you are saying, and the jurors  
 19 can't hear what you are saying.

20 So I understand, Counselor, but try to  
 21 not talk over each other.

22 MR. OSSO: Yes, Judge.

23 MR. HARDIN: Thank you, Your Honor.

24 Excuse me.

25 Q. (BY MR. HARDIN) Now, real quickly, we're

1 about through with this -- this issue, but I want to  
 2 know if there are other ways that y'all chose to inform  
 3 people. For instance, if mayors -- what was your  
 4 experience during this period of time if mayors of  
 5 cities or local government spokespersons or officers  
 6 were contacting you for legal guidance, how did you  
 7 approach those kind of issues in dealing with COVID?

8 A. Yes. The Legislature had granted our office  
 9 authority under Section 418 to respond to requests for  
 10 legal advice from certain local officials -- mayors are  
 11 one of them -- for issues related to a declared disaster  
 12 in their jurisdiction.

13 That code was passed, my understanding,  
 14 in response to hurricane disasters. We -- no one  
 15 anticipated every single county in the state of Texas  
 16 being placed under a simultaneous disaster declaration  
 17 in response to COVID, but so it was. So we effectively  
 18 became available to officials in 254 counties throughout  
 19 the state of Texas under 418.

20 Q. Do you have any knowledge one way or the other  
 21 to discussions and activities in the attorney general's  
 22 office as to whether or not the attorney general had  
 23 indicated he was aware of other possible ways to address  
 24 someone's concern about a gathering other than  
 25 Section 402?

1 A. Unless there was an authorized requestor under  
2 418, no.

3 Q. All right. Thank you.  
4 Now, at the -- at the end of the day,  
5 once this process was completed, was there any  
6 distinction in whatever -- however it would be  
7 considered by others in this opinion and an opinion that  
8 went through the very rigorous six months of research  
9 and consultation?

10 A. The effect is the same. They have persuasive  
11 value based on the solidness of the reasoning and based  
12 on the fact that it's issued by the attorney general's  
13 office. It's the persuasive value of the opinion  
14 that -- that follows it.

15 Q. Thank you. Now, at the -- when we can, I want  
16 to go to -- one final question. Is an opinion under  
17 this Section 402 that you issued, is it considered just  
18 as authoritative, though, in terms of its results as an  
19 opinion that goes through the rigorous examination that  
20 you described?

21 A. There's no reason it would not.

22 Q. Okay. Now, would it have the same ability and  
23 the same impact if one wanted to seek to use it in  
24 litigation?

25 A. Again, the reader would evaluate it for its

1 persuasive value just like a formal opinion.

2 Q. All right. Now, I want to move if I may, sir,  
3 to what happens, starting in your experience -- when did  
4 you become -- with the outside counsel.

5 When did you become aware that the  
6 Lieutenant Governor wanted to appoint outside counsel?

7 PRESIDING OFFICER: Senator -- Counselor,  
8 I almost called you Senator, so we're even.

9 MR. HARDIN: Yeah, I've done it again.

10 PRESIDING OFFICER: Yeah. I'm going to  
11 be forced to hold you in contempt soon. Just kidding.

12 MR. HARDIN: I'm just -- I'm just  
13 thankful I didn't put a name to it.

14 PRESIDING OFFICER: So am I. But go  
15 ahead.

16 MR. HARDIN: All right. Let me start  
17 again.

18 Q. (BY MR. HARDIN) When did you first become  
19 aware that the attorney general was interested in --  
20 concerned and wanted an outside lawyer hired to deal  
21 with an investigation of Mr. Paul -- of Mr. Paul's  
22 complaints?

23 MR. OSSO: Objection. Leading.

24 MR. HARDIN: I don't --

25 PRESIDING OFFICER: Overruled.

1 A. It would have been sometime in August or  
2 September that I learned about the outside counsel  
3 request.

4 Q. (BY MR. HARDIN) All right. There -- we have  
5 seen one that would -- talks about the matrix, that a --  
6 such a request would have to go through. Were you aware  
7 that Mr. Vassar had drafted a contract at the request of  
8 the attorney general's office before -- and if so, when  
9 did you become aware of that?

10 A. I was aware of that, yes.

11 Q. And had you taken a position about whether or  
12 not to hire an outside counsel?

13 A. With the attorney general --

14 Q. The microphone.

15 A. -- I had not, but I -- obviously in  
16 conversations -- I shouldn't say obviously. In  
17 conversations with other senior staff, we were very much  
18 in agreement this is not a proper --

19 MR. OSSO: Objection. Hearsay.  
20 Objection to hearsay.

21 MR. HARDIN: He hasn't -- see, that's the  
22 problem with doing it. He has -- he did not talk about  
23 what they said. He did not talk about any statement.  
24 And this interruption of the question keeps it from  
25 being clear as to what he was going to say. That's my

1 concern.

2 PRESIDING OFFICER: Overruled.

3 MR. HARDIN: Thank you.

4 Q. (BY MR. HARDIN) So -- and the question was  
5 your position.

6 A. Improper.

7 Q. All right. And do you recall when is the  
8 first time you told the attorney general that yourself?

9 A. I did not have occasion to speak with him  
10 about this, as it was outside my line of authority.

11 Q. All right. So if your opposition that you  
12 thought you were opposed to it, would that have been  
13 communicated to others rather than the attorney general?

14 A. Yes.

15 MR. OSSO: Objection. Hearsay.

16 Q. (BY MR. HARDIN) I'm sorry. What was the  
17 answer?

18 MR. OSSO: I'm objecting, and I would ask  
19 for a ruling, Judge.

20 PRESIDING OFFICER: Counsel, you're  
21 talking over him, and I can't even distinguish what  
22 you're objecting to what he said or what he said.

23 So let's start over on that question.

24 MR. HARDIN: Sure. Thank you, Judge.

25 Q. (BY MR. HARDIN) Were your conversations,

1 without going into what they were, about this subject  
 2 with other people rather than the attorney general?  
 3 A. Yes.  
 4 MR. OSSO: Objection.  
 5 PRESIDING OFFICER: Overruled.  
 6 A. Yes.  
 7 Q. (BY MR. HARDIN) Thank you. Now, at the  
 8 end -- when did you -- when did this -- from your  
 9 perspective, when did this issue boil over?  
 10 A. When you say "boil over," could you be more  
 11 specific?  
 12 Q. Yeah. If you could -- if you could -- again,  
 13 it sounded to me like you moved away from the microphone  
 14 a little bit.  
 15 PRESIDING OFFICER: Mr. Bangert, you  
 16 could speak a little louder, I think.  
 17 MR. HARDIN: Yeah. That's -- I think --  
 18 PRESIDING OFFICER: Speak up a little bit  
 19 more.  
 20 MR. HARDIN: Thank you. Thank you very  
 21 much. All right. I didn't know that moved. Okay.  
 22 A. I think I might have broken it, so hopefully  
 23 not.  
 24 Q. (BY MR. HARDIN) All right. So -- don't mess  
 25 with the base of it very much or we can both get in

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1 trouble.  
 2 So when did -- I used the phrase "boil  
 3 over." Let me ask you -- explain what I mean in my  
 4 question. What I mean is, when did this become a -- an  
 5 issue of concern to more than just one person in the  
 6 criminal justice division that you became aware of?  
 7 What time frame is all I'm asking you?  
 8 A. Increasingly through August and into September  
 9 it became an issue of very urgent concern for me, as  
 10 well as for others on the senior leadership team.  
 11 Q. All right. Now, tell me what it was, in fact,  
 12 when -- when did this issue first surface? In what  
 13 matter did it surface that gave you concern?  
 14 A. When you say the matter, it would be with  
 15 regards to Nate Paul?  
 16 Q. Yes.  
 17 A. My concerns had been growing exponentially  
 18 over the 9- to 10-month period that we were dealing with  
 19 matters related to Nate Paul. It began when the  
 20 opinion -- when we were asked -- when I was asked to  
 21 intervene and work with the open records requests. It  
 22 was uncharacteristic. It continued and was heightened  
 23 when I was asked to work on the Mitte Foundation  
 24 project. I was exceptionally concerned after the  
 25 opinion was issued because I felt there had been a break

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1 in trust at that point.  
 2 And, of course, when we learned that --  
 3 when I became aware that the attorney general is now  
 4 pressing for criminal investigation of individuals in  
 5 the community based on allegations that all of us  
 6 believed, and I certainly believed were frivolous at  
 7 best, I was exceptionally concerned.  
 8 Q. Now, without going into what other people told  
 9 you at the time in a specific conversation, did you  
 10 become aware of generally the subject area or so that  
 11 the attorney general was seeking to hire outside counsel  
 12 to investigate?  
 13 A. Yes. It involved the law enforcement action  
 14 concerning Nate Paul and his properties. He was  
 15 concerned that he -- again, this was his same mantra  
 16 over and over again.  
 17 Q. When you say "he," are you talking about the  
 18 attorney general?  
 19 A. Well, Nate Paul, and in connection with the  
 20 attorney general, arguing that law enforcement had been  
 21 wronging Nate Paul, had been oppressing Nate Paul, and  
 22 had been treating him unlawfully. There was no evidence  
 23 that I had seen whatsoever to substantiate any of that.  
 24 MR. OSSO: Judge, I would object to that.  
 25 It's an improper opinion. It's speculation. And this

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1 witness doesn't have personal knowledge of Nate Paul's  
 2 opinions or feelings at that time.  
 3 MR. HARDIN: He's -- he's expressing his  
 4 opinion and what gave him concern of an evolutionary,  
 5 evolving way, Your Honor.  
 6 PRESIDING OFFICER: Counselor, I think  
 7 he's expressing his opinions. So overruled.  
 8 MR. OSSO: Yes, Judge.  
 9 Q. (BY MR. HARDIN) Now, when exactly did you  
 10 start getting involved in expressing your position and  
 11 taking your position on this matter?  
 12 A. We were discussing it actively throughout the  
 13 month of September.  
 14 Q. All right. Now, at the time were you aware  
 15 one way or the other that Mr. Penley was refusing to  
 16 sign the contract that was being -- that had been  
 17 drafted by Mr. Vassar to retain Mr. Cammack?  
 18 A. Yes.  
 19 Q. Though you had -- it had not made its way to  
 20 you, had you seen the contract that was proposed?  
 21 A. I do not recall. Although, it -- I had  
 22 certainly discussed it with others.  
 23 Q. Did you, in fact, take any position in these  
 24 meetings, you yourself, of senior staff on the  
 25 advisability of hiring Mr. Cammack to go investigate

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1 multiple public law enforcement persons? Did you?  
 2 A. Yes.  
 3 Q. And what did -- what would you say? What was  
 4 your position?  
 5 MR. OSSO: Objection. Hearsay.  
 6 MR. HARDIN: It is not hearsay. There's  
 7 no hearsay for the witness --  
 8 PRESIDING OFFICER: Overruled.  
 9 Counselor, he's asking him for his opinion.  
 10 MR. OSSO: Okay.  
 11 Q. (BY MR. HARDIN) What was your position?  
 12 A. There was no basis or justification for it.  
 13 It would not serve the public interest.  
 14 Q. And if you had to describe the opinion of --  
 15 about how many of you were involved in this issue at the  
 16 senior level?  
 17 A. Jeff Mateer. I was aware of it. David  
 18 Maxwell. Mark Penley. I am fairly -- Ryan Vassar,  
 19 obviously. Lacey Mase, because she was working with  
 20 Mr. Vassar. And Blake Brickman as policy would have  
 21 been involved as well.  
 22 Q. By the way, you've essentially named a group  
 23 of eight whistleblowers, have you not?  
 24 A. I don't believe I named Darren McCarty.  
 25 Q. All right. And was he one of those that was

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1 also concerned?  
 2 A. He was. Although, his focus was primarily  
 3 civil.  
 4 Q. All right. Now, I don't think I asked --  
 5 maybe if I did, I want to be clear. Have you sued in  
 6 this case?  
 7 A. I have not sued the attorney general, no.  
 8 Q. And so as we look and listen to people in this  
 9 testimony, Mr. Mateer and you both, neither one of you  
 10 have sued or sought any damages or compensation; is that  
 11 correct?  
 12 A. I have not sued. And I am aware that  
 13 Mr. Mateer has not either.  
 14 Q. All right. Now, when you -- how did -- how  
 15 did this thing come to a crescendo, if it did -- when  
 16 you talk about the first week in September, what events  
 17 were you aware of that -- that affected what happened at  
 18 the end of September?  
 19 A. I was in Atlanta, Georgia, at a conference  
 20 with Mr. Mateer. We were about to join a significant  
 21 telephone call with our multistate partners to discuss  
 22 the Google litigation that was planned. The call was  
 23 set to begin. It was a very important call for  
 24 coalition building purposes. Mr. Mateer received a  
 25 telephone call. It was from the attorney general. And

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1 I was witness to Mr. Mateer's side of the call. The  
 2 call had nothing to do with Google. It was all about  
 3 Nate Paul.  
 4 Q. And at that time, how big an issue and matter  
 5 and piece of litigation was the Google case in the  
 6 attorney general's office?  
 7 A. It was consuming substantial resources and was  
 8 a major initiative of the attorney general's office, and  
 9 it was -- yes.  
 10 Q. Were you -- did you two inform the attorney  
 11 general you were about to go into a meeting on Google?  
 12 A. Yes.  
 13 Q. What did you say?  
 14 A. Mr. Mateer was the one communicating directly  
 15 with the attorney general, but something to the effect  
 16 of, Do we have to do this now? Because we're about to  
 17 have this Google conversation.  
 18 Q. What was the attorney general's response?  
 19 A. I could not hear his response, but the phone  
 20 call continued for some time so I have to assume his  
 21 response was yes, we have to.  
 22 MR. OSSO: Objection to speculation.  
 23 MR. HARDIN: His -- his objection is  
 24 you're assuming, and I agree with that.  
 25 PRESIDING OFFICER: Sustained.

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1 Q. (BY MR. HARDIN) Don't assume what happened.  
 2 But as a result, even though -- though the attorney  
 3 general was told that you were about to be involved in a  
 4 meeting on a very major piece of civil litigation, did  
 5 he terminate the call to talk later?  
 6 A. No.  
 7 MR. OSSO: Objection.  
 8 A. He continued for some time.  
 9 MR. OSSO: Speculation. He couldn't hear  
 10 Ken Paxton on the phone.  
 11 MR. HARDIN: I asked --  
 12 PRESIDING OFFICER: Counselor, he asked  
 13 if he terminated the call.  
 14 Continue.  
 15 MR. HARDIN: Thank you.  
 16 PRESIDING OFFICER: Overruled.  
 17 MR. HARDIN: Thank you.  
 18 Q. (BY MR. HARDIN) Now, this conversation at  
 19 last, were you part of it in terms of being able to  
 20 respond and hear the attorney general?  
 21 A. I could not hear the attorney general nor  
 22 could I respond to him.  
 23 Q. Could you hear the conversation in response by  
 24 Mr. Mateer?  
 25 A. Yes.

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1 Q. And the conversation lasted, again, about how  
 2 long?  
 3 A. We went right up to the bell. We were almost  
 4 late for the Google call. It probably took about 10  
 5 minutes.  
 6 MR. HARDIN: Your Honor, I would -- I  
 7 would urge that this conversation which was happening  
 8 between the two of them is actually not hearsay in a  
 9 sense. The content of what the attorney general was  
 10 saying, or what Mr. Mateer was saying, rather, is not  
 11 offered for the truth of the matter of what he was  
 12 saying about Nate Paul, but only that that's what he was  
 13 telling these folks. And so I would -- I would like to  
 14 tender conversations as to what he was having with  
 15 Mr. Mateer as they were talking.  
 16 PRESIDING OFFICER: Hold on one second,  
 17 Counselor.  
 18 MR. HARDIN: Sure.  
 19 PRESIDING OFFICER: Was there an  
 20 objection? I don't think there was an objection. You  
 21 were starting this line of questioning?  
 22 MR. OSSO: I don't -- I didn't want to  
 23 speak over anybody, but I am objecting to this line of  
 24 questioning. And I do have a response, if the Court  
 25 would care to hear it.

1 PRESIDING OFFICER: What is your  
 2 response?  
 3 MR. OSSO: Well, that Mr. Bangert has  
 4 already testified that he could not hear Ken Paxton on  
 5 the other phone -- on the other side of that phone call,  
 6 so he can't testify to this Court that he's adopted any  
 7 of the statements made by Mr. Mateer. If Mr. Hardin  
 8 wants to submit Mr. Mateer's testimony that's not made  
 9 in court, that's hearsay.  
 10 MR. HARDIN: And if I may, may I ask  
 11 counsel, I didn't hear the -- understand the first part  
 12 of it when he characterized what the testimony was.  
 13 MR. OSSO: The objection is hearsay,  
 14 Judge.  
 15 MR. HARDIN: Well, I understand that.  
 16 But when he -- when he characterizes what Mr. Mateer's  
 17 testimony was, I just ask him to repeat what he said  
 18 there because I just didn't get it. That's what I'm  
 19 saying.  
 20 PRESIDING OFFICER: All right.  
 21 MR. OSSO: What I said was that  
 22 Mr. Bangert has already testified to you and the jury,  
 23 Your Honor, that he could not hear what Ken Paxton was  
 24 saying on the other side of that phone call. And so  
 25 there is no evidence that he adopted anything that

1 Mr. Mateer said. And so they're not his statements.  
 2 And it's still unknown as to -- whatever Jeff Mateer  
 3 said is still hearsay.  
 4 MR. HARDIN: I -- I'm sorry. We have to  
 5 go back on the record. That's not my memory of  
 6 Mr. Mateer's testimony. That's why I wanted to ask him  
 7 to repeat it.  
 8 PRESIDING OFFICER: Okay.  
 9 MR. HARDIN: I don't think they talked  
 10 for 15 minutes with Mr. Mateer, not being able to hear  
 11 it.  
 12 PRESIDING OFFICER: Well, overruled.  
 13 MR. HARDIN: Thank you.  
 14 PRESIDING OFFICER: Counselor, I'll ask  
 15 you to move forward.  
 16 Q. (BY MR. HARDIN) So this conversation it  
 17 was -- did Mr. Mateer give any indication he couldn't  
 18 hear the attorney general?  
 19 A. I -- it became clear to me by listening to the  
 20 conversation it was about Nate Paul and, in particular,  
 21 this question about hiring outside counsel.  
 22 MR. OSSO: Objection. Objection to  
 23 hearsay. Judge, may I be heard?  
 24 MR. HARDIN: Well, wait a minute. We  
 25 just went through that. He just ruled on this matter.

1 PRESIDING OFFICER: I've already ruled.  
 2 Overruled.  
 3 Continue.  
 4 Q. (BY MR. HARDIN) Go ahead, sir.  
 5 A. It was concerning the hiring of outside  
 6 counsel to investigate these allegations that Nate Paul  
 7 had brought to our office.  
 8 Q. Can you put a date on it?  
 9 A. The best I can recall, the conference took  
 10 place a week, maybe a week and a half, prior to the end  
 11 of September.  
 12 Q. Was there anything in this conversation as you  
 13 heard from the other end about him being disturbed that  
 14 Mr. Penley would not -- would not sign the contract?  
 15 MR. OSSO: Object. Objection. The  
 16 question calls for hearsay. He's asking what  
 17 Jeff Mateer said on the phone call.  
 18 MR. HARDIN: I believe the Court has  
 19 already ruled on this. I'm simply asking him about the  
 20 conversation.  
 21 PRESIDING OFFICER: I've already ruled on  
 22 this, Counselor.  
 23 Q. (BY MR. HARDIN) Go ahead, sir.  
 24 A. Mr. Paxton was frustrated that we were not  
 25 moving forward with the retention of outside counsel.

1 MR. OSSO: Objection to speculation. He  
2 didn't -- he didn't hear Mr. Paxton on the phone call.  
3 His opinion of what Mr. Paxton thought is improper.  
4 MR. HARDIN: The Court has just ruled  
5 three times on this issue.  
6 MR. OSSO: My ruling -- my objection was  
7 different, Your Honor.  
8 PRESIDING OFFICER: Overruled.  
9 Q. (BY MR. HARDIN) Now, at the end of the  
10 conversation -- during the course of this conversation,  
11 was there -- were the people for the meeting at Google  
12 having to wait till General Paxton finished trying to  
13 get you to approve an investigation by Mr. Cammack?  
14 A. I know we went right up to the wire. We may  
15 have gone a few minutes past it. I don't recall, but it  
16 was close. It might have gone over.  
17 Q. What I'm wondering is, at the end of the  
18 conversation, did you have any new instructions as to  
19 what the two of y'all were to do about Mr. Cammack?  
20 A. I did not receive any instructions myself.  
21 Q. All right. As a result of that conversation,  
22 did you do anything new or express any new concern about  
23 the hiring of Mr. Cammack?  
24 A. I did nothing new. Our concern -- my concern  
25 was heightened substantially.

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1 MR. OSSO: Objection. Nonresponsive.  
2 MR. HARDIN: Let him finish the answer,  
3 please.  
4 PRESIDING OFFICER: Counselor, he's  
5 answering the question that was directed.  
6 MR. OSSO: Yes, Judge.  
7 PRESIDING OFFICER: Overruled.  
8 MR. HARDIN: Thank you.  
9 A. My concern, based on that occurrence, was  
10 substantially heightened because we were about to move  
11 into a very intense phase of the Google litigation, and  
12 the attorney general's focus was on Nate Paul, not on  
13 the Google case.  
14 Q. (BY MR. HARDIN) So at the end of this  
15 conversation, who did you understand that the attorney  
16 general wanted an outside counsel to investigate?  
17 A. The law enforcement action concerning  
18 Nate Paul. That would have included the search of his  
19 house, his properties. The theory was that there had  
20 been an improper warrant obtained. And I believe there  
21 were also allegations of a conspiracy --  
22 Q. All right.  
23 A. -- by law enforcement.  
24 Q. All right. And -- and the -- did it include  
25 investigating federal magistrates -- a federal

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1 magistrate?  
2 A. Yes.  
3 Q. Did it include investigating individual law  
4 enforcement officers and the FBI?  
5 A. Yes.  
6 Q. Did it include investigating DPS officers?  
7 A. I believe so. I believe that's correct.  
8 Q. And did you know at that time were there any  
9 members of the Securities Board that were also part of  
10 this -- that he wanted investigated?  
11 A. I believe Mr. Sabban.  
12 Q. And were you aware as to what both the head of  
13 your law enforcement division and Mr. Maxwell, because  
14 I'm not sure exactly what his title is, were you aware  
15 of what their consistent positions have been all along  
16 on this matter?  
17 A. Yes.  
18 Q. And in spite of that, was the attorney general  
19 still insisting on going and investigating this -- these  
20 people on behalf of Mr. Paul?  
21 A. Yes.  
22 Q. When you returned to -- to Austin, when was  
23 the next time you had any contact or were aware of this  
24 particular activity?  
25 A. I was in a meeting at the governor's office.

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1 I believe it was with Mr. Brickman. We had normal  
2 meetings scheduled during that time to respond to COVID.  
3 Q. Can you give us a date?  
4 A. I believe this was September 30th.  
5 Q. All right.  
6 A. Toward the very end of September. I received  
7 a text message telling me to return to the office, that  
8 something had happened. My immediate assumption was  
9 that something was Nate Paul.  
10 Q. Why?  
11 A. Because we had been becoming increasingly  
12 concerned. We felt as if matters were coming to a head.  
13 The attorney general was insisting that we move forward  
14 with outside counsel. We strongly resisted that. We,  
15 at that point, had become cognizant of the pattern that  
16 had developed over the preceding nine months. And it  
17 was clear to me that hiring outside counsel to undertake  
18 this task could only benefit one person.  
19 MR. OSSO: I would object to that  
20 opinion. It's an improper opinion.  
21 PRESIDING OFFICER: It's his opinion.  
22 MR. HARDIN: Do we have a response --  
23 PRESIDING OFFICER: Overruled.  
24 MR. HARDIN: I'm sorry. I'm sorry, Your  
25 Honor.

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1 PRESIDING OFFICER: I'm sorry. I said  
2 it's his opinion. Overruled.  
3 MR. OSSO: Yes, Your Honor.  
4 MR. HARDIN: Thank you.  
5 Q. (BY MR. HARDIN) Now, when you were at the  
6 governor's office, had you been aware -- or made aware  
7 yet of a phone call that had been received by any of  
8 your other staff the day before involving Mr. Cammack  
9 and subpoenas?  
10 A. If you're referring to a phone call received  
11 by Ms. Mase from a banker --  
12 Q. And I'm only asking were you aware of that  
13 call?  
14 A. I was -- the meeting at the governor's office  
15 took place on the same day that Ms. Mase received the  
16 phone call from the banker.  
17 MR. OSSO: Objection.  
18 A. So if that phone call took place on the 29th,  
19 that was the day of the meeting.  
20 Q. (BY MR. HARDIN) All right.  
21 MR. OSSO: Objection. Nonresponsive to  
22 the question.  
23 PRESIDING OFFICER: Counselor, overruled.  
24 Q. (BY MR. HARDIN) Now, when you were at the  
25 governor's office, was there somebody else with you from

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1 your -- your staff? Was there another member of the  
2 attorney general's office with you?  
3 A. My recollection was Blake Brickman.  
4 Q. All right. And were y'all on totally  
5 unrelated normal business with the governor's office?  
6 A. Normal business.  
7 Q. All right. So what did you do when you got  
8 that text?  
9 A. Excused ourselves from the meeting. And we  
10 departed and went back to the office, the attorney  
11 general's office.  
12 Q. And what -- what time that day on the 30th of  
13 September did you return to the AG's office and where  
14 did you go?  
15 A. We went to the eighth floor and went directly  
16 to Mr. Mateer's office. And Mr. Mateer was there.  
17 Lacey was there. I believe others were starting to  
18 gather.  
19 Q. All right. And now would you describe the  
20 atmosphere in the room. What -- I mean, first of all,  
21 how many ultimately ended up in the room talking about  
22 this matter?  
23 A. Mr. Maxwell was on vacation, but all the other  
24 deputies that were involved as the whistleblowers  
25 ultimately were there.

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1 Q. All right. And what was the atmosphere?  
2 A. Disbelief, shock, extreme concern.  
3 Q. What were you most concerned about? What did  
4 you learn that would -- made you most concerned?  
5 A. We had been following this pattern of  
6 Nate Paul and his interests metastasizing throughout the  
7 agency over a period of months. It had become clear to  
8 me, based on my conversations with the attorney general,  
9 based on the lack of any substantiation for many of the  
10 claims that were made, based on the absence of a public  
11 interest in taking actions --  
12 MR. OSSO: Objection. Nonresponsive.  
13 A. -- that would benefit Nate Paul, based on all  
14 of those concerns, I was --  
15 PRESIDING OFFICER: Counselor -- I'm  
16 sorry.  
17 A. -- I was asking --  
18 PRESIDING OFFICER: If you have an  
19 objection, raise an objection, but just interrupting,  
20 isn't helpful. I didn't hear an objection, and I just  
21 heard interruption.  
22 MR. OSSO: I apologize, Judge, but I'm  
23 just intending to object because I believe that what  
24 Mr. Bangert is doing on the stand is not responsive to  
25 Mr. Hardin's question, and I have to lodge my objection

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1 so that he doesn't testify before the jury --  
2 MR. HARDIN: Counsel, I think he wants  
3 you sitting so the rest of us can hear you.  
4 MR. OSSO: Sorry. I just --  
5 MR. HARDIN: So we can hear you.  
6 PRESIDING OFFICER: Yes, please sit. We  
7 can hear you better.  
8 MR. OSSO: I'm objecting while  
9 Mr. Bangert is speaking because he's testifying to  
10 evidence that I believe is not admissible, and he's  
11 telling it before the jury. And so I'm lodging my  
12 objection before it gets to the jurors so it doesn't  
13 affect -- inadmissible evidence doesn't come in and  
14 affect their judgment in this case.  
15 So I don't mean to speak over  
16 Mr. Bangert, Your Honor, but I do have to lodge my  
17 objection on behalf of Mr. Paxton.  
18 PRESIDING OFFICER: I just did not hear  
19 the word "objection."  
20 MR. OSSO: Okay.  
21 PRESIDING OFFICER: And if he objects,  
22 Witness, stop talking where you are. Do not continue.  
23 I overrule the objection, however.  
24 MR. OSSO: Thank you, Judge.  
25 Q. (BY MR. HARDIN) And you were -- the question

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1 was, I was asking you what your concerns were and why.  
 2 I think you were in the process of setting that out.  
 3 Let me ask you this: In the course of  
 4 this conversation -- first of all, you, of course, were  
 5 not here for opening statements, were you?  
 6 A. No.  
 7 Q. And you weren't here for the cross-examination  
 8 of Mr. Mateer?  
 9 A. No.  
 10 Q. If someone was contending that you folks were  
 11 sitting around evolving in a mutiny, what would your --  
 12 what would be your response to the suggestion that you  
 13 folks were sitting around there cooking up a mutiny  
 14 against the Attorney General of the State of Texas?  
 15 A. As in we were -- I -- that would make no sense  
 16 to me. We were trying to protect the attorney general  
 17 as much as we could.  
 18 Q. As a matter of fact over the last nine months,  
 19 what had been your mission in relation to the attorney  
 20 general as it related to -- to Mr. Paul?  
 21 A. We had continually, in various ways, warned  
 22 him about Mr. Paul. We had discussed with him the  
 23 absence for any substantiated basis for taking actions  
 24 to benefit Mr. Paul. We had to --  
 25 Q. During -- during all of that time, were you

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1 still a supporter of the attorney general?  
 2 A. Yes.  
 3 Q. Did you believe in the things that he was  
 4 publicly saying that he believed and he wanted to do?  
 5 A. Yes. That's why we were there.  
 6 Q. And -- and did you -- all that period of time  
 7 when you were warning him about Nate Paul, were you --  
 8 what is your testimony in terms of whether or not you  
 9 still were looking after the best interests of the  
 10 public but also the attorney general?  
 11 A. Senior staff always has to walk that line.  
 12 And our job, we take an oath to defend the Constitution  
 13 of the State, but we also are loyal to our principal.  
 14 And those two things, in almost all cases, are  
 15 consistent with each other. So our job is both to  
 16 protect the interest of the public and to serve at the  
 17 pleasure of the attorney general.  
 18 Q. And when this meeting was held -- by the way,  
 19 I think you said the 30th. And I -- I want to sort of  
 20 put a couple of events in your mind to see whether it's  
 21 possible that meeting would have been the 29th, for you  
 22 to let us know whether it's the 29th or the 30th.  
 23 You ultimately called and made an  
 24 appointment to visit and go to the FBI during this time  
 25 frame, correct?

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1 A. Yes.  
 2 Q. And you were over at the governor's office.  
 3 And if the evidence is going to be unrebutted that you  
 4 and your group went to the FBI on the 30th, when was  
 5 this meeting -- when this -- what is your testimony as  
 6 to when this meeting that you've been describing would  
 7 have occurred?  
 8 A. It would have -- it would have been the day  
 9 before.  
 10 Q. Pardon me?  
 11 A. It would have been the day before, the 29th.  
 12 Q. Okay. So this meeting where you come back  
 13 over from the -- from the governor's office and you all  
 14 meet together was on the 29th of September?  
 15 A. Yes.  
 16 Q. How long -- by this time, had you been  
 17 informed of what the subpoenas that had been served by  
 18 Mr. Cammack were asking for?  
 19 A. Initially we were aware of a subpoena to a  
 20 bank requesting records relating to Nate Paul's  
 21 financial interests. That was the first one that we  
 22 became aware of. We subsequently became aware of  
 23 others.  
 24 Q. Did you become aware that these subpoenas were  
 25 actually seeking information through the grand jury, a

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1 criminal state grand jury, of Mr. Paul's opponents in  
 2 his civil litigation?  
 3 A. Yes.  
 4 MR. OSSO: Objection. Leading. My  
 5 objection is that the question is leading, Judge.  
 6 MR. HARDIN: I'll put it another way,  
 7 Your Honor.  
 8 PRESIDING OFFICER: Sustained.  
 9 Please rephrase.  
 10 Q. (BY MR. HARDIN) Were you aware one way or the  
 11 other? And if so, what were you aware of in terms of  
 12 whether these -- the subpoenas that Mr. Cammack were  
 13 being used and drafted to help Mr. Paul in his civil  
 14 litigation?  
 15 A. Yes. It became -- as the subpoenas began to  
 16 roll in and we became aware of them, reading them, they  
 17 were consistent with his argument that he wanted to  
 18 pursue action against both the law enforcement officials  
 19 who had pursued the -- pursued the subpoenas of his  
 20 house and his properties, as well as financial interests  
 21 related to Mitte Foundation and I believe others.  
 22 Q. Now, at this time when this is all happening,  
 23 what was -- was it sort of a mood? When you talk about  
 24 shock, what were you -- why were you shocked? What were  
 25 you concerned about?

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1 A. We were unaware -- at least I was unaware that  
 2 Mr. Cammack had been taking any action on behalf of our  
 3 office. I was unaware that he had been retained. I was  
 4 deeply concerned that the name and authority and power  
 5 of our office had been, in my view, highjacked to serve  
 6 the interests of an individual against the interest of  
 7 the broader public.  
 8 Q. And the fact that he had invoked the use of a  
 9 grand jury to try to help in -- Mr. Paul in his  
 10 investigation, what level of concern and why was that a  
 11 bother to you?  
 12 A. It was unconscionable in my view. You were  
 13 using criminal process to pursue the private enemies --  
 14 MR. OSSO: Objection. I'm objecting to  
 15 improper opinion about the unconscionability of these  
 16 actions.  
 17 MR. HARDIN: I asked why he was  
 18 concerned.  
 19 PRESIDING OFFICER: Overruled.  
 20 MR. HARDIN: Thank you.  
 21 Q. (BY MR. HARDIN) You can pick back up.  
 22 A. Yes. In my view, the criminal process had  
 23 been harnessed to pursue the business enemies of an  
 24 individual, Nate Paul, who also happened to be under  
 25 intensive investigation by law enforcement.

1 Q. So how -- how did you folks decide -- I think  
 2 it was -- it was seven -- was it seven guys and one  
 3 woman? So we're not talking about guys or women or  
 4 whatever. How did y'all decide -- I mean, what kind of  
 5 considerations did you give as to courses of action you  
 6 should follow?  
 7 A. I'll speak for myself here.  
 8 Q. That's all -- that's all I want you to do.  
 9 A. As a staffer, you have fidelity to the  
 10 Constitution and fidelity to your principal. Those two  
 11 things should always align. Unfortunately, over the  
 12 previous nine months, they had been drifting further and  
 13 further apart. One always assumes the best about their  
 14 principal and attempts to protect that principal's  
 15 interests, even at your own expense.  
 16 When I saw that the subpoenas had been  
 17 issued outside of the normal process of our office to  
 18 pursue criminal process against private citizens to  
 19 benefit one individual, it became clear to me that there  
 20 was nothing more I could do; that the office -- the  
 21 attorney general was determined to harness the power of  
 22 our office and to fulfill the interests of a single  
 23 individual against the interest of the State.  
 24 MR. OSSO: And, Judge, I would object to  
 25 that answer. That answer is speculation about his

1 opinion of what the intent was of other parties.  
 2 PRESIDING OFFICER: Overruled.  
 3 Q. (BY MR. HARDIN) Now, did y'all try to decide  
 4 what to do in terms of whether you hire outside lawyers  
 5 yourself, or what -- what kind of issues were you  
 6 concerned about as a course of action going forward, you  
 7 yourself?  
 8 A. We had stepped into the void at that point.  
 9 There's nothing -- there's no roadmap to follow when  
 10 that happens.  
 11 Q. That's sort of like what we're doing here,  
 12 right?  
 13 A. Yes.  
 14 Q. There's no real roadmap except for something  
 15 100 years ago and something in the '70s. You were  
 16 writing on a clean slate, weren't you?  
 17 A. Yes, much against our will, but our hand had  
 18 been forced.  
 19 Q. So what drove you to make the decision to go  
 20 to law enforcement?  
 21 A. In my view there was simply nothing more we  
 22 could do. It had -- the course of actions had played  
 23 themselves out. The attorney general was determined to  
 24 follow this course of action in favor of Nate Paul,  
 25 despite all of our efforts to persuade him otherwise.

1 The power of our office had been fully, at that point,  
 2 harnessed to advance Nate Paul's interests. And we had  
 3 lost the ability to, as senior staff, protect our  
 4 principal.  
 5 Q. Mr. Bangert, there's been suggestions  
 6 repeatedly in this proceeding that why didn't you just  
 7 go to the -- to the attorney general? Why didn't you go  
 8 to the attorney general, just talk to him? Did you?  
 9 A. Concerns were raised repeatedly and  
 10 consistently by multiple members of senior staff over a  
 11 course of several months. There is no question in my  
 12 mind based on my personal experience with him that he  
 13 was well aware of our objections.  
 14 Q. And -- and, in fact, after you went to the FBI  
 15 on the 30th of September, on the 1st of October, did you  
 16 as a group send a text message to the attorney general  
 17 asking to meet with him?  
 18 A. We did.  
 19 Q. And -- and before that, had you been aware  
 20 that he was out of town when all of this happened to  
 21 begin with?  
 22 A. Yes.  
 23 Q. And when I say "to begin with," the period of  
 24 September the 28th, 29th, do you know where the attorney  
 25 general was?

1 A. He was on a business trip out of the state. I  
2 don't recall which state he was in, but he was out of  
3 state.  
4 Q. And on the 29th, the 30th, were you -- what  
5 would -- what was the 30 -- what was the hurry that you  
6 experienced about trying to call this to the attention  
7 of law enforcement? Were you concerned what --  
8 Mr. Cammack was still serving subpoenas out there to  
9 private people, or what did you -- what was your  
10 concern?  
11 A. My concern --  
12 MR. OSSO: Objection. Leading. About  
13 Cammack. He's insinuating the answer in the question,  
14 Judge.  
15 MR. HARDIN: I asked what his concern  
16 was.  
17 PRESIDING OFFICER: Overruled.  
18 A. My concern was we did not know what we did not  
19 know. We knew that he had already been serving  
20 subpoenas on banks. We were learning of additional  
21 subpoenas.  
22 We -- in my view, we had lost our ability  
23 to speak into the situation as senior staff. We had no  
24 ability to end the use of our office to advance private  
25 personal interests using -- improperly using the

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1 criminal process. The only way we could deal with that  
2 situation was to make a report to the FBI. At least  
3 that was our judgment at the time.  
4 Q. (BY MR. HARDIN) Do you happen to recall why  
5 you picked the FBI rather than some other agency?  
6 A. My recollection was that we had a relationship  
7 with some agents at the FBI who we trusted and we knew.  
8 And also the FBI, in our view, would have jurisdiction  
9 over these kinds of matters.  
10 Q. And in addition, DPS at that time was one of  
11 the people, one of the groups, was it not, that Mr. Paul  
12 was seeking to -- to investigate?  
13 A. Yes.  
14 Q. At -- at the end of the day, how long had --  
15 when y'all decided to go to the FBI, how many of you  
16 went and how long were the interviews?  
17 A. Seven of us went. We were interviewed  
18 together.  
19 Q. All right. And how long do you think the  
20 interview --  
21 A. Multiple hours.  
22 Q. And once it -- once that interview was over, I  
23 mean, did you go yourself, knowing one way or the other,  
24 what type of crime might or might not be involved?  
25 A. I did not have the precise -- I -- I had a

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1 fairly good idea what was happening, based on the  
2 evidence I had collected, yes.  
3 Q. But did you one way or the other as a non -- a  
4 person not experienced in criminal law, did y'all sit  
5 down and decide what statute it was or anything like  
6 that?  
7 MR. OSSO: Objection to improper opinion  
8 about what kind of crime this witness believes was  
9 committed.  
10 MR. HARDIN: That's fine. I'll withdraw  
11 that question.  
12 PRESIDING OFFICER: Sustained.  
13 MR. HARDIN: Thank you, Your Honor.  
14 Q. (BY MR. HARDIN) Let me ask this you this:  
15 Did you consider what he had been doing on behalf of  
16 Nate Paul an abuse of office?  
17 A. Yes.  
18 MR. OSSO: Objection to improper opinion  
19 and invades the province of this jury's decision in this  
20 case.  
21 MR. HARDIN: Let me put it --  
22 PRESIDING OFFICER: Sustained.  
23 MR. HARDIN: Let me put it another way.  
24 PRESIDING OFFICER: Counselor, try a  
25 little bit better.

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1 MR. HARDIN: Thank you, Your Honor.  
2 Q. (BY MR. HARDIN) Did you yourself, when you  
3 went to the FBI, have an opinion that drove you to the  
4 FBI about whether -- what this conduct by the attorney  
5 general did, that would -- the attorney general was  
6 involved in, as to whether or not he was violating the  
7 oath of office that you were familiar with and believed  
8 he should be following?  
9 MR. OSSO: Objection to that question.  
10 Again, same objection, Judge.  
11 PRESIDING OFFICER: Overruled.  
12 A. Yes.  
13 Q. (BY MR. HARDIN) And what did you think? You  
14 personally. Just you personally.  
15 MR. OSSO: Objection to improper opinion  
16 about -- and relevance to what this witness thought.  
17 PRESIDING OFFICER: Overruled.  
18 A. I went to the FBI because I believed that the  
19 attorney general --  
20 Q. (BY MR. HARDIN) Just put the microphone up or  
21 move forward. Just move up a little bit, if you don't  
22 mind.  
23 A. I went to the FBI because I believed, based on  
24 my experience over the previous nine months, that the  
25 attorney general had abandoned his obligation to work on

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1 behalf of the interests of the people of Texas to serve  
 2 the interests of one person, Nate Paul. And that was  
 3 based on a series of events that occurred over several  
 4 months --

5 MR. OSSO: Objection to nonresponsive.  
 6 He asked his opinion, not what he based it off of.

7 PRESIDING OFFICER: Sustained.

8 Q. (BY MR. HARDIN) Now, after you folks went to  
 9 the FBI, were you all together when you -- and you sent  
 10 an e-mail the next day to the attorney general wanting  
 11 to meet with him?

12 A. We did.

13 Q. What was the attorney general's response?

14 A. It was a very odd response.

15 Q. What was it?

16 A. It was a text message saying that he would be  
 17 happy to meet with us to address any concerns we may  
 18 have, or something to that effect.

19 Q. Well, then did he agree to?

20 A. No. We could not meet with him.

21 Q. Did -- how did that go? Did you know  
 22 whether -- whether he was able to meet?

23 MR. HARDIN: Can I have the two exhibits?  
 24 May I, just a moment for Stacey. May I have just real  
 25 quickly --

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1 PRESIDING OFFICER: Counsel, we're at a  
 2 break time. Do you want to -- I don't know how much  
 3 longer you have with this witness.

4 MR. HARDIN: I think only 5 or 10 minutes  
 5 is all I have left with this witness.

6 PRESIDING OFFICER: Okay. Well, we'll go  
 7 about another 10 minutes.

8 MR. HARDIN: Thank you.  
 9 Stacey, can you -- I believe this is in  
 10 evidence, is it not?

11 PRESIDING OFFICER: Before we put it up  
 12 on the screen --

13 MR. HARDIN: It's in -- I'm told it is in  
 14 evidence.

15 MR. OSSO: No objection, Judge, to 225.

16 PRESIDING OFFICER: Continue.

17 Q. (BY MR. HARDIN) All right. I want you to  
 18 look at Exhibit 225 and -- and explain to the jury, if  
 19 you can see it clearly on the screen.

20 A. Yes. I see the document.

21 Q. All right. Do you recognize this document and  
 22 this exchange of -- of text messages?

23 A. It's been a while, but I -- I recognize it.

24 Q. All right. What I'm going to ask you to do,  
 25 each -- each text message identifies the sender. I'm

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1 going to ask you to publish this to the jury and the  
 2 public, but keeping your voice up. It's a -- it's a  
 3 trick because you've got to look in there.

4 First of all, if you would, just start  
 5 out with Mr. Mateer, identify the speaker, and then  
 6 publish this exhibit to the public.

7 A. Yes. The text message is dated  
 8 September 29th, 2020. It begins at 3:02 p.m. The first  
 9 text message is from Jeff Mateer to a group of us on a  
 10 group text.

11 Quote, We have a major problem. The kid  
 12 has served a subpoena on a bank. Showed up there in  
 13 person at the bank.

14 Jeff then sends a separate text, With  
 15 someone from World Class.

16 And then he sends --

17 Q. Did you later discover -- excuse me, sir. Did  
 18 you later discover the person with him?

19 A. Michael Wynne.

20 Q. Was Michael Wynne Nate Paul's lawyer?

21 A. Yes. Michael Wynne.

22 Q. So you're -- you have him out there serving  
 23 subpoenas with the lawyer of the person that's asked for  
 24 the investigation, correct?

25 A. That is correct.

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1 Q. Who you know is under federal investigation  
 2 as -- as you're going along?

3 A. That is correct.

4 Q. Go ahead.

5 A. The next text from Jeff, I need you guys to  
 6 come back.

7 Q. All right. And let's go to the next time.  
 8 And go.

9 A. Same day, September 29th, 2020, 9:05 p.m.  
 10 Jeff Mateer writing to the group, Firm Maxwell.

11 Q. And what does that -- do you have any idea  
 12 what that's referring to? Do you remember?

13 A. I believe Maxwell had been communicating with  
 14 us at that time about the events of the day and had  
 15 provided his evaluation as to a letter that we had been  
 16 writing.

17 Q. And he was actually in Colorado on vacation,  
 18 was he not?

19 A. He was vacationing.

20 Q. Yeah. All right. Go ahead.

21 A. Then Jeff pasted in this -- this language,  
 22 Read the letter, not sufficient. A request letter must  
 23 allege specific allegations that are in violation of  
 24 state law to include documentation of criminal act. The  
 25 only thing you have is what happened today that is

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1 documented.

2 Q. And what letter are you talking about there?

3 Or is he talking -- yeah, that you're talking about. Do

4 you recall?

5 A. My recollection is that there was a letter

6 that had begun to be circulated amongst senior staff,

7 but I am reaching into my memory to recall the specific

8 time frame.

9 Q. Were you at that time drafting a document to

10 be told -- to -- to be sent to either law enforcement or

11 to the attorney general announcing? Do you recall? If

12 you don't recall, just tell me you don't remember.

13 A. At some point during that day or the next, I

14 was more or less helping scriven. I was a scrivener

15 writing up documents including allegations concerning

16 what had happened that day, yes.

17 Q. All right. Go ahead.

18 A. There's a text from someone who is

19 unidentified as the person whose phone -- from whose

20 phone this text was produced. It says, Lots of undue

21 influence.

22 I'm assuming that's Mr. Brickman.

23 Q. All right. So now read what -- so go ahead.

24 A. I then respond, Okay. Sounds like we need to

25 beef up the specific allegations.

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1 Q. Go ahead.

2 A. I then text again, So do we need to lay out

3 the facts that led up to today's events: KP taking

4 NP -- that would be Ken Paxton and Nate Paul -- to

5 Moore -- that would be Margaret Moore -- obtaining the

6 referral, demanding that we investigate facially bogus

7 charges, refusing to take our advice that there is no

8 prosecutable offense, demanding that we hire outside

9 counsel, overriding our advice a second time, and

10 apparently now authorizing an improper fishing

11 expedition by private attorneys into a civil matter.

12 Q. All right. And then -- and then you have

13 another one right after that, do you not?

14 A. I do.

15 Q. Go ahead.

16 A. I then continue, Or do we need to go further

17 and describe the constant demands that we put the

18 resources of the office at the service of NP's private

19 interest -- that's Nate Paul -- personally intervening

20 in open records issues, demanding intervention in a

21 charitable dispute over the objection of staff,

22 demanding an informal opinion to apparently (after the

23 fact) benefit Nate Paul. And now finally seeking

24 criminal investigation of federal officials involved in

25 a criminal investigation of Nate Paul.

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1 Q. Keep on going.

2 A. Would you please scroll?

3 Q. Yeah.

4 A. I then send another text. All the while over

5 the objection of staff. Its pattern and practice

6 evidence strongly suggestive of an improper motive.

7 Q. All right. Let me -- let me stop you there a

8 second. You believed the attorney -- did you believe at

9 this time that the attorney general that could enter

10 into contracts, even if all members of his staff

11 objected, did you have any question about that in your

12 mind?

13 A. He is the principal, and I believe he could.

14 Q. All right. What was your position as to

15 whether either ultimately, however, there might come a

16 time where the attorney general, in exercising what he

17 believed he had the legal authority to do, could do

18 something that became illegal by being used for an

19 improper purpose? Did you have an opinion on that?

20 A. I did.

21 Q. And what was it?

22 A. Yes. The attorney general could use the

23 lawful powers and authorities of our office for a

24 patently improper purpose, such as using the power of

25 our office to benefit the interests of one individual

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1 citizen at the expense of the public interest. That is

2 improper.

3 Q. If, in fact, you reached a conclusion that

4 that has repeatedly been done, in spite of consistent

5 advice against it by the staff, in your -- what is your

6 opinion when there ever comes a time that staff has to

7 complain and say enough is enough, you can't proceed?

8 MR. OSSO: Objection. Improper opinion.

9 MR. HARDIN: All right.

10 PRESIDING OFFICER: I'm sorry.

11 Overruled. He has the opportunity to offer his opinion.

12 MR. OSSO: Yes, Judge.

13 A. Yes. And that is precisely what we did.

14 Q. (BY MR. HARDIN) Did you consider it a mutiny?

15 A. It was not a mutiny.

16 Q. How would you characterize it?

17 A. We were protecting the interest of the State

18 and, ultimately, I believe, protecting the interest of

19 the attorney general. And, in my view, signing our

20 professional death warrant at the same time.

21 Q. What was the stated awareness of all of you

22 that knew the consequences of what you were doing when

23 you staked out this position and decided to go to law

24 enforcement?

25 A. We understood the gravity of that act. We

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1 were fully cognizant of it. It was something that we  
 2 did not want to do. It was something that we tried  
 3 earnestly to avoid ever having happen. But when the  
 4 moment came and we realized there was no other choice,  
 5 that is the duty of a public employee, to ultimately  
 6 make that incredibly hard choice to serve the public  
 7 interest, even at the expense of your principal because  
 8 he has insisted on improper, and we believed, unlawful  
 9 course of conduct.  
 10 Q. Mr. Bangert, did every single one of you pay  
 11 an extreme price for what you did?  
 12 MR. OSSO: Objection. Improper opinion.  
 13 It goes and invades the province of the jury with regard  
 14 to an article.  
 15 PRESIDING OFFICER: Sustained.  
 16 Rephrase.  
 17 Q. (BY MR. HARDIN) Mr. Bangert, what happened  
 18 with you? How did you end your employment with the  
 19 attorney general's office?  
 20 A. I resigned from my position immediately after  
 21 the 2020 election. By the time I resigned, all of my  
 22 duties had been taken from me. I was simply an employee  
 23 in name only.  
 24 Q. When you -- after you went to law enforcement,  
 25 how do you mean your duties were taken from you?

1 A. Over the course of several weeks, I was  
 2 excluded from and ultimately removed from any  
 3 responsibility by the new first assistant. And then  
 4 subsequent to that in the middle of October, I was  
 5 informed that I would no longer be overseeing the  
 6 special litigation unit. I objected to that, and that  
 7 was to no avail.  
 8 PRESIDING OFFICER: Counselor, we're --  
 9 you said about 10 minutes. We're --  
 10 MR. HARDIN: I see.  
 11 PRESIDING OFFICER: For the benefit of  
 12 the jury and the staff, do we need to break here or do  
 13 you need a few more minutes?  
 14 MR. HARDIN: That's fine. I only have a  
 15 few minutes, but that's fine. That's fine.  
 16 PRESIDING OFFICER: If you have a few  
 17 minutes, finish with the witness. If you're going to go  
 18 longer, then tell me and we'll break.  
 19 MR. HARDIN: Thank you so much. I  
 20 always -- I never want to be in the way of people taking  
 21 a restroom break.  
 22 PRESIDING OFFICER: All right.  
 23 MR. HARDIN: Thank you.  
 24 PRESIDING OFFICER: We will break until  
 25 11:00 o'clock sharp. That's a 20-minute break, Members.

1 (Recess: 10:39 a.m. to 11:02 a.m.)  
 2 PRESIDING OFFICER: Court will come to  
 3 order.  
 4 Mr. Hardin, you can continue.  
 5 MR. HARDIN: Thank you very much, Your  
 6 Honor.  
 7 Stella, can I have hard copy exhibits for  
 8 the Court and the other side on Exhibit 571. And can  
 9 you give the witness one so that it doesn't have to be  
 10 put up on the screen.  
 11 PRESIDING OFFICER: Is this already in  
 12 evidence?  
 13 MR. HARDIN: It is not. That's what I'm  
 14 going to seek to introduce. Thank you, Your Honor.  
 15 Q. (BY MR. HARDIN) So now without going into  
 16 specific contents, do you recognize this exhibit?  
 17 A. Yes.  
 18 Q. And without talking about the contents as to  
 19 what it says, how -- would you -- would you identify it  
 20 in terms of what it is?  
 21 A. This is a text message that was sent --  
 22 Q. The microphone, I'm sorry.  
 23 A. This is a text message that was sent by the  
 24 group of us to the attorney general.  
 25 Q. All right. And does it also contain the

1 attorney general's response?  
 2 A. Yes.  
 3 Q. Are you aware of people -- of any instance  
 4 where there's been criticism that -- that you did not  
 5 seek to meet with the attorney general?  
 6 A. I --  
 7 Q. Are you aware that there's been that  
 8 criticism?  
 9 A. I'm aware of that, yes.  
 10 Q. All right.  
 11 MR. HARDIN: Now, Your Honor, we would --  
 12 we -- we move to introduce 571, with the understanding  
 13 this witness participated in sending this along with the  
 14 other group of people we've been talking to as the  
 15 whistleblowers.  
 16 PRESIDING OFFICER: Any objection?  
 17 MR. OSSO: No objection, Judge.  
 18 PRESIDING OFFICER: Continue. It's  
 19 admitted into evidence.  
 20 (HBOM Exhibit 571 admitted)  
 21 MR. HARDIN: Can I have it up on the  
 22 screen, please.  
 23 Q. (BY MR. HARDIN) The first page, would you  
 24 show who all -- would you, for the record, explain who  
 25 all it says is sending this?

1 A. The -- beginning at the top of the page --  
 2 Q. Yes. Yes.  
 3 A. -- Lacey Mase, deputy for administration, is  
 4 sending this e-mail, which contains a screenshot, to  
 5 Jeff Mateer, Blake Brickman, Ryan Vassar, Ryan Bangert  
 6 myself, Mark Penley, and Darren McCarty.  
 7 Q. All right. If you would look at the  
 8 screenshot on that first page, if we turn -- does this  
 9 exhibit contain a screenshot of the text messages that  
 10 you as a group, the addressees up at the top, sent to  
 11 the attorney general?  
 12 A. Yes.  
 13 Q. And did you send it -- on what date, if you  
 14 would look up there?  
 15 A. The date is not listed, but this would have  
 16 been --  
 17 Q. The screenshot is dated, is it not?  
 18 A. The screenshot --  
 19 Q. Can you see it?  
 20 Yeah, the first page.  
 21 A. Yes. This is -- the e-mail is dated  
 22 October 1st.  
 23 Q. All right. Right. The e-mail has sent -- has  
 24 been sent around. But if you look at the second page of  
 25 this exhibit, does it contain correspondence with --

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1 where each of you -- give me -- let me back up. Strike  
 2 that.  
 3 And I apologize, Mary, ma'am.  
 4 If you would just give the jury the  
 5 background of why y'all sent this and when you sent it.  
 6 A. Yes. We sent this message to the attorney  
 7 general after we had made a good-faith report to the  
 8 FBI. We wanted to speak with him. We wanted to bring  
 9 him back to the office. We wanted to invite him back to  
 10 the office to speak with us so that we could address  
 11 these concerns head-on.  
 12 We wanted -- we were hoping that we could  
 13 finally resolve these issues, and in our view, end this  
 14 unlawful use of our office's resources.  
 15 Q. All right. Now, the screenshot is dated  
 16 October 1st. And, in fact, you -- we -- your group --  
 17 your group went to the FBI, I believe you testified, on  
 18 September the 30th, correct?  
 19 A. That's right.  
 20 Q. This e-mail that Jeff sent on -- Jeff Mateer  
 21 sent on behalf of all of you, would you read that out  
 22 loud, publish to the jury, please?  
 23 A. The text message?  
 24 Q. Yes.  
 25 A. Yes. Jeff Mateer at 12:49 p.m.

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1 General Paxton, yesterday, each of the individuals on  
 2 this text chain made a good-faith report of violations  
 3 of law.  
 4 Q. Nice -- nice and slow.  
 5 A. I'll begin again.  
 6 General Paxton, yesterday each of the  
 7 individuals on this text chain made a good-faith report  
 8 of violations of law by you to an appropriate law  
 9 enforcement authority concerning your relationship and  
 10 activities with Nate Paul. We request that you meet  
 11 with us today in the eighth floor conference room at  
 12 3:00 o'clock p.m. to discuss this matter.  
 13 Q. Now, at that time, since when it says  
 14 "yesterday" here, and I believe you testified that the  
 15 two of you went to the FBI on the 30th, correct?  
 16 A. The group of us did.  
 17 Q. Yes. And then -- and then on the 1st, you  
 18 send this text. So when we see on there today  
 19 12:49 p.m., this message from Mr. Mateer on behalf of  
 20 all of you, would have been sent on what date?  
 21 A. The following day, the 1st.  
 22 Q. October the 1st.  
 23 And at that time, did you know whether or  
 24 not the attorney general was back in Austin from his  
 25 trip out of town?

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1 A. Yes. My recollection is that he had returned  
 2 late the previous evening.  
 3 Q. Late the evening of the 30th?  
 4 A. Yes, that's my recollection.  
 5 Q. Okay. Would you publish to the jury what he  
 6 responded to you about three hours after you sent it?  
 7 A. Yes. At 3:08 p.m., Jeff, I am out of the  
 8 office and received this text on very short notice. I  
 9 am happy as always to address any issues or concerns.  
 10 Please e-mail me with those issues so that they can be  
 11 fully addressed.  
 12 Q. And so did you e-mail him with those issues?  
 13 A. I don't believe we did. I don't recall. We  
 14 wanted to meet with him personally.  
 15 Q. And if you did not, would you -- why would you  
 16 not have?  
 17 A. He was well aware.  
 18 Q. And how did you take that, asking for the  
 19 issues?  
 20 A. I interpreted that message as he was not going  
 21 to engage with us on this.  
 22 Q. Did he ever reach out to you and try to?  
 23 A. No, not to me.  
 24 Q. And -- and as a former deputy first assistant,  
 25 you remained still with the office available to talk to

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1 him for how long?  
 2 A. I remained with the office until after the  
 3 2020 election in November, early November.  
 4 Q. At any time after -- after you sent that text,  
 5 did the attorney general ever attempt to discuss any of  
 6 these issues with you?  
 7 A. One time.  
 8 Q. When was that?  
 9 A. I had turned in my notice and -- of  
 10 resignation. I was in the process of gathering up the  
 11 things in my office. And I was alone in my office, and  
 12 he walked into the office unannounced and closed the  
 13 door behind him, and was pacing to and fro in the  
 14 office. He was very agitated, in my view.  
 15 And he said to me, Ryan, I just want you  
 16 to know that you're only sitting in this office today  
 17 because of me.  
 18 Q. What else did he say?  
 19 A. He said this was not Jeff Mateer who put you  
 20 here. It was me.  
 21 Q. He said what?  
 22 A. He said, Jeff Mateer didn't put you in this  
 23 office. It was not his decision. It was my decision.  
 24 I put you here.  
 25 Q. Okay.

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1 A. And he was -- it was a very odd conversation.  
 2 I wasn't quite sure how to respond. So I just told the  
 3 attorney general that it was my hope that God would work  
 4 things out in the end. That was the only time that he  
 5 spoke to me alone about these issues. And that was it.  
 6 Q. What is your observation as to whether  
 7 encounters of unpleasant or difficult issues, the  
 8 attorney general's characteristic is as to whether -- as  
 9 to how he acts in issues of conflict or whether he  
 10 avoids them?  
 11 MR. OSSO: Objection to relevance.  
 12 PRESIDING OFFICER: Sustained.  
 13 Q. (BY MR. HARDIN) After you left, can you  
 14 describe for the jury the impact of all of this has been  
 15 on you?  
 16 A. Yes. That month was a very unsettling month.  
 17 I was waiting to be terminated. Instead, I just had my  
 18 job duties stripped from me and was left more or less a  
 19 man without a portfolio in the office. I watched as my  
 20 fellow whistleblowers were placed under administrative  
 21 leave and investigated. I watched as certain members of  
 22 the staff, the new staff, treated them in a belligerent  
 23 manner, including myself.  
 24 And ultimately, I had to -- I resigned.  
 25 It was incredibly heartbreaking because I had believed

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1 in Ken Paxton and what he has -- had been doing for  
 2 years. I had moved my family here to Austin  
 3 specifically to go to work for him.  
 4 And I watched all of these things that we  
 5 had done as a leadership team slowly begin -- begin to  
 6 unravel. And it was absolutely heartbreaking to see  
 7 that happen to an office that had been, in my view, a --  
 8 a beacon for the conservative legal movement for years.  
 9 Q. Have you noticed he's not even here today?  
 10 MR. OSSO: Objection. Relevance.  
 11 MR. HARDIN: That's very relevant. I  
 12 want the record to reflect --  
 13 MR. OSSO: Objection. Relevance.  
 14 MR. HARDIN: If I could, I'll ask that  
 15 question again.  
 16 PRESIDING OFFICER: Sustained.  
 17 MR. HARDIN: All right. I want the  
 18 record to reflect that Attorney General Paxton was not  
 19 here.  
 20 MR. OSSO: Objection.  
 21 MR. HARDIN: Your Honor, I -- I'm just  
 22 making this for the record. I think we're entitled to  
 23 point out --  
 24 MR. OSSO: I'm objecting to the attorney  
 25 testifying.

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1 MR. HARDIN: Excuse me. Let me finish,  
 2 please.  
 3 PRESIDING OFFICER: Quit talking over  
 4 each other. Court reporters cannot record.  
 5 I sustained his objection.  
 6 MR. HARDIN: Yes, sir. I understand, and  
 7 I'm not any longer trying to ask that question.  
 8 I do want the record to reflect that  
 9 neither yesterday nor today has the attorney general  
 10 graced us with his appearance. That's all. I wanted to  
 11 make that statement, please, for the record.  
 12 I thank you very much, Your Honor. I'll  
 13 pass the witness.  
 14 MR. OSSO: Judge, may I have a moment to  
 15 just prepare my exhibits up on the bench -- or the  
 16 podium?  
 17 PRESIDING OFFICER: Yes.  
 18 MR. OSSO: May I proceed, Judge?  
 19 PRESIDING OFFICER: You may proceed.  
 20 CROSS-EXAMINATION  
 21 BY MR. OSSO:  
 22 Q. Mr. Bangert, we heard a lot about your  
 23 background. Obviously you have a very esteemed career  
 24 and resume, correct?  
 25 A. My resume is what it is.

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1 Q. Okay. Mine is not like yours, and so I'm just  
2 going to try and do a courtesy to you and ask you short  
3 and simple questions. Okay? And I would ask that if I  
4 ask you a yes or no question, that you simply respond  
5 yes or no. All right?  
6 A. Understand.  
7 Q. Okay. Now, you are currently represented by  
8 an attorney, correct?  
9 A. I am.  
10 Q. Okay. That attorney is Johnny Sutton?  
11 A. Yes.  
12 Q. That is the same attorney that represents  
13 Jeff Mateer, correct?  
14 A. It is my understanding that he also represents  
15 Jeff Mateer, yes.  
16 Q. So you and Jeff Mateer both have the same  
17 attorney?  
18 A. We do.  
19 Q. Okay. As a matter of fact, Mr. Sutton is here  
20 today in the building, right?  
21 A. Yes.  
22 Q. He's probably watching your testimony?  
23 A. I assume so.  
24 Q. Okay. And as a matter of fact, the two of you  
25 were just in the restroom together about 15 minutes ago?

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1 A. You would know that because you were there  
2 too.  
3 Q. I know, right? But that's a yes, correct?  
4 A. That is a yes.  
5 Q. Okay. So you guys have been in contact during  
6 your testimony in this trial?  
7 A. We have.  
8 Q. All right. Now, you stated on direct  
9 examination that you did not provide any statements with  
10 regard to what you've testified in court today, right?  
11 A. Would you please reframe. I don't understand  
12 the question.  
13 Q. Sure. And I think the record reflects when  
14 Mr. Hardin asked if you made any statements in this  
15 case, and when the Judge clarified if you had made any  
16 statements before this testimony, you said that you  
17 hadn't.  
18 A. I do not recall testifying to that effect.  
19 Q. Okay. So you've made statements previous to  
20 your testimony today, right?  
21 A. Again, when you say "statements," have I  
22 spoken to anyone?  
23 Q. I mean, you have made an out-of-court  
24 statement, Mr. Bangert.  
25 A. Are you talking about under oath?

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1 Q. I'm asking you, yes or no, if you made  
2 statements about this case to anyone?  
3 MR. HARDIN: Objection.  
4 PRESIDING OFFICER: Don't answer the  
5 question.  
6 What's your objection?  
7 MR. HARDIN: My objection, Your Honor, is  
8 if he would just, please, express what he means by  
9 "statements." That has a legal significance and a  
10 practical one.  
11 PRESIDING OFFICER: Overruled.  
12 MR. HARDIN: This witness is not aware of  
13 the issue.  
14 PRESIDING OFFICER: Overruled.  
15 Answer the question.  
16 Q. (BY MR. OSSO) So it's a yes or no question.  
17 A. It's not a yes or no question, sir.  
18 Q. Well, then, let me ask you a more specific  
19 question. Were you interviewed by the House Board of  
20 Managers in their preparation and investigation of this  
21 case?  
22 A. Yes, I was.  
23 Q. Okay. Were you interviewed by Mr. Hardin and  
24 Mr. DeGuerin prior to your testimony for this case?  
25 A. Prior to my testimony today?

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1 Q. Yes.  
2 A. I was, yes.  
3 Q. Okay. So those are two statements that you've  
4 made to people about your testimony in this case, right?  
5 A. I'm not trying to fight with you, Counsel.  
6 I'm simply pointing out that the word "statement"  
7 carries legal significance --  
8 Q. Well, hearsay --  
9 A. -- under oath.  
10 Q. Well, hearsay --  
11 A. Those are not under oath. Yes.  
12 PRESIDING OFFICER: Witness, answer the  
13 question. Don't argue with the counsel.  
14 Q. (BY MR. OSSO) You've made two interviews  
15 prior to testifying today, right?  
16 A. I have given -- I have given interviews, yes.  
17 Q. Okay. Two of them?  
18 A. I have spoken both with the House Managers'  
19 counsel, and I've spoken with Mr. Hardin and  
20 Mr. DeGuerin.  
21 Q. Yes or no, Mr. Bangert, were either of those  
22 interviews recorded?  
23 A. No.  
24 Q. Did you ask that those interviews not be  
25 recorded?

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1 A. No.  
 2 Q. Did your lawyer ask that those interviews not  
 3 be recorded?  
 4 A. Not to my recollection, no.  
 5 Q. So you don't know why they were recorded --  
 6 why they were not recorded?  
 7 A. I do not.  
 8 Q. Okay. If Mr. Hardin or Mr. DeGuerin had any  
 9 objection to you being recorded during your interviews,  
 10 would that have been a problem? Yes or no?  
 11 A. I -- I don't understand the import of the  
 12 question. Would that have been a problem for me?  
 13 Q. My question is: If Mr. Hardin or Mr. DeGuerin  
 14 had said, Mr. Bangert, you're giving an interview with  
 15 regard to testimony in an impeachment trial, can we  
 16 record you? Would that have been a problem for you or  
 17 Mr. Sutton?  
 18 A. I can speak for myself. I would -- I would  
 19 have no problem with that.  
 20 Q. Okay. And despite your lack of objection to  
 21 that, Mr. Hardin and Mr. DeGuerin chose not to interview  
 22 you during your interviews with regard to this case?  
 23 A. Chose not to record me, yes. I assume that  
 24 was their choice, but I was not recorded.  
 25 Q. Okay. And additionally, prior to that

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1 interview when you met with the House Board of Managers,  
 2 it's safe to say you wouldn't have had an objection to  
 3 them recording you either, correct?  
 4 A. I can't think of any at the time, no.  
 5 Q. Okay. And it just so happens that the House  
 6 Board of Managers, the investigators in this case, chose  
 7 not to record your statement either?  
 8 A. As far as I know, they did not.  
 9 Q. Okay. So you would have to agree that there  
 10 are a lot of things that you testified to when  
 11 Mr. Hardin was directing you that we were hearing for  
 12 the first time on this side of the trial, correct?  
 13 A. I honestly cannot answer that question. I do  
 14 not know what you know and what you do not know.  
 15 Q. Well, you had information that you produced  
 16 actually to both sides of this trial within the last two  
 17 days, correct?  
 18 A. There was a text chain that was produced by my  
 19 counsel.  
 20 Q. Okay. We didn't see Mr. Hardin produce those  
 21 text messages during his direct, did we?  
 22 A. Mr. Hardin producing his text messages to  
 23 whom?  
 24 Q. During his direct examination of you, he did  
 25 not ask you about text messages that you produced

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1 yesterday during this trial. Yes or no?  
 2 A. No, he did not.  
 3 Q. Okay.  
 4 MR. OSSO: Your Honor, may I approach the  
 5 witness?  
 6 PRESIDING OFFICER: Yes.  
 7 Mr. Bangert, don't speak to him now.  
 8 Just give it to him and then speak from  
 9 the microphone. Thank you, Counselor.  
 10 Q. (BY MR. OSSO) I'm handing you --  
 11 PRESIDING OFFICER: Hold on. Everyone  
 12 wants to hear you.  
 13 Q. (BY MR. OSSO) I'm handing you what has been  
 14 premarked as Attorney General's Exhibit 1000, and I  
 15 believe, 3, correct?  
 16 A. It is marked AG 1003, yes.  
 17 Q. Okay. Now, you recognize this document, do  
 18 you not?  
 19 A. I do.  
 20 Q. These are text messages from your cell phone,  
 21 right?  
 22 A. Yes.  
 23 Q. You produced these to both sides in court  
 24 yesterday?  
 25 A. Mr. Sutton, my attorney, produced them

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1 yesterday.  
 2 Q. Okay. And you would agree that these are a  
 3 fair and accurate --  
 4 PRESIDING OFFICER: Counselor, excuse me.  
 5 We do not have a copy of what you have.  
 6 MR. OSSO: Yes, Judge. I'll get a copy  
 7 for the Court.  
 8 PRESIDING OFFICER: Thank you.  
 9 Continue.  
 10 MR. OSSO: Yes, Judge.  
 11 Q. (BY MR. OSSO) You would agree that these are  
 12 a fair and accurate reflection --  
 13 MR. HARDIN: Your Honor, pardon me. Your  
 14 Honor, we were not given a copy of those. Could we have  
 15 a copy of them, please?  
 16 MR. COGDELL: I've got a copy.  
 17 MR. OSSO: Okay. I've got a copy.  
 18 MR. COGDELL: Give it to them then.  
 19 MR. OSSO: I'd ask the record to reflect  
 20 that I've tendered to opposing counsel a copy of their  
 21 witness' text messages.  
 22 PRESIDING OFFICER: Let the record  
 23 reflect.  
 24 Q. (BY MR. OSSO) Now, Mr. Bangert, you would  
 25 agree that these are a fair and accurate reflection of

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1 the text messages between you and Ken Paxton in July and  
2 August of 2020, correct?  
3 A. Give me a moment.  
4 With the only modification that the first  
5 text message is in June.  
6 Q. Okay. Well, you produced -- your attorney  
7 produced these. So presumably, he got them from you,  
8 right?  
9 A. Yes.  
10 Q. Okay. Otherwise, a fair and accurate  
11 reflection?  
12 A. Yes, they appear to be.  
13 MR. OSSO: Judge, at this time, I would  
14 move to admit AG Exhibit 1003.  
15 PRESIDING OFFICER: Any objection?  
16 MR. HARDIN: No objection, Your Honor.  
17 PRESIDING OFFICER: I'll show the exhibit  
18 being entered into the record.  
19 MR. OSSO: Okay.  
20 PRESIDING OFFICER: Admitted into  
21 evidence, excuse me.  
22 (AG Exhibit 1003 admitted)  
23 MR. HARDIN: Thank you, Judge.  
24 Q. (BY MR. OSSO) Mr. Bangert, you talked about  
25 two very, very, very specific conversations that you had

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1 with Mr. Paxton that I think stood out during your  
2 testimony. The first one of those was a conversation at  
3 Polvo's, correct?  
4 A. We did -- well, Nate Paul was part of that.  
5 Q. Right.  
6 A. But we were at Polvos at lunch together with  
7 Mr. Paxton, Drew Wicker, and Nate Paul.  
8 Q. Okay. And the second conversation was  
9 essentially a conversation that you overheard  
10 Jeff Mateer was having, right?  
11 A. The conversation at the RAGA meeting in  
12 Atlanta, yes.  
13 Q. Okay. Two separate conversations?  
14 A. Yes.  
15 Q. Did you provide -- I don't recall. Did you  
16 provide dates of those -- specific dates of those  
17 conversations during your direct examination?  
18 A. I do not believe I did.  
19 Q. Okay. Now, you talked a lot about your  
20 experience in your resume. I think you've clerked.  
21 You've worked at -- was it Baker Botts, as a partner,  
22 right?  
23 A. I've both clerked and worked at Baker Botts as  
24 a partner, yes.  
25 Q. You've worked at executive -- executive-level

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1 positions in two attorney general's offices?  
2 A. Yes.  
3 Q. You didn't get there because you don't have an  
4 attention to detail, right, Mr. Bangert?  
5 A. I would like to think that I pay sufficient  
6 attention to detail.  
7 Q. Right. And you document things that are  
8 important to you, do you not?  
9 A. Not always.  
10 Q. Not always. Okay.  
11 Well, let's talk about that. You had  
12 documented in this case something that you thought was  
13 very important, the foreclosure opinion, did you not?  
14 A. I made a document that outlined my concerns  
15 about -- oh, I'm sorry. You said the foreclosure  
16 letter?  
17 Q. Yes, the foreclosure letter.  
18 A. Well, let me -- I was shown the foreclosure  
19 letter today, yes.  
20 Q. Okay.  
21 MR. OSSO: At this time, I would ask,  
22 Erick, if you could publish the House Board of Managers'  
23 Exhibit 119.  
24 Q. (BY MR. OSSO) Mr. -- Mr. Bangert, this is an  
25 e-mail that you sent to Ryan Vassar on September 30 --

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1 PRESIDING OFFICER: Counselor, excuse me.  
2 Has this been entered into evidence?  
3 MR. OSSO: My understanding is it has.  
4 If not, Judge, I'll ask -- I'll ask to enter it. It's  
5 the House Board of Managers' exhibit. At this time, I  
6 would offer it.  
7 MR. HARDIN: We do not object, Your  
8 Honor.  
9 PRESIDING OFFICER: Okay. Admitted into  
10 evidence.  
11 (HBOM Exhibit 119 admitted)  
12 MR. OSSO: Thank you, Judge.  
13 Q. (BY MR. OSSO) Now, Mr. Bangert, this is an  
14 e-mail that you wrote to Ryan Vassar on September 30th  
15 of 2020, true?  
16 A. Yes.  
17 Q. September 30th of 2020 is after you had the  
18 meeting with the other executives about going to the FBI  
19 with regard to Ken Paxton, true?  
20 A. This is at 9:29 a.m. that morning. I do  
21 not -- we had not visited the FBI at that point.  
22 Q. Okay. It's the same day that you had a  
23 conversation with the other executive-level AGs about  
24 going to the FBI, right?  
25 A. We did on that day.

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1 Q. Okay. And September 29th -- or excuse me,  
2 September 30th, that's two months after you ever drafted  
3 the foreclosure opinion that you talked about during  
4 your direct examination, correct?  
5 A. Slightly under, but about two months later,  
6 yes.  
7 Q. Do you typically write memorandums about  
8 things that happened two months ago; yes or no?  
9 A. No.  
10 Q. Does it stand out to you or does it seem odd  
11 to you to wait until the day that you go to the FBI or  
12 the day before you go to the FBI to write a memorandum  
13 about something that happened two months ago?  
14 A. No.  
15 Q. Not odd at all?  
16 A. No.  
17 Q. Okay. Now, to be clear, yesterday during  
18 Mr. Hardin's testimony, he at one point said, I think by  
19 the end of July, beginning of August, you had been a  
20 part of three issues that related to Nate Paul, right?  
21 A. Well, depending upon how you count the open  
22 records issue, it's one or two.  
23 Q. Okay. Well, you have the open records issue,  
24 correct?  
25 A. Yes.

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1 Q. You were involved in Mitte?  
2 A. I was involved in Mitte as well, yes.  
3 Q. Okay. And then you've got your foreclosure  
4 opinion involvement?  
5 A. Yes, that is correct. I was involved in all.  
6 Q. And as a matter of fact, a lot of those almost  
7 overlapped each other, true?  
8 A. At the edges and at the margins, they did  
9 overlap.  
10 Q. Okay. Now, yesterday you testified to the  
11 jury that you had a boiling concern about this, correct?  
12 A. I did have a boiling concern about this.  
13 Q. Now, to be clear, House Board's 119, your  
14 e-mail to Ryan Vassar, is the only memorandum and  
15 summary that you drafted with regard to any of your  
16 involvement with Mitte, open records request, or the  
17 foreclosure opinion? Yes or no?  
18 A. I can't recall.  
19 Q. You can't recall.  
20 Okay. Well, we didn't see any other  
21 memorandums, have we?  
22 A. I haven't seen any in the trial today.  
23 Q. Okay. Well, you would have produced it, so  
24 you would know about it, wouldn't you?  
25 A. I produced everything I had.

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1 Q. Okay. And all we got was this e-mail?  
2 A. I produced far more than this e-mail.  
3 Q. Okay. Now, I want to backtrack a little bit,  
4 and we'll go back to that correspondence between you and  
5 Mr. Vassar.  
6 You talked a little bit about a time from  
7 when you guys came out to the FBI and what happened to  
8 you after. Okay. I want to talk about that.  
9 MR. OSSO: Erick, would you mind pulling  
10 up Article VI of the Articles of Impeachment.  
11 Q. (BY MR. OSSO) Article VI accuses Mr. Paxton  
12 essentially of terminating or taking adverse personnel  
13 action against employees for making a good-faith report  
14 to law enforcement.  
15 Would you agree with that, Mr. Bangert?  
16 A. It says he violated the duties of his office  
17 by terminating and taking adverse personnel action  
18 against employees of his office in violation of the  
19 State's whistleblower law.  
20 Q. Okay. So kind of what I just said, right?  
21 A. I -- I defer to the document.  
22 Q. Okay. Well, if we read from it, it talks  
23 about terminating or taking adverse personnel action.  
24 So I would like to talk about what happened to you.  
25 Now, at no point after you reported to

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1 law enforcement were you terminated from your position?  
2 It's a yes or no question, Mr. Bangert. Were you fired  
3 or were you not fired?  
4 A. I was constructively discharged.  
5 Q. No. I asked you whether you were fired or not  
6 fired. Yes or no?  
7 PRESIDING OFFICER: Answer the question.  
8 A. I was constructively discharged.  
9 Q. (BY MR. OSSO) Did Ken Paxton say you are no  
10 longer an employee of the Office of Attorney General?  
11 A. He did not say that.  
12 Q. Okay. Thank you.  
13 As a matter of fact, you left. You  
14 resigned from the Office of Attorney General as the  
15 Deputy First Assistant Attorney General, did you not?  
16 A. I did resign.  
17 Q. Okay. And you resigned under the title Deputy  
18 First Assistant Attorney General?  
19 A. That was my title at the time I resigned.  
20 Q. Okay. So you were not demoted from your  
21 position as First Assistant Attorney General?  
22 A. I did not lose my title.  
23 Q. Okay. And as a matter of fact, you were never  
24 suspended after you reported to the FBI, were you?  
25 A. I was not.

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1 Q. Okay. You talked about Mr. -- I think maybe  
2 Webster, but certainly Ken Paxton stripping you of some  
3 of your responsibilities, right?  
4 A. Yes.  
5 Q. One of those responsibilities was the fact  
6 that you were in charge of the special litigation  
7 division, true?  
8 A. I was.  
9 Q. Now, that role was actually moved out from  
10 underneath you, correct?  
11 A. That is correct.  
12 Q. And they put it in charge of the division  
13 chief that was running that division at the time, right?  
14 A. My understanding was that Patrick Sweeten was  
15 put in charge of that division, yes.  
16 Q. So essentially Brent Webster promoted an  
17 under-level assistant attorney general? Yes or no?  
18 A. I do not know if he promoted Patrick or not.  
19 Q. He certainly added some responsibility for  
20 Patrick, correct?  
21 A. That was my impression, yes.  
22 Q. And that bothered you? Yes or no?  
23 A. It came without explanation or warning, so,  
24 yes, it was troubling to me.  
25 Q. It's possible that Mr. Webster just was

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1 promoting somebody that had been, I don't know, doing an  
2 exceptional performance at their job?  
3 A. That was the excuse that he attempted to give  
4 me.  
5 Q. That's not what I asked you. I asked you if  
6 it was possible.  
7 A. I don't think so.  
8 Q. Okay. Certainly they wouldn't take a job from  
9 Ryan Bangert, right?  
10 A. That's not exactly what I said.  
11 Q. Okay. It sounded like it.  
12 You said that the environment -- did you  
13 describe it as being hostile after you reported to the  
14 FBI?  
15 A. Yes, it was.  
16 Q. Toxic, right?  
17 A. It was.  
18 Q. Affecting the ability for people to get their  
19 work done?  
20 A. It was.  
21 Q. Okay. Now, you left and you went to work for  
22 the Alliance Defending Freedom, didn't you?  
23 A. I did.  
24 Q. And in your time -- well, that would have been  
25 2020, true?

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1 A. Say again?  
2 Q. When you left the Office of Attorney General  
3 and you went to Alliance Defending Freedom --  
4 PRESIDING OFFICER: Counselor, can you  
5 make -- raise that microphone a little bit closer to  
6 you?  
7 MR. OSSO: Okay. Is that better, Judge?  
8 PRESIDING OFFICER: That's much better  
9 for the jurors.  
10 Q. (BY MR. OSSO) Okay. When you -- when you  
11 left the Office of Attorney General and went to Alliance  
12 Defending Freedom, that was in October or November of  
13 2020?  
14 A. November of 2020.  
15 Q. November of 2020.  
16 And since your time in November 2020, all  
17 the way up until I believe 2023, isn't it true that you  
18 have brought cases from the Alliance Defending Freedom  
19 to be co-handled with the Office of Attorney General?  
20 A. We have.  
21 Q. Okay. And some of those cases you have worked  
22 directly with Brent Webster, have you not?  
23 A. There have been some, yes.  
24 Q. Specifically State of Texas v. Xavier Becerra?  
25 A. I believe that's the title of the case in

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1 Lubbock, Texas.  
2 Q. Okay. And that was one of a few cases, true?  
3 A. Yes.  
4 Q. And all the while that you were bringing cases  
5 from Alliance Defending Freedom back to the Office of  
6 Attorney General, Brent Webster was acting as first  
7 assistant, true?  
8 A. That is my understanding, yes.  
9 Q. And Ken Paxton was acting as attorney general?  
10 A. Yes.  
11 Q. All right. I want to talk to you about the  
12 open records request. Okay. You kind of gave us an  
13 explanation of how the process works, so I just want to  
14 rehash that out.  
15 My understanding is that if an individual  
16 makes a request to a State agency, that State agency has  
17 a certain time period to go to the Office of Attorney  
18 General and make a request for a ruling, right?  
19 A. There is a statutory time period to request a  
20 ruling, yes.  
21 Q. Right. So in this case, the statutory time  
22 period -- well, for example, when Nate Paul went to the  
23 Department of Public Services in March of 2020, if that  
24 was March 3rd, they had until March 13th essentially to  
25 request your office give an opinion, true?

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1 A. I do not recall the specific dates, nor do I  
2 recall whether it was Nate Paul or one of his attorneys  
3 who made that request.  
4 Q. Okay. I just want to clarify. You do not  
5 recall the specific dates in which the DPS request by  
6 Nate Paul's attorney was made?  
7 A. It was in the spring of 2020, but I don't  
8 recall the precise dates. I would have to see some  
9 documents for that.  
10 Q. Okay.  
11 MR. OSSO: Erick, would you mind pulling  
12 up Article III.  
13 Q. (BY MR. OSSO) While we're doing that, just  
14 for a little background, Mr. Bangert, the request by  
15 Nate Paul's attorneys for the records involved in the  
16 investigation, all -- it was for the -- initially the  
17 Texas State Securities Board, right?  
18 A. Yes, the initial request went to SSB.  
19 Q. That was in 2019?  
20 A. Is that a question?  
21 Q. Yeah. That was in 2019?  
22 A. Yes, yes. Yes, it was.  
23 Q. Then you've got DPS. That request was made in  
24 the spring of 2020?  
25 A. That is correct.

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1 Q. And sometime later, arguably the end of May,  
2 there was a request made for FBI's comment or brief on  
3 the DPS request that was originally filed in the spring,  
4 right?  
5 A. I believe it was part of the second request.  
6 Q. Okay. So we're talking about three different  
7 records requests, correct?  
8 A. I would classify it as two, with a secondary  
9 request attached to the second.  
10 Q. Okay. And then you also have to throw in the  
11 request for reconsideration, right, on the Texas State  
12 Securities Board?  
13 A. That was part of the first file.  
14 Q. So essentially the Office of Attorney General  
15 makes four separate decisions about records relating to  
16 Nate Paul?  
17 A. We made at least three. I don't know if it  
18 was four.  
19 Q. Okay. Well, let's go back to the fall of  
20 2019. Texas State Securities Board, at that time was  
21 Ken Paxton the office -- was the -- he was the AG of the  
22 attorney general's office, right?  
23 A. Yes, he was.  
24 Q. Now, when Nate Paul made that request through  
25 Aaron Borden, his attorney, in the fall of 2019, that --

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1 that initial request was denied by the Office of  
2 Attorney General, was it not?  
3 A. Yes, the ORD did -- well, when you say denied,  
4 it sustained the request for exemptions and exceptions  
5 by the board, true.  
6 Q. Meaning that the Texas State Securities Board  
7 while Ken Paxton was AG was not required to turn over  
8 records to Nate Paul?  
9 A. That's right. The November request did not  
10 require a turnover of records.  
11 Q. Let's move forward to 2020. You had a  
12 conversation with Justin Gordon about a request for  
13 reconsideration of the Texas State Securities Board  
14 records, true?  
15 A. I did.  
16 Q. And ultimately you ended up having  
17 conversations with Ken Paxton about that request for  
18 reconsideration?  
19 A. I did.  
20 Q. And ultimately the Office of Attorney General  
21 again did not rule that the Texas State Board -- the  
22 Texas State Securities Board was going to have to turn  
23 their records over to Nate Paul, did they?  
24 A. We did not require them to turn their records  
25 over.

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1 Q. Okay. So up until -- that puts us in February  
2 or March of 2020. Would you agree?  
3 A. We're ballpark in that area, yes.  
4 Q. Ballparking it because yesterday you stated it  
5 was right around the time COVID started.  
6 A. Yes.  
7 Q. That's a whole other convo we'll get into in a  
8 little bit.  
9 Okay. So the Texas State Securities  
10 Board records are not given to Nate Paul. Let's move on  
11 to DPS.  
12 Now, to be clear, the ultimate ruling  
13 in -- the ultimate decision by the Office of Attorney  
14 General with regard to the DPS records was that they  
15 refused to rule in that situation?  
16 A. It was a no decision.  
17 Q. Okay. Now, I want to talk to you about what  
18 that means. If the Office of Attorney General refuses  
19 to rule on a records request, that means that the State  
20 agency that was requested does not have to turn their  
21 records over to the individual, right?  
22 A. We did not require disclosure based on that  
23 ruling.  
24 Q. Okay. And so as a result of that ruling, the  
25 Department of Public Safety did not turn their records

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1 over to Nate Paul or his attorneys, true?  
 2 A. That ruling did not require disclosure.  
 3 Q. Okay. Well, you're aware that there was a  
 4 writ of mandamus filed by Nate Paul's attorney for those  
 5 records they were trying to get from you, correct?  
 6 A. You're going to have to -- the writ of  
 7 mandamus, I believe, occurred with respect to the  
 8 initial request. I don't recall one on the second  
 9 request, but it may have happened.  
 10 Q. You would agree there was a writ of mandamus  
 11 filed?  
 12 A. At some point it was my understanding that a  
 13 writ had been filed.  
 14 Q. Okay. And you're not going to tell this jury  
 15 when that suit was resolved, are you?  
 16 A. No.  
 17 Q. As a matter of fact, it could have been  
 18 pending into the winter of the next year, true?  
 19 A. As far as I know. And for clarity, when you  
 20 say "writ of mandamus," I'm assuming you're talking  
 21 about federal practice --  
 22 Q. No. I'm talking about --  
 23 A. -- from the Fifth Circuit.  
 24 Q. No. A writ of mandamus in the district court  
 25 for the Department of Public Safety records.

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1 A. You're talking about the second issue then.  
 2 Q. Okay.  
 3 A. Yeah. No. Yeah, there was a -- there was a  
 4 pending action in the district court.  
 5 Q. Okay. So they weren't just going to the  
 6 Office of Attorney General to try and get these records  
 7 that they were after, right?  
 8 A. Could you repeat one more time?  
 9 Q. They weren't just going to the Office of  
 10 Attorney General, Nate Paul and his lawyers. They were  
 11 also going to district court to try and get the records  
 12 they were after, correct?  
 13 A. That was my understanding.  
 14 Q. Okay. Now, DPS was not required to disclose  
 15 records after this refusal to rule, right?  
 16 A. Our refusal to rule did not require them to  
 17 disclose.  
 18 Q. Okay. You stated that that was contrary to  
 19 precedent at the attorney general's office, true?  
 20 A. I did.  
 21 Q. But you would have to admit that this specific  
 22 request made by Nate Paul and his attorney, Gerald  
 23 Larson, had some unique circumstances, true?  
 24 A. I don't recall any unique circumstances.  
 25 Q. Well, you worked with Justin Gordon pretty

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1 closely on this case, didn't you?  
 2 A. I worked with him very closely on the first  
 3 file for SSB, and somewhat but less closely on the  
 4 second file.  
 5 Q. Okay. Could you kind of -- I mean, so you  
 6 really delegated it to Justin Gordon to handle, right?  
 7 A. No.  
 8 Q. He was the man in charge of this decision, was  
 9 he not?  
 10 A. He was the head of open records answering to  
 11 Ryan Vassar, the deputy for legal counsel at the time.  
 12 Q. And he drafted opinions -- and he drafted the  
 13 opinion to refuse to rule that you edited, true?  
 14 A. I did edit the opinion.  
 15 Q. Okay.  
 16 MR. OSSO: Your Honor, may I approach the  
 17 witness?  
 18 PRESIDING OFFICER: Yes, you may.  
 19 Just don't talk on your way up or back.  
 20 MR. OSSO: Yes, Judge.  
 21 Q. (BY MR. OSSO) I guess the point I'm getting  
 22 at, Mr. Bangert, is that not every -- like you said  
 23 yesterday, you said that pretty much all of these  
 24 requests are kind of the same. They're easy to rule on  
 25 when it comes to law enforcement material, true?

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1 A. They're not all easy, but we get a lot of  
 2 them.  
 3 Q. Right. You referenced the -- you referenced  
 4 the opinion -- the law enforcement exception, true?  
 5 A. Yes, I believe that's correct.  
 6 Q. That doesn't --  
 7 A. When you say "the opinion," which one are you  
 8 referring to, though? I want to make sure I'm answering  
 9 accurately.  
 10 Q. Well, the DPS opinion.  
 11 A. I believe that's correct. I need to see it  
 12 again.  
 13 Q. And the FBI comment.  
 14 A. Again, I -- I need to see the document.  
 15 Q. To be clear, there was an initial request for  
 16 DPS records in March of -- or spring of 2020, true?  
 17 A. That is my understanding, yes.  
 18 Q. Okay. There was a later -- you -- you're  
 19 aware that DPS did not notify the FBI about the  
 20 records, true?  
 21 A. I don't recall that. You would have to  
 22 refresh my memory on it.  
 23 Q. So it sounds like you don't know every little  
 24 detail about the records request, do you?  
 25 A. No. And that's perfectly normal for a senior

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1 executive not to know every detail.  
 2 Q. Okay. So yesterday when you said that the  
 3 decision was not consistent with precedent, you didn't  
 4 know every little fact about what was going on within  
 5 this request, did you?  
 6 A. I knew enough to make that determination.  
 7 Q. Well, you didn't know everything, did you,  
 8 Mr. Bangert?  
 9 A. I am not omniscient so, no, I do not know  
 10 everything, but I knew enough to make that  
 11 determination.  
 12 Q. And it's fair that maybe Mr. Gordon had a  
 13 different opinion about what went on with regard to  
 14 those records requests?  
 15 A. Mr. Opinion -- Mr. Gordon was working on that.  
 16 I do not recall what his opinion was.  
 17 Q. Okay. Are you aware that ultimately the  
 18 Office of Attorney General did disclose the FBI comment?  
 19 A. I do not recall that.  
 20 Q. Okay. Are you familiar with June Hadden  
 21 (sic)k?  
 22 A. June Hadden, the name is familiar. I believe  
 23 she worked in the open records division.  
 24 Q. Okay. Would it surprise you to find out that  
 25 she ruled that the FBI's brief on the DPS records should

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1 be disclosed to Nate Paul and his attorneys?  
 2 A. I'm not aware of that, but I would have to see  
 3 the ruling.  
 4 Q. Okay. You hadn't heard her name with regard  
 5 to this litigation or case today, have you?  
 6 A. No, not until today.  
 7 Q. Okay. And you have no opinion as to whether  
 8 Ken Paxton brought in June Hadden to turn those records  
 9 over to Nate Paul, do you?  
 10 A. I have -- you'll have to ask the question  
 11 again. It was coming fast.  
 12 Q. There's no evidence -- you don't know of any  
 13 evidence -- or you have no opinion that Ken Paxton told  
 14 June Hadden to turn the FBI comment over?  
 15 A. I'm not aware of any conversation to that  
 16 effect.  
 17 Q. Okay. Is it safe to say that in conclusion  
 18 every single request for records from Nate Paul's  
 19 lawyers, none of those resulted in him getting the  
 20 records with regard to DPS and Texas State Securities  
 21 Boards, right?  
 22 A. I'm not aware of any --  
 23 Q. Okay.  
 24 A. -- disclosures that were made.  
 25 Q. Okay.

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1 A. Not at least by our office formally.  
 2 Q. So essentially every ruling that was made with  
 3 regard to those records was the same -- had the same  
 4 effect as if you refused to require DPS or Texas State  
 5 Securities Boards to turn those records over?  
 6 A. The net result was they did not have to  
 7 disclose the documents.  
 8 Q. Okay. You were involved with Mitte as well,  
 9 right?  
 10 A. Yes.  
 11 Q. Now, you talked about the fact that Ken Paxton  
 12 directly ordered you to intervene into the  
 13 lawsuit, true?  
 14 A. Yes.  
 15 Q. Now, you would agree that if you thought  
 16 something was illegal, you wouldn't want to delegate it  
 17 to a lower-level attorney, true?  
 18 A. That, I -- I don't even know how -- no, I --  
 19 that does not --  
 20 Q. Yes or no, would you delegate illegal activity  
 21 to a lower-ranking attorney?  
 22 A. The question doesn't make sense because I  
 23 wouldn't carry out illegal activity.  
 24 MR. OSSO: Judge, I've asked --  
 25 nonresponsive. I've asked him a question.

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1 PRESIDING OFFICER: Answer the question.  
 2 Q. (BY MR. OSSO) Yes or no?  
 3 A. I would not instruct anyone to carry out  
 4 illegal activity.  
 5 Q. Right. That's why you didn't have Ryan Vassar  
 6 sign that opinion in July of 2020?  
 7 A. I did not have him sign that opinion because I  
 8 had a very bad feeling of where that was headed.  
 9 Q. Okay. Well, let's talk about what you did in  
 10 the Mitte case. You had no problem instructing -- well,  
 11 let me rephrase that.  
 12 You did instruct Justin -- excuse me,  
 13 Josh Godbey to intervene into the Mitte case, did you  
 14 not?  
 15 A. I did.  
 16 Q. And when Ken Paxton asked you to file a motion  
 17 to say -- stay, you told the jury that you were opposed  
 18 to filing that motion to stay, did you not?  
 19 A. I did.  
 20 Q. But you turned around and you asked  
 21 Joshua Godbey to file a motion to stay in that case, did  
 22 you not?  
 23 A. I don't recall that.  
 24 Q. Okay. He filed the motion to stay, didn't he?  
 25 A. That is my understanding. Eventually a motion

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1 to stay was filed.  
 2 Q. Okay. You didn't walk up to Ken Paxton and  
 3 say, Ken, I don't agree with what you're doing and so  
 4 I'm not going to do it?  
 5 A. I did not have that conversation with him, no.  
 6 Q. And at no point did Ken Paxton say to you that  
 7 if you do not intervene into the Mitte case, that you're  
 8 going to be fired?  
 9 A. No, we never had that conversation.  
 10 Q. You are aware that Mitte has been previously  
 11 of interest to the Office of Attorney General, true?  
 12 A. You'll have to refresh my recollection.  
 13 Q. Okay. Well, when Greg Abbott was the attorney  
 14 general, you're aware that the Office of Attorney  
 15 General filed suit against Mitte?  
 16 A. Yes, that did happen.  
 17 Q. Okay. So you are aware that their background  
 18 isn't necessarily squeaky clean?  
 19 A. I wouldn't put it that way.  
 20 Q. Okay. You wouldn't -- you would not tell --  
 21 you've got no knowledge that Ken Paxton was entering  
 22 into the Mitte litigation for the purposes of benefiting  
 23 Nate Paul -- Nate Paul, would you?  
 24 A. Oh, I disagree with that.  
 25 Q. Okay. Do you have personal knowledge; yes or

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1 no?  
 2 A. I do.  
 3 Q. You do?  
 4 A. Yes.  
 5 Q. Well, Jeff Mateer made you aware of the fact  
 6 that the Mitte -- I mean, excuse me. Jeff Mateer made  
 7 you aware that World Class was disgruntled and not happy  
 8 with Joshua Godbey's performance in the intervention in  
 9 Mitte, true?  
 10 A. That was some time later, but I received an  
 11 e-mail. I was copied on an e-mail in which Jeff  
 12 responded to counsel for World Class complaining about  
 13 Joshua Godbey.  
 14 Q. Okay. So World Class was complaining about  
 15 Joshua Godbey, true?  
 16 A. They were.  
 17 Q. Okay. Now, at some point you stopped talking  
 18 to Joshua Godbey. I want to say that that was -- excuse  
 19 me. Let me -- let me back up.  
 20 You stopped talking to Justin Gordon  
 21 about the open records request, true?  
 22 A. At some point the issue came to a rest.  
 23 Q. Right.  
 24 A. So I would have no occasion to talk to him  
 25 after.

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1 Q. Probably when you made the final ruling not to  
 2 disclose the records in the Department of Public Safety  
 3 request?  
 4 A. When the no decision was issued, yes, that's  
 5 when it would have terminated.  
 6 Q. Now, about one or two days after that, it  
 7 might have been June 2nd, you started talking to  
 8 Joshua Godbey about the Mitte Foundation case, true?  
 9 A. That sounds about right, yes.  
 10 Q. And Ryan Vassar has his hands in the open  
 11 records request at that time too, true?  
 12 A. He was overseeing the open records division.  
 13 Q. Because he took your position, right?  
 14 A. He did, when I was promoted.  
 15 Q. Okay. So Ryan Vassar is also probably aware  
 16 of these different interactions with Nate Paul between  
 17 the Office of Attorney General and Nate Paul, correct?  
 18 A. You'll have to ask him that question.  
 19 Q. Okay. Well, safe to say that he worked on the  
 20 open records request with you, right?  
 21 A. He worked on it, yes.  
 22 Q. And he worked on the foreclosure opinion with  
 23 you, true?  
 24 A. He did.  
 25 Q. Okay. So those are two different scenarios

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1 where you and him both worked on Nate Paul issues, true?  
 2 A. At least those two.  
 3 Q. Okay. And it's fair to say that you and  
 4 Mr. Vassar were discussing the fact that you both had  
 5 been involved with Nate Paul?  
 6 A. At what time?  
 7 Q. At some point when you were working on these  
 8 cases.  
 9 A. We had discussion around those two instances.  
 10 We discussed the -- the work that we were doing.  
 11 Q. Okay. So you would not tell our jury, the  
 12 senators, that the executive level attorney generals did  
 13 not know that different divisions or facets of the  
 14 office were involved with or working on cases regarding  
 15 Nate Paul, would you?  
 16 A. We began to piece together the linkages  
 17 between these matters over time.  
 18 Q. Okay. But you didn't do anything about it  
 19 until September, I want to say, 30th of 2020, true?  
 20 A. That's false.  
 21 Q. Well, you didn't go to the FBI until  
 22 September 30th of 2020?  
 23 A. We didn't go to the FBI.  
 24 Q. Okay. Let's talk about that foreclosure  
 25 guidance.

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1 MR. OSSO: Erick, would you mind pulling  
2 up Article II.  
3 Q. (BY MR. OSSO) And to be clear, Ken Paxton is  
4 allowed to intervene into a lawsuit if he thinks it's  
5 appropriate, true?  
6 A. Our office has authority to intervene.  
7 Q. Okay. And he's in charge of the office, is he  
8 not?  
9 A. He is the elected attorney general.  
10 Q. Okay. So if he wants to intervene in a  
11 lawsuit, he is allowed to do so?  
12 A. He has authority to do so.  
13 Q. Okay. Looking at Article II, it alleges that  
14 Mr. Paxton misused his power to issue written legal  
15 opinions under Subchapter C, Chapter 402 of the Texas  
16 Government Code. You are aware of this, right?  
17 A. Yes. I -- I see the article on my screen,  
18 yes.  
19 Q. Okay. Now, we actually looked at a copy of  
20 that exhibit.  
21 MR. OSSO: Erick, would you mind  
22 posting -- entering Exhibit 192, AG 192.  
23 And, Judge, for the record, I believe it  
24 is an exact copy of the House Board of Manager exhibit  
25 that they have already published.

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1 Would you scroll to the second page,  
2 Erick.  
3 Q. (BY MR. OSSO) And just to be clear,  
4 Mr. Bangert, when we talk about that very last  
5 paragraph, you actually signed this opinion, right?  
6 A. Yes.  
7 Q. Okay. And by signing it, you would agree that  
8 you have adopted the statements within it, true?  
9 A. Not necessarily.  
10 Q. Okay. So you just signed things at will?  
11 A. No.  
12 Q. No? Okay. And you signed this document,  
13 right?  
14 A. I did sign this document.  
15 Q. And the very last sentence or paragraph in  
16 that document says it is not a formal opinion under  
17 Subchapter C of Chapter 402 of the Texas Government  
18 Code, true?  
19 A. Could you scroll down to the last paragraph?  
20 Q. Well, you -- you wrote the opinion, and you  
21 read it a minute ago.  
22 A. I would like to see the -- I would like to see  
23 the document.  
24 Q. I've got a copy.  
25 A. Ah, there it is.

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1 Q. You wrote, We trust this letter provides you  
2 with the advice you were seeking. Please note this  
3 letter is not a formal attorney general opinion under  
4 Section 402.042 of the Texas Government Code. Rather,  
5 it is intended only to convey informal legal guidance.  
6 A. Yes.  
7 Q. You -- you wrote that, right?  
8 A. I did.  
9 Q. That was on this letter when you issued it in  
10 2020, right?  
11 A. It was.  
12 Q. Okay. So the very face of the document that  
13 you signed specifically states that it is not an opinion  
14 under 402, true?  
15 A. No. That's not correct.  
16 Q. Specifically, it's not a formal attorney  
17 general opinion under Section 402.042 of the Texas  
18 Government Code?  
19 A. It is not a formal attorney general opinion --  
20 Q. Okay.  
21 A. -- under Section 402.  
22 It's very different.  
23 Q. Okay. Let's talk about formal opinions.  
24 There's a specific place on the attorney general website  
25 for a formal opinion, is there not?

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1 A. Opinions that are issued are listed on our  
2 website, yes. They're assigned KP numbers, and they're  
3 accessible by the public.  
4 Q. They're assigned KP numbers.  
5 MR. OSSO: At this time, Judge, I would  
6 move to offer AG Exhibit 6 after I provide a copy to  
7 opposing counsel.  
8 Judge, I believe I have one more copy.  
9 PRESIDING OFFICER: If you have one more  
10 copy for us, we would appreciate it.  
11 MR. OSSO: I've got one more copy for the  
12 Court.  
13 MR. HARDIN: I have no objection, Your  
14 Honor.  
15 PRESIDING OFFICER: I still would like to  
16 see it.  
17 MR. OSSO: Yes, Judge.  
18 PRESIDING OFFICER: Just so we can follow  
19 along. Thank you, sir. I admit this exhibit into  
20 evidence.  
21 (AG Exhibit 6 admitted)  
22 MR. HARDIN: No objection.  
23 MR. OSSO: And, Erick, if you would  
24 publish, and just stay on the first page.  
25 Q. (BY MR. OSSO) So up here in the top left

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1 corner, we've got Opinion Number KP-0322, true?  
 2 A. Yes, it says, Opinion Number KP-0322.  
 3 Q. Okay. And that is an opinion number that is  
 4 associated with a formal opinion?  
 5 A. I have not seen the rest of this document, but  
 6 I'm assuming that this has the form and shape of a  
 7 formal opinion.  
 8 Q. Okay. Did you state yesterday during direct  
 9 examination that Ken Paxton doesn't have a hand in  
 10 signing or dealing with formal opinions?  
 11 A. I don't believe I said that, no.  
 12 Q. Okay. So you would agree that he does pay  
 13 attention to what he signs and what he issues on his  
 14 office letterhead, correct?  
 15 A. He is required -- well, I should say he has a  
 16 practice of signing formal opinions himself.  
 17 Q. Okay. And that opinion has his name on  
 18 it, true?  
 19 A. I cannot see it, but I -- I would be welcome  
 20 to look at the signature block.  
 21 MR. OSSO: Erick, would you flip back to  
 22 the signature line.  
 23 Q. (BY MR. OSSO) You see Ken Paxton's signature  
 24 on that opinion, right?  
 25 A. Yes.

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1 Q. Okay. He has to sign these formal opinions,  
 2 does he not?  
 3 A. I believe that is the practice of the office.  
 4 Q. Unless he's been recused in which event  
 5 Jeff Mateer would sign the formal opinions, true?  
 6 A. That was the practice of the office.  
 7 Q. Now, I want to talk to you about the opinions  
 8 in this case. Originally Ryan Vassar drafted the  
 9 formal -- or not formal, excuse me -- the informal  
 10 guidance letter with regard to foreclosure sales,  
 11 correct?  
 12 A. The document -- yes, the -- the informal  
 13 opinion that was issued on October -- August 1st. He  
 14 did draft the initial draft, yes.  
 15 Q. Now, the way that that record ruled -- or,  
 16 excuse me, that that letter ruled was essentially that  
 17 you didn't attack the 10-person restriction from the  
 18 executive order, right? You just said that judicial  
 19 foreclosure sales were excepted from the rule and could  
 20 go on without restriction?  
 21 A. I would need to see the document to refresh my  
 22 recollection on the precise contours of the opinion.  
 23 MR. OSSO: Erick, would you pull up  
 24 Exhibit 192.  
 25 Q. (BY MR. OSSO) Mr. Bangert, you drafted this

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1 opinion, did you not?  
 2 A. No. Mr. Vassar drafted it, and I provided  
 3 edits and corrections to it.  
 4 Q. Okay. So you're familiar with the content?  
 5 A. I was -- I was three years ago.  
 6 Q. Okay. Well, if you take a look at it, you  
 7 would agree that it ruled that foreclosure sales could  
 8 still go on despite the fact that there was an executive  
 9 order restricting public gatherings outside to  
 10 10 people, true?  
 11 A. Would you please go to the next page?  
 12 There were very limited circumstances  
 13 under which foreclosure sales could proceed, but we were  
 14 subjecting those to the hard 10-person cap.  
 15 Q. But you testified with regard to the subject  
 16 matter of this yesterday, didn't you?  
 17 A. I did.  
 18 Q. So you would agree that you said that despite  
 19 the fact that 10 people at max can gather in public,  
 20 foreclosure sales can still occur, true?  
 21 A. That misrepresents the opinion.  
 22 Q. Well, if there are -- you said that  
 23 foreclosure sales could still go on, did you not? Is  
 24 that not what that opinion says?  
 25 A. No.

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1 Q. It doesn't seek to invalidate the 10-person  
 2 rule, does it?  
 3 A. You need to go to the next page of the  
 4 opinion.  
 5 MR. OSSO: Go to the next page, Erick.  
 6 Thank you.  
 7 A. The second full paragraph on page 3 shows  
 8 operative language.  
 9 Q. (BY MR. OSSO) Elaborate on that.  
 10 A. Pardon me?  
 11 Q. Tell us about that.  
 12 A. If a foreclosure sale is subject to and not  
 13 exempted from the 10-person attendance limit imposed in  
 14 Executive Order GA28, it should not proceed if one or  
 15 more willing bidders are unable to participate because  
 16 of the attendance limit.  
 17 Q. So how are you saying that when Ken Paxton  
 18 asked you to change the opinion, that it's -- it is  
 19 contrary to precedent and the position of the Office of  
 20 Attorney General at that time?  
 21 A. It made the ability to proceed with those  
 22 types of sales more restrictive under the COVID  
 23 limitations than our previous draft would have.  
 24 Q. It made it more restrictive?  
 25 A. Yes.

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1 Q. Right. Which means that, in a sense, it  
2 benefited people that maybe didn't have their jobs at  
3 the time and didn't have money to pay their mortgages  
4 off, true?  
5 A. I do not know who this was benefiting. At  
6 least at the time I was writing it, I didn't know who it  
7 was benefiting.  
8 Q. Well, did you lose your job during COVID,  
9 Mr. Bangert?  
10 A. Say again?  
11 Q. Did you lose your job during COVID?  
12 A. I did not.  
13 Q. Did you struggle with the ability to pay a  
14 mortgage during COVID?  
15 A. I did not.  
16 Q. You would have to agree with me that many  
17 people did lose their jobs during COVID, true?  
18 A. I understand that that did happen.  
19 Q. Okay. And as a result of losing their jobs,  
20 many people probably couldn't afford rent, and they  
21 couldn't afford their mortgage, right?  
22 A. I also understand the finance -- the financial  
23 institutions were suffering because of restrictions on  
24 their ability to foreclose on their loans.  
25 Q. That's not what I asked

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1 MR. OSSO: Objection. Nonresponsive.  
2 MR. HARDIN: Excuse me. May he please  
3 answer the question, Your Honor? May he be allowed to  
4 answer?  
5 PRESIDING OFFICER: Is that an objection,  
6 or are you just making a comment?  
7 MR. HARDIN: It is. It is an objection.  
8 PRESIDING OFFICER: Overruled. But let  
9 him clearly answer the question.  
10 Please answer the question directed.  
11 Q. (BY MR. OSSO) Yes or no -- my question was:  
12 Yes or no, could that affect people and their ability to  
13 pay their mortgages and their rent?  
14 A. Could what affect them?  
15 Q. A ruling that foreclosure sales -- or excuse  
16 me -- that COVID was in existence?  
17 A. COVID was in existence at that time.  
18 Q. And it caused people not to have money and not  
19 to be able to afford rent and not to be able to pay  
20 their mortgages, true?  
21 A. I believe the economic disruption caused by  
22 COVID had some of those effects.  
23 Q. Okay. And the job of the Office of Attorney  
24 General is, in part, to protect the public, true?  
25 A. The attorney general's office is a sacred

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1 trust, and it's always to be used for the public  
2 benefit.  
3 Q. Right. Now --  
4 A. All of the public.  
5 MR. OSSO: Erick, could you publish 119  
6 again.  
7 Q. (BY MR. OSSO) This is your memorandum of what  
8 happened with regard to the foreclosure opinion. And  
9 you stated in Exhibit 119 that you are not certain why  
10 Ken Paxton wanted this foreclosure opinion issued, true?  
11 A. There is no exhibit on my screen.  
12 MR. OSSO: 119. 119, Erick.  
13 MR. HARDIN: May we see it, please?  
14 MR. OSSO: I think it's been entered,  
15 Rusty.  
16 MR. HARDIN: I said we don't have it.  
17 MR. OSSO: Oh, I understand. Erick is  
18 pulling it up.  
19 MR. HARDIN: We don't have a copy.  
20 MR. OSSO: It's -- it's y'all's exhibit.  
21 MR. HARDIN: Is it in evidence? I don't  
22 think it's in evidence.  
23 MR. OSSO: It's in evidence, Judge. I've  
24 already referenced it during this examination.  
25 PRESIDING OFFICER: He submitted it

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1 earlier. You didn't object, I believe. I believe  
2 that's the case.  
3 MR. OSSO: No. This --  
4 MR. HARDIN: If that's the case, we're in  
5 error, but I -- I don't think we had it marked it's in  
6 evidence. Thank you very much.  
7 PRESIDING OFFICER: Yes.  
8 Q. (BY MR. OSSO) You stated that you were  
9 uncertain why Ken wanted the foreclosure opinion  
10 issued, true?  
11 A. He had provided me a rationale --  
12 Q. It's a yes or no. You said in this memorandum  
13 right here you were uncertain?  
14 A. I was uncertain.  
15 Q. Okay. Now, you did not include the fact that  
16 Ken Paxton was texting you all the while you were  
17 editing and drafting that report, did you?  
18 A. I don't believe I mentioned text messages in  
19 this document, no.  
20 Q. And yesterday you told all of the senators  
21 that it was contentious between you two on the phone at  
22 some points, did you not?  
23 A. Oh, I don't recall saying that.  
24 Q. Okay. So it was calm and collected the entire  
25 time?

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1 A. It was not calm and collected the entire time.  
 2 Q. Okay. Well, you stated to them that you were  
 3 objecting vehemently over the phone with  
 4 Ken Paxton, true?  
 5 A. I did not say that.  
 6 Q. You were objecting to Ken Paxton, were you  
 7 not?  
 8 A. I was having conversations with him in which  
 9 he was frantically telling me to make edits,  
 10 corrections, and changes.  
 11 Q. It's a yes or no question. It's a yes or no  
 12 question, Mr. Bangert. You disagreed with Ken Paxton  
 13 over the phone, true?  
 14 A. I had conversations with him about the  
 15 contours of the opinion.  
 16 Q. Okay. So you're not saying you disagreed with  
 17 him then, are you?  
 18 A. I was trying to understand what he wanted as  
 19 his subordinate.  
 20 Q. Okay. You didn't mention text messages  
 21 yesterday, did you?  
 22 A. I did not.  
 23 Q. All right.  
 24 MR. OSSO: Erick, if you would flip to  
 25 AG 1003 for me.

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1 Q. (BY MR. OSSO) Now, Mr. Bangert, you stated on  
 2 direct examination yesterday that, quote, unquote,  
 3 Ken Paxton was acting like a man with a gun to his head,  
 4 did you not?  
 5 A. I did say that.  
 6 Q. Okay. Now, looking at the last set of text  
 7 messages here --  
 8 MR. OSSO: If you would flip to the last  
 9 page, Erick.  
 10 Q. (BY MR. OSSO) -- I'm just going to read from  
 11 the exhibit.  
 12 Thank you again. I can't express in  
 13 words how much I appreciate your work especially over  
 14 the weekend. I am grateful because I feel like hundreds  
 15 of people will be protected from harm and maybe  
 16 devastation. You and Ryan deserve all the credit.  
 17 Thank you. I hope that your Sunday is relaxing and  
 18 enjoyable with your family.  
 19 He texted that to you that day, didn't  
 20 he?  
 21 A. 12:19 on Sunday, yes.  
 22 Q. Okay. Now, did you mention that to the House  
 23 Board of Managers when you were interviewed about this  
 24 case?  
 25 A. I don't recall if I mentioned this text

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1 message.  
 2 Q. Did you mention these text messages in your  
 3 interviews with Mr. Hardin or Mr. DeGuerin when you were  
 4 preparing for testimony in trial?  
 5 A. I don't see why I would have.  
 6 Q. Okay. And did you include it in your  
 7 memorandum to Ryan Vassar that was produced?  
 8 A. There's no reason why I would have.  
 9 Q. No reason to include a text message of him  
 10 showing gratitude and why he wanted to have this  
 11 foreclosure opinion worded the way he did?  
 12 A. I don't believe this was what he actually -- I  
 13 don't believe that he was telling the truth, no.  
 14 Q. Well, there's certainly not a text message  
 15 from you in these texts objecting or saying that you  
 16 disagreed with Mr. Paxton, is there?  
 17 A. I do not agree -- I do not disagree with him  
 18 here.  
 19 Q. You don't disagree with him here?  
 20 A. I do not state it in writing here.  
 21 Q. Okay. And you signed the opinion that was  
 22 ultimately issued in this case, true?  
 23 A. I did sign it.  
 24 Q. And that opinion has no binding effect?  
 25 A. It is a persuasive opinion.

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1 Q. Persuasive at best?  
 2 A. Persuasive opinion.  
 3 Q. Okay. Did you tell the FBI about these  
 4 documents?  
 5 A. I believe they were provided to the FBI.  
 6 Q. Okay. We just didn't get a copy of them until  
 7 today?  
 8 A. I did not have them in my possession.  
 9 Q. Oh, okay.  
 10 A. They were in the possession of my counsel who  
 11 found them --  
 12 Q. Did you delete your texts?  
 13 A. No.  
 14 Q. So you would have had them on your  
 15 phone, true?  
 16 A. No. I did not intentionally delete my texts.  
 17 Q. Okay.  
 18 A. My texts were no longer --  
 19 Q. Your texts were deleted, yes or no?  
 20 (Simultaneous crosstalk)  
 21 PRESIDING OFFICER: Gentlemen, don't talk  
 22 over each other.  
 23 Q. (BY MR. OSSO) Your texts were deleted, yes or  
 24 no?  
 25 A. I no longer have access to texts --

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1 Q. It's a yes or no question.  
 2 A. I no longer have access to texts past one  
 3 year.  
 4 Q. Okay. So in the year, you didn't think to  
 5 take screenshots of these?  
 6 A. Excuse me?  
 7 Q. You didn't think to screenshot these messages?  
 8 A. These were screenshotted back in 2020.  
 9 Q. Okay. Just -- you just didn't keep a copy?  
 10 A. I did not.  
 11 Q. And you're not going to sit here and tell us  
 12 that you know that the foreclosure opinion ultimately  
 13 affected or benefited Nate Paul, are you?  
 14 A. Oh, I believe it did affect and benefit him.  
 15 Q. You have no personal knowledge of that, do  
 16 you?  
 17 A. I have -- I have since learned that it did  
 18 benefit him.  
 19 Q. You wrote in that memorandum that you learned  
 20 through the *Austin Statesman*, did you not?  
 21 A. May I see the memorandum again?  
 22 MR. OSSO: Erick, would you please pull  
 23 up the memorandum.  
 24 Q. (BY MR. OSSO) That's a newspaper, correct?  
 25 A. The *Austin American Statesman*?

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1 Q. Yes.  
 2 A. Yes.  
 3 Q. Okay. So you got your information from a  
 4 newspaper, did you not, if we're believing your  
 5 memorandum?  
 6 A. If I could see my memorandum, I can tell you.  
 7 MR. OSSO: Erick, would you -- 119,  
 8 Erick. Thank you.  
 9 Q. (BY MR. OSSO) I think it says on the  
 10 following week on August 4th, the *Austin Business*  
 11 *Journal* -- excuse me. I stand corrected.  
 12 The *Austin Business Journal* reported that  
 13 World Class had placed several properties into  
 14 bankruptcy.  
 15 Are you aware of when the foreclosure was  
 16 supposed to take place?  
 17 A. I was not aware of any foreclosures of the  
 18 Nate Paul properties when I was writing the opinion.  
 19 Q. No. I'm talking about after. I'm talking  
 20 about August 3rd and August 4th. Were you aware?  
 21 A. I subsequently learned that that was taking  
 22 place.  
 23 Q. That the foreclosure was supposed to take  
 24 place on August 4th?  
 25 A. That, I don't know for sure, but it would have

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1 been the statutorily appointed date, whenever that was  
 2 in 2020.  
 3 And, yes, now that I'm looking at my  
 4 document, I do say August 4th, so that would have been  
 5 the date.  
 6 Q. Okay.  
 7 MR. OSSO: May I approach the witness,  
 8 Judge, just to hand him a document?  
 9 PRESIDING OFFICER: Yes, you may.  
 10 MR. OSSO: And, Judge, at this time, I  
 11 would offer AG Exhibit 295.  
 12 PRESIDING OFFICER: Any objection?  
 13 MR. HARDIN: May I have just a second?  
 14 I'm sorry, Judge. Thank you.  
 15 PRESIDING OFFICER: Sure.  
 16 MR. HARDIN: No objection.  
 17 PRESIDING OFFICER: We'll enter -- what  
 18 was the number on that? I don't have the number on it.  
 19 MR. OSSO: 295, Judge.  
 20 PRESIDING OFFICER: Enter 295 into  
 21 evidence.  
 22 (AG Exhibit 295 admitted)  
 23 MR. OSSO: Erick, would you mind  
 24 publishing AG 295.  
 25 Q. (BY MR. OSSO) That is a letter from Sheena

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1 Paul to the judge regarding the bankruptcy proceeding --  
 2 excuse me -- the foreclosure proceeding occurring the  
 3 next day dated April -- excuse me -- August 3rd of 2020,  
 4 correct?  
 5 A. This is executed by Brian Elliott.  
 6 Q. Attorney for World Class, right?  
 7 A. I assume so because it has World Class' -- one  
 8 of their property names at the top of the letterhead.  
 9 Q. Okay. You would agree that this document has  
 10 the letterhead of August 3rd, right?  
 11 A. It is dated August 3rd.  
 12 Q. Now, you were not present in the district  
 13 court when this document was filed, were you?  
 14 A. No.  
 15 Q. So you have no idea what impact it had on the  
 16 district court judge in that proceeding, do you?  
 17 A. I have not talked or spoken with Judge  
 18 Campbell about this, no.  
 19 Q. Now, the very next day, the day that the  
 20 foreclosures are supposed to occur, you find out that a  
 21 bunch of Nate Paul properties are put -- excuse me --  
 22 World Class properties are put into bankruptcy, right?  
 23 A. That's what the business journal reported.  
 24 Q. Okay. You have been in civil practice for  
 25 quite a long time, true?

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1 A. Over a decade at that point.  
 2 Q. You are very, very aware of what happens to  
 3 properties when you file bankruptcy, are you not?  
 4 A. I was not a bankruptcy practitioner.  
 5 Q. Well, you're -- surely you're aware that when  
 6 you put a document -- or, excuse me, you file bankruptcy  
 7 on something, it causes a motion to stay, does it not?  
 8 A. There's an automatic stay that's applied based  
 9 on my recollection.  
 10 Q. There you go. Which would prevent any type of  
 11 foreclosure sale, would it not?  
 12 A. Again, I am not a certified bankruptcy  
 13 practitioner. I know that there are exceptions to that.  
 14 I can't even begin to speak to the legalities of these  
 15 properties or how those would have applied in these  
 16 cases.  
 17 Q. Well, you knew a lot of law, I mean, under  
 18 direct examination from Mr. Hardin, and now you don't  
 19 know about bankruptcy proceedings?  
 20 A. Mr. Hardin did not ask me about bankruptcy  
 21 proceedings.  
 22 Q. You had no problem putting in your memorandum  
 23 that the -- that the properties went into bankruptcy?  
 24 A. The properties were going into bankruptcy,  
 25 that's correct.

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1 Q. Okay. Is it possible --  
 2 A. I'm sorry. They were going into foreclosure.  
 3 Foreclosure.  
 4 Q. It's possible -- it's possible that the  
 5 bankruptcies -- it's possible that the bankruptcy  
 6 filings did not -- or those are what prevented the  
 7 foreclosures, true?  
 8 A. I don't know.  
 9 Q. Okay. Well --  
 10 A. But I do -- I think it's interesting that  
 11 World Class submitted a copy of our --  
 12 MR. OSSO: Objection to nonresponsive.  
 13 A. -- opinion.  
 14 MR. OSSO: Objection to nonresponsive.  
 15 PRESIDING OFFICER: Sustained.  
 16 MR. OSSO: May I approach the witness,  
 17 Judge?  
 18 PRESIDING OFFICER: Yes, you may.  
 19 MR. OSSO: Well, really just for the  
 20 Court, I would like to offer AG Exhibits that I've  
 21 handed to both opposing counsel as well as Your Honor.  
 22 I believe it's 262, 265, 275, and 283.  
 23 PRESIDING OFFICER: Hold on, slow down.  
 24 283, 275, 265, 262?  
 25 MR. OSSO: Yes.

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1 PRESIDING OFFICER: Okay.  
 2 MR. HARDIN: I can shorten this a little  
 3 bit if he represents that these are their exhibit  
 4 numbers that were originally agreed to. We said we  
 5 would not object to any of your exhibits.  
 6 MR. OSSO: Okay.  
 7 MR. HARDIN: If they're covered by that  
 8 objection -- I mean, if they're covered by that  
 9 agreement, then we have no objection.  
 10 PRESIDING OFFICER: Are they covered?  
 11 MR. OSSO: They are covered, Judge.  
 12 Well, I take that back. No, they're not. That's why  
 13 I -- that's why I intend to offer right now. We have  
 14 not previously agreed to these.  
 15 MR. HARDIN: I understand. Just give me  
 16 a couple more minutes.  
 17 No objection, Your Honor.  
 18 PRESIDING OFFICER: Can you just clarify  
 19 for the record? We have one with a number and what the  
 20 other numbers are.  
 21 MR. OSSO: Judge, if I may have the  
 22 copies that I handed you.  
 23 PRESIDING OFFICER: You may have the  
 24 copies back.  
 25 MR. OSSO: So for purposes of the record,

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1 we're offering 262, 283, 275 -- I only gave you -- and  
 2 then also 269.  
 3 PRESIDING OFFICER: No objection?  
 4 269 was a new number from the one you  
 5 repeated back to me.  
 6 MR. OSSO: Yeah. 269, 275, 283, and 262.  
 7 PRESIDING OFFICER: I think I said 265.  
 8 You repeated what I said. I was incorrect. It's 269.  
 9 MR. OSSO: Okay.  
 10 PRESIDING OFFICER: There's been no  
 11 objection? I believe they said no objection.  
 12 Mr. Hardin, you said no objection?  
 13 MR. HARDIN: Correct. I'm sorry, Judge.  
 14 PRESIDING OFFICER: Please enter those  
 15 documents into the record.  
 16 MR. OSSO: Okay. Thank you.  
 17 PRESIDING OFFICER: Into evidence.  
 18 Excuse me.  
 19 (AG Exhibits 262, 269, 275, 283 admitted)  
 20 MR. OSSO: May I approach the witness,  
 21 Judge?  
 22 PRESIDING OFFICER: Yes, you may.  
 23 Q. (BY MR. OSSO) These are all bankruptcy  
 24 filings by Nate Paul and his attorneys made on  
 25 August 4th and August 5th, okay?

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1 A. If you say so.  
 2 Q. All right. Now, if these bankruptcy filings  
 3 were filed on August 4th, the day that the foreclosures  
 4 were supposed to occur, that would stay the foreclosure  
 5 sale, would it not?  
 6 A. I don't -- I -- I would have -- I don't know.  
 7 Q. You don't know?  
 8 A. Perhaps.  
 9 Q. So it's possible that Ken's issuance of the  
 10 informal guidance letter didn't cause the foreclosure  
 11 sales to go away? It's possible?  
 12 A. I do not know what effect that letter had --  
 13 Q. Okay.  
 14 A. -- on the foreclosure sales.  
 15 Q. Are you a Trump fan?  
 16 A. I'm sorry?  
 17 Q. Are you a fan of Donald Trump?  
 18 A. I voted for President Trump.  
 19 Q. Okay. You're a staunch conservative, are you  
 20 not?  
 21 A. I am.  
 22 Q. Are you aware that only a week after you guys  
 23 issued this opinion, he issued an executive order that  
 24 basically mimicked the attitude towards foreclosure  
 25 sales?

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1 A. I'm -- I'm not familiar with that executive  
 2 order.  
 3 Q. Okay. And so that brings us into the fall of  
 4 2020, right? August, September?  
 5 A. September is the beginning of fall.  
 6 Q. Okay. And you didn't really have any contact  
 7 with issues regarding Nate Paul from August of 2020 up  
 8 until September 28th, right?  
 9 A. Oh, I disagree with that.  
 10 Q. Well, you weren't working on the foreclosure  
 11 sales --  
 12 PRESIDING OFFICER: witness, please speak  
 13 up.  
 14 A. Yes, I disagree with that.  
 15 Q. (BY MR. OSSO) You were not working on the  
 16 foreclosure opinion?  
 17 A. That was completed on August 1st.  
 18 Q. Okay. You weren't working on Mitte?  
 19 A. Mr. McCarty had assumed responsibility for  
 20 that.  
 21 Q. You were not working on Mitte?  
 22 A. I was not working on Mitte at that time in  
 23 August.  
 24 Q. And you were not working on the open records  
 25 request, true?

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1 A. Those were finished.  
 2 Q. Okay. So you were not personally working on  
 3 any matters that involved Nate Paul at that time?  
 4 A. I was actively speaking with other members of  
 5 the executive team about what was happening at that time  
 6 which was the desire to hire outside counsel.  
 7 Q. So everybody, I assume, is on the eighth floor  
 8 at this time, right?  
 9 A. We had -- COVID orders were still in place. I  
 10 don't recall who was there every day. I was there every  
 11 day the office was open.  
 12 Q. And let's talk about that, because the OAG's  
 13 position at that time was that everything should open  
 14 up, was it not?  
 15 A. We wanted everything to be as open as possible  
 16 consistent with public safety and the Governor's order.  
 17 Q. Even after you left the Office of Attorney  
 18 General, your employees at the Office of Attorney  
 19 General weren't even present?  
 20 A. There were some who were not present.  
 21 Q. There were some? There were most of them that  
 22 were not present?  
 23 A. My recollection was there were periods of time  
 24 where a large majority of them -- large majorities of  
 25 them were not working from the office.

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1 Q. Periods of time that postdated your employment  
 2 at the Office of Attorney General?  
 3 A. I cannot speak to that.  
 4 Q. Okay. because you weren't there?  
 5 A. Because I was not there.  
 6 Q. Okay. So that's not really inconsistent with  
 7 the situation that was going on at the Office of  
 8 Attorney General, was it? Yes or no?  
 9 A. That the -- that the attorneys were not  
 10 present?  
 11 Q. Yes or no?  
 12 A. Oh, that had nothing to do with our policy.  
 13 Q. Okay.  
 14 A. Nothing.  
 15 Q. All right. So you were not personally a part  
 16 of the hiring of Cammack, were you?  
 17 A. No.  
 18 Q. You found this out on September 29th of 2020?  
 19 A. That he had been retained by the attorney  
 20 general directly?  
 21 Q. No. That he was filing subpoenas with Michael  
 22 Wynne.  
 23 A. Yes. I learned about that on the 29th.  
 24 Q. And you were saying that that is the very  
 25 point that it kind of stood out to you--all what was

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1 going on, right? That was the test point?  
 2 A. That crystalized a number of things.  
 3 Q. Okay. Now, when you say it crystalized a  
 4 number of things, you did not have all the facts with  
 5 regard to that investigation, did you?  
 6 A. I personally did not.  
 7 Q. Okay. You didn't investigate that case, did  
 8 you?  
 9 A. Was I -- what do you mean by I wasn't  
 10 investigating that case?  
 11 Q. You didn't investigate the referral that was  
 12 given by the Travis County District Attorney's Office,  
 13 did you?  
 14 A. I was not the primary responsibility for that.  
 15 Q. Everything that you took with regard to that  
 16 investigation came from Mr. Penley or Mr. Maxwell?  
 17 A. No.  
 18 Q. Those were the people responsible for  
 19 investigating it, were they not?  
 20 A. They were responsible.  
 21 Q. Okay. You were not responsible?  
 22 A. That was not part of my responsibility at that  
 23 time.  
 24 Q. Okay. So you weren't responsible. Now,  
 25 despite that fact, you went to the FBI on

MARY ORALIA BERRY, CSR, RDR, CRR, CBC

1 September 30th, correct?  
 2 A. I did go to the FBI on -- on September 30th,  
 3 yes.  
 4 Q. You went to the FBI without talking to  
 5 Ken Paxton first, true?  
 6 A. Oh, I talked to him many times prior to that.  
 7 Q. You didn't talk to him about the fact that you  
 8 were going to go to the FBI, did you?  
 9 A. We did not talk to him. We did not tell him  
 10 we were going to the FBI immediately prior to going,  
 11 right.  
 12 Q. So when you and Mr. Hardin were talking about  
 13 the conversations you had with Ken Paxton about the fact  
 14 that you wanted to talk to him, that was all after you  
 15 had already gone and reported your boss to law  
 16 enforcement, true?  
 17 A. The text messages that we reviewed today were  
 18 sent after we made our good faith report.  
 19 Q. Okay. So you did not take the time to hear  
 20 his side of things out before you went to law  
 21 enforcement?  
 22 A. I disagree.  
 23 Q. And at that point, you took it upon yourself  
 24 to send a letter to Brandon Cammack as well, did you  
 25 not?

MARY ORALIA BERRY, CSR, RDR, CRR, CBC

1 A. I -- if I can recall correctly, I was the one  
 2 who did send the e-mail containing Jeff's letter.  
 3 Q. Okay.  
 4 A. I mean, I'm stretching my memory, but I think  
 5 I was the one who sent it.  
 6 Q. Okay. Now, prior to doing that, you talked  
 7 earlier about a set of text messages.  
 8 MR. OSSO: I would ask to admit -- to  
 9 publish House Board of Managers 225.  
 10 Erick, would you -- it's been admitted,  
 11 Judge.  
 12 PRESIDING OFFICER: And, Counselor, we're  
 13 going to be going to lunch, but I've gone a little  
 14 longer, a few more minutes. Do you want to break now,  
 15 or do you want to continue for a few more minutes?  
 16 MR. OSSO: I'm fine to break now, Judge.  
 17 PRESIDING OFFICER: It's good for you  
 18 now?  
 19 MR. OSSO: Yes.  
 20 PRESIDING OFFICER: Okay. We'll break  
 21 for lunch now.  
 22 MR. HILTON: Your Honor, I apologize.  
 23 Can I raise one issue? I apologize, Your Honor. Can I  
 24 raise one issue before we break for lunch --  
 25 PRESIDING OFFICER: Yes.

MARY ORALIA BERRY, CSR, RDR, CRR, CBC

1 MR. HILTON: -- that may just help speed  
 2 things along with this witness?  
 3 You admonished Mr. Hardin at the  
 4 beginning of the day that if there were any statements  
 5 that Mr. Bangert had provided that we haven't seen, that  
 6 he was to turn them over to us. The witness has  
 7 testified that there were actually two interviews that  
 8 he gave to the House. We still don't have any  
 9 information related to those.  
 10 To the extent that there's work product  
 11 mixed with that, I think they can redact that and  
 12 provide us the -- the statements. But I just request  
 13 that we get those over the lunch break, and that may  
 14 allow us to not have to recall the witness later.  
 15 PRESIDING OFFICER: Just continue to look  
 16 during the lunch break for those documents, if you have  
 17 those.  
 18 MR. HARDIN: Thank you very much.  
 19 PRESIDING OFFICER: And if you do, turn  
 20 those over by the end of lunch.  
 21 MR. HARDIN: Sir, we do not have, but  
 22 I'll continue to be sure. Thank you.  
 23 PRESIDING OFFICER: We will return at  
 24 1:00 -- 1:10.  
 25 *(Recess at 12:26 p.m.)*

MARY ORALIA BERRY, CSR, RDR, CRR, CBC

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CERTIFICATE

STATE OF TEXAS )  
COUNTY OF TRAVIS )

I, MARY ORALIA BERRY, Certified Shorthand Reporter in and for the State of Texas, Registered Diplomat Reporter, Certified Realtime Reporter, and Certified Realtime Captioner, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Certified to by me this 7th day of September, 2023.

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1 THE SENATE OF THE STATE OF TEXAS  
 2 SITTING AS A HIGH COURT OF IMPEACHMENT  
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 4 THE MATTER OF vs  
 5 WARREN KENNETH  
 6 PAXTON, JR.  
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 12 TRIAL  
 13 VOLUME 3 - PM SESSION  
 14 SEPTEMBER 7, 2023  
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 24 Stenographically Reported by  
 25 Lorrie A. Schnoor, CSR, RDR, CRR

Lorrie A. Schnoor, CSR, RDR, CRR

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VOLUME 3 -- PM SESSION  
SENATE IMPEACHMENT TRIAL

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BY MR. HARDIN 32 -- -- 3

BY MR. OSSO -- 59 -- -- 3

RYAN VASSAR

BY MR. HARDIN 63 -- -- 3

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PROCEEDINGS  
THURSDAY, SEPTEMBER 7, 2023  
(1:13 p.m.)

PRESIDING OFFICER: A little bit on scheduling. We will go 6:30 to 7:00 this evening, depending on where the right break is. Tomorrow, I planned to adjourn at 5:00, but a number of members said traffic -- if you leave at 6:00, you don't gain any more traffic leaving an hour earlier, so we'll go to 6:00 tomorrow. And I've had a request to extend lunch to 60 minutes for the court so people have more time, so we'll start that tomorrow. So today 6:30 to 7:00, tomorrow to about 6:00, and then an extra 20 minutes for lunch.

So we are ready to resume?

MR. OSSO: Ready, Judge.

PRESIDING OFFICER: Counselor, could you come forward for one moment.

(Bench conference off the record)

PRESIDING OFFICER: Bailiff will bring in the witness.

(Witness enters the courtroom.)

PRESIDING OFFICER: You may begin.

MR. OSSO: Judge, at this time I'd like to approach the Court and opposing counsel with just a piece of law, Your Honor; statute.

MR. HARDIN: Can I have an exhibit number again?

MR. OSSO: It's not an exhibit. I don't intend to offer it as an exhibit. It's just a statute. I'd be happy to, if you'd like me to.

MR. HARDIN: I'm -- I'm not sure I'm going to object, but I -- can I understand what the purpose -- I mean, you're going to ask the witness about it or --

MR. OSSO: I do intend to ask the witness about the law on nonjudicial foreclosures.

MR. HARDIN: Are you perhaps having it here for him to refer to in case he doesn't know it?

MR. OSSO: I have a copy in case he --

PRESIDING OFFICER: Counselor, if you can address the Court.

MR. OSSO: Sure.

PRESIDING OFFICER: If both of you can address the Court.

MR. OSSO: I'd be happy -- yes, Rusty. And I'd be happy to offer it as AG 1005.

MR. HARDIN: If it's not being introduced to evidence, I don't have any objection to what we're doing, I don't think. I just don't know what the statute -- the Court -- if this Court has it. I don't

know whether the Court has it.

PRESIDING OFFICER: We do have it. I thought I heard you just say if it's not being offered as evidence, you have no objection.

MR. HARDIN: That's correct. That's correct.

PRESIDING OFFICER: Okay. So --

MR. OSSO: At this time I don't intend to offer it into evidence.

RYAN LEE BANGERT (CONTINUED),  
having been previously duly sworn, testified as follows:  
CROSS-EXAMINATION (Continued)

BY MR. OSSO:

Q. Mr. Bangert --

MR. HARDIN: Yeah. So did you just say now that you are offering it?

MR. OSSO: No, I --

MR. HARDIN: You're not offering it?

MR. OSSO: I wasn't offering it at this time.

MR. HARDIN: Thank you.

MR. OSSO: I might change my mind here in a second. We'll see.

MR. HARDIN: All right. Fair enough.

1 Q. (BY MR. OSSO) Mr. Bangert, you are somewhat  
2 familiar with nonjudicial foreclosure law, correct?  
3 A. Did you ask am I familiar with nonjudicial  
4 foreclosure law?  
5 Q. Yes. I asked you if you were familiar with  
6 nonjudicial foreclosure law.  
7 A. It's been a while.  
8 Q. Okay. Well, you did write a memorandum about  
9 it and issue an informal legal opinion on the matter,  
10 correct?  
11 A. If you're referring to the August 1st letter,  
12 I did assist Mr. Vassar in putting that together.  
13 Q. Okay. And in doing so, you probably had to  
14 research the law on nonjudicial foreclosure opinions,  
15 true?  
16 A. Not necessarily.  
17 Q. Okay. You're aware of when nonjudicial  
18 foreclosures take place, correct?  
19 A. Based on the document that I prepared, I  
20 believe it was the first Monday or Tuesday of every  
21 month.  
22 Q. Okay.  
23 A. But that's my recollection.  
24 Q. Okay. If we said it was Tuesday, would you  
25 agree with that?

Lorrie A. Schnoor, CSR, RDR, CRR

1 A. I would have no reason to disagree.  
2 Q. Okay. Now, the fact that that occurs every  
3 single Tuesday, that singular Tuesday of every month,  
4 that's a -- that's a reason that Ken Paxton could have  
5 said, Mr. Bangert, we need to get these done this  
6 weekend, true?  
7 A. Yes, that could have been a reason.  
8 Q. Okay. And to be fair, Nate Paul is not the  
9 only person that had properties that were subject to  
10 potential foreclosures on that date, was he?  
11 A. I don't know for a fact, but it seems  
12 reasonable to assume there would be other properties  
13 that would be -- would have been subject to foreclosure.  
14 Q. Okay. Potential homeowners, correct?  
15 A. Again, I -- I don't know of any particulars,  
16 but it's entirely possible.  
17 Q. So it's safe to say that it could have been  
18 someone that didn't have a job and didn't have money to  
19 pay their home loan, correct?  
20 A. I have no reason to agree or disagree with  
21 that. I don't know.  
22 Q. Okay. After that informal guidance was  
23 issued -- and to be clear --  
24 MR. OSSO: Erick, would you mind pulling  
25 up House Board's 119?

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1 Q. (BY MR. OSSO) That was not issued like a  
2 legal opinion was normally issued, correct?  
3 A. Are you referring to --  
4 Q. No. I'm asking -- I'm asking you personally.  
5 That was not issued like a formal legal opinion,  
6 correct?  
7 A. It did not go through the formal process.  
8 Q. It was --  
9 PRESIDING OFFICER: To the witness --  
10 excuse me -- if you could just answer yes or no when you  
11 can. Okay.  
12 Q (BY MR. OSSO) It was just a news post, right?  
13 A. The -- which document are you referring to?  
14 Q. I'm referring to the informal guidance  
15 regarding the nonjudicial foreclosure sales that you  
16 signed instead of Ryan Vassar?  
17 A. No.  
18 Q. It was a post on the website, right?  
19 A. I believe it was made available to the public  
20 via our website.  
21 Q. Okay. And if we look at House Board 119, you  
22 state, We compromised by urging that -- excuse me.  
23 We agreed to compromise by placing a  
24 short noteworthy post on the website, correct?  
25 A. Yes, I wrote those words.

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1 Q. Okay. Now, after that noteworthy post was  
2 issued -- we're in August of 2020, true?  
3 A. We are in August of 2020, and I -- I do think  
4 I need to correct the record on something that --  
5 Q. It's just a yes-or-no question. Was it August  
6 of 2020?  
7 A. We are in August.  
8 Q. Okay. You had no knowledge about anything to  
9 do with the renovations with regard to Ken Paxton's  
10 house at that time, did you?  
11 A. The knowledge I had would have been through  
12 conversations with Mr. Mateer via Mr. Wicker.  
13 Q. You have no personal knowledge of that, do  
14 you?  
15 A. I did not discuss that with Mr. Paxton, nor  
16 was I at his house.  
17 Q. You do not know who paid for the renovations  
18 to the Paxtons' house?  
19 A. At that time I was unaware of who was paying  
20 for the renovations.  
21 Q. You don't know, you haven't seen any  
22 documents, have you?  
23 A. I -- I have seen documents that include  
24 testimony from individuals who have described --  
25 Q. It's a yes-or-no question --

Lorrie A. Schnoor, CSR, RDR, CRR



1 A. I have seen documents --  
 2 Q. Have you seen documents that specifically show  
 3 and prove who paid for those? Have you seen receipts?  
 4 A. I have seen documents strongly suggestive of  
 5 who paid for that.  
 6 Q. Okay. When did you first send your  
 7 application for the Alliance Defending Freedom?  
 8 A. It would have been sometime in October.  
 9 Q. Okay. Was it prior to leaving the attorney  
 10 general's office?  
 11 A. Yes. I was in conversation with ADF prior to  
 12 leaving the attorney general's office.  
 13 Q. Okay. So when you said earlier that what you  
 14 did with regard to reporting Ken to the FBI, going to  
 15 the FBI being a death warrant for you, it did not affect  
 16 your ability to get another job, did it?  
 17 A. It ended my ability to be employed by the  
 18 attorney general's office.  
 19 Q. Well, no, because you resigned. You didn't  
 20 get terminated, true?  
 21 A. I was constructively terminated.  
 22 Q. Okay. You submitted a letter of resignation,  
 23 did you not?  
 24 A. I did.  
 25 Q. And then you went to work for a company or a

1 firm that you had already applied for, true?  
 2 A. I did.  
 3 Q. All right. At the end of the day, you would  
 4 have to agree that Ken makes the final -- Mr. Paxton  
 5 makes the final call on what opinions are issued by the  
 6 Office of Attorney General, true?  
 7 A. I wouldn't put it quite that way.  
 8 Q. Well, he has to sign the document, doesn't he?  
 9 A. Mr. Paxton has authority to issue -- make the  
 10 final signature on the document.  
 11 Q. Okay. So in the context of a legislator, a  
 12 senator, perhaps, if there is a piece of legislation  
 13 that they don't like or -- let me rephrase that.  
 14 If there is a piece of legislation that  
 15 one of their staff members does not like and they want  
 16 it to go through, the senator overrules his staff  
 17 member, true?  
 18 A. I do not know how the senators make their  
 19 decisions. I can only assume that senators, much like  
 20 statewide elected officials, have ultimate authority in  
 21 their offices.  
 22 Q. Have you had any conversations with any  
 23 statewide officials or legislators regarding this case?  
 24 A. Nothing specific.  
 25 Q. Nothing specific. Is there any record of

1 that, of what you actually said?  
 2 A. No.  
 3 Q. So it's kind of like your conversations with  
 4 Mr. Hardin and the House Board of Managers?  
 5 A. No.  
 6 MR. OSSO: May I approach you, Your  
 7 Honor?  
 8 At this time, Judge, I would offer  
 9 Attorney General's Exhibit 1004.  
 10 MR. HARDIN: We have no objection.  
 11 PRESIDING OFFICER: No objection, it will  
 12 be admitted into evidence.  
 13 (AG Exhibit 1004 admitted)  
 14 MR. OSSO: May I approach the witness,  
 15 Judge?  
 16 PRESIDING OFFICER: Yes, you may.  
 17 Q (BY MR. OSSO) Mr. Bangert, I've highlighted  
 18 in orange on this document. I'm going to hand it to  
 19 you. I'm going to ask you to read it, okay, the  
 20 highlighted portion. Okay?  
 21 I wanted you to read it aloud,  
 22 Mr. Bangert.  
 23 A. The highlighted portion?  
 24 PRESIDING OFFICER: One moment. Does  
 25 Erick have it?

1 MR. OSSO: Erick does not have it, Judge.  
 2 This is more of a rebuttal exhibit, if you will.  
 3 Q. (BY MR. OSSO) So, Mr. Bangert, if you could  
 4 read aloud so that our jurors could hear, the  
 5 highlighted portion.  
 6 MR. HARDIN: Pardon me, Your Honor. May  
 7 I approach and ask him to highlight the portion that  
 8 he's highlighted for the witness so I know what he's  
 9 talking about? I just want a highlight on my copy.  
 10 Thank you.  
 11 Q (BY MR. OSSO) I'm going to ask you to read  
 12 the highlighted portion now aloud, Mr. Bangert.  
 13 A. The highlighted portion states: Accordingly,  
 14 my administration, to the extent reasonably necessary to  
 15 prevent the further spread of COVID-19, will take all  
 16 lawful measures to prevent residential evictions and  
 17 foreclosures resulting from financial hardship caused by  
 18 COVID-19.  
 19 Q. That is an executive order issued by the Trump  
 20 administration, Mr. Bangert. Were you aware of this  
 21 executive order when you filed or sent Mr. Vassar that  
 22 email on September 30th of 2020?  
 23 A. Look at the date of the order. It's  
 24 August 8th. I don't recall if I was aware of this  
 25 order, but it was irrelevant.

1 Q. It was irrelevant?

2 A. Yes.

3 Q. Okay. It was a week after you just issued an

4 opinion with regard to foreclosure sales, was it not?

5 A. It was one week after the August 1st opinion.

6 Q. Okay. But it's your opinion that it's not

7 relevant to your summary of what happened on that

8 foreclosure opinion you drafted?

9 A. Completely irrelevant.

10 Q. Okay. I'll take that back from you.

11 MR. OSSO: May I have a brief moment,

12 Judge?

13 (Pause)

14 MR. HARDIN: Point of inquiry, please,

15 Your Honor. I'm looking at the record as it was. Maybe

16 Counsel wants to have an opportunity to correct it.

17 I think he referred to the order in a

18 question that is an executive order issued by the Trump

19 administration, Mr. Bangert. I suspect he meant to say

20 the Abbott administration. But I just -- I just want to

21 make sure the record is correct. I don't know which he

22 meant.

23 MR. OSSO: No. It's a federal order. I

24 meant the Trump administration.

25 MR. HARDIN: Pardon me?

1 MR. OSSO: It's a federal order. I meant

2 the Trump administration.

3 MR. HARDIN: Thank you.

4 MR. OSSO: Okay.

5 Q. (BY MR. OSSO) I want to talk to you more

6 about your representation by Johnny Sutton, Mr. Bangert.

7 Was it after you ended your employment at the Office of

8 Attorney General that you hired Mr. Sutton?

9 A. I began working with him prior.

10 Q. You began working for him prior?

11 A. I began working with Mr. Sutton prior to

12 ending my employment, yes.

13 Q. You searched for Mr. Sutton on September 22nd

14 of 2020, did you not?

15 A. He was recommended to me.

16 Q. Okay.

17 A. I -- I can't recall searching for him on

18 September 22nd.

19 MR. OSSO: Okay. At this time, Your

20 Honor, I would offer Attorney General Exhibit 312.

21 PRESIDING OFFICER: Any objection?

22 MR. HARDIN: No objection.

23 PRESIDING OFFICER: It is admitted into

24 evidence.

25 (AG Exhibit 312 admitted)

1 Q. (BY MR. OSSO) Okay. Mr. Bangert, this is a

2 download of your computer. And I'm going to approach

3 you with it. I'm going to have you look at it and

4 refresh your recollection.

5 Oh, you can see it.

6 MR. OSSO: I didn't realize Erick had --

7 Erick, you got it published, don't you? Okay. Thank

8 you.

9 Q. (BY MR. OSSO) We see here on September 22nd

10 of 2020 that you actually searched Johnny Sutton's law

11 firm?

12 A. That's what the document represents, that I

13 searched the -- for the ashcroftlawfirm.com.

14 Q. And that is where Johnny Sutton is employed,

15 true?

16 A. He's one of the named partners there.

17 Q. Okay. That is eight days before you decide

18 that you're going to go to the FBI and report Ken

19 Paxton?

20 A. We went to the FBI eight days later, yes,

21 that's correct.

22 Q. So you were searching for an attorney before

23 you even knew that Brandon Cammack was issuing subpoenas

24 at those banks?

25 A. Oh, oh, no, I don't believe this had anything

1 to do with looking for Mr. Sutton to retain him.

2 Q. Oh, it's just a coincidence? Yes or no?

3 A. It probably is, yes. And there's no reason --

4 we were not searching for a counsel prior to that. I

5 was not.

6 Q. I'm going to ask you a question that

7 Mr. Buzbee has stated earlier: Have you ever heard the

8 term there's no coincidences in the city of Austin?

9 A. I've never heard that term before. And there

10 are plenty of coincidences.

11 Q. It was a yes-or-no question, Mr. Bangert. You

12 said you'd never heard of it?

13 A. Never heard of it.

14 Q. So September 30th you guys go to the FBI,

15 true?

16 A. We did.

17 Q. All right. Now, that is before you become

18 aware of a second referral made to the Travis County

19 District Attorney's Office, true?

20 A. Trying to recall when we became aware of that

21 second referral. It -- it may have been. I just don't

22 recall precisely the order of events, but I believe it

23 was.

24 Q. I mean, you seem to have a great recollection

25 of the order of events when Mr. Hardin had you on direct

1 examination. Are you saying that you're forgetting now?  
 2 A. No. I'm telling you that I'm trying to recall  
 3 specifically when I learned that fact, but I did learn  
 4 that there was a second referral.  
 5 Q. Okay. And it was after you went to the FBI?  
 6 A. That is entirely possible, yes.  
 7 Q. Okay. And then the next day, that is when you  
 8 guys decide to reach out to Ken Paxton, after you've  
 9 already outed him to the feds, right?  
 10 A. We reached out to him the next day.  
 11 Q. Okay. That's what I said. So that's a yes,  
 12 right?  
 13 A. We did reach out to him the next day.  
 14 Q. You were pretty --  
 15 PRESIDING OFFICER: To the witness --  
 16 once again, Witness, when you can answer yes or no, if  
 17 you can, answer yes or no.  
 18 A. I cannot answer yes or no to that question.  
 19 I'm answering what I can.  
 20 Q. (BY MR. OSSO) Okay. You were pretty active  
 21 on October 1st?  
 22 A. I was active on October 1st, yes.  
 23 Q. Okay. And you guys -- when I say "you guys,"  
 24 I mean the executive-level administration. You had a  
 25 group chat going, did you not?

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1 A. We did.  
 2 Q. And you participated in that group chat,  
 3 right?  
 4 A. Yes.  
 5 Q. We heard you talking to Mr. Hardin about some  
 6 of the text messages in that group chat, right?  
 7 A. Yes.  
 8 Q. And specifically they were talking about a  
 9 draft that was circulating between you and the other  
 10 executive-level attorney generals, right?  
 11 A. Yes.  
 12 MR. OSSO: Erick, would you mind pulling  
 13 up House Board 225.  
 14 Q. (BY MR. OSSO) And in that message -- well,  
 15 it's safe to say that the first draft that you-all  
 16 created did not go to the FBI, right?  
 17 A. I don't -- no, this letter that's being  
 18 referred to here, no.  
 19 Q. Right. It was revised and edited to an  
 20 extent.  
 21 A. The document -- I don't recall if it ever went  
 22 to the FBI. We were working on an internal document.  
 23 Q. Okay.  
 24 A. To memorialize our complaints.  
 25 Q. Right. And the first version of that

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1 complaint -- well, from what we look at in House 225,  
 2 Jeff Mateer says, from Maxwell, read the letter. Not  
 3 sufficient. A request letter must allege specific  
 4 allegations that are in violation of State law to  
 5 include documentation of criminal act. The only thing  
 6 you have is what happened today and that is documented.  
 7 Is that true?  
 8 A. You added the word "and."  
 9 Q. Okay.  
 10 A. Apart from that, you read it correctly.  
 11 Q. Excuse me. But that's what the -- that's what  
 12 the text says, right?  
 13 A. That is what the text says, yes.  
 14 Q. And presumably that's regarding the initial  
 15 draft that you guys created to memorialize your  
 16 complaint to the FBI, right?  
 17 A. I -- I don't recall specifically, but that's  
 18 what this was.  
 19 Q. Are you forgetting all of a sudden? Because  
 20 you had a crystal clear recollection when Mr. Hardin had  
 21 you on direct examination, Mr. Bangert.  
 22 Do you not remember this? I mean, do  
 23 you -- you're here to testify in the Court of  
 24 Impeachment. Do you not remember the day that you went  
 25 behind Ken Paxton's back to the FBI? Do you not

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1 remember that?  
 2 A. Sir, we did not go behind the attorney  
 3 general's back.  
 4 Q. Did you tell him you were going to the FBI;  
 5 yes or no?  
 6 A. Sir, we did not --  
 7 Q. Yes or no.  
 8 Mr. Bangert, I'm asking you yes-or-no  
 9 questions. Did you tell Ken Paxton you were going to  
 10 the FBI; yes or no?  
 11 A. I cannot answer that question with a yes or  
 12 no.  
 13 PRESIDING OFFICER: Witness shall answer  
 14 the question.  
 15 Q. (BY MR. OSSO) Yes or no, Mr. Bangert.  
 16 A. Provided him with ample opportunity --  
 17 Q. That's not what I asked you.  
 18 Did you tell Ken Paxton you were going to  
 19 the FBI; yes or no?  
 20 A. We gave him ample opportunity --  
 21 Q. That's not what I asked.  
 22 MR. OSSO: Objection. Nonresponsive,  
 23 Your Honor. I'd ask that he answer the question before  
 24 him.  
 25 PRESIDING OFFICER: The witness is

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1 ordered to answer the question yes or no.  
 2 Q. (BY MR. OSSO) Mr. Bangert, it's a very simple  
 3 question. Did you tell Ken Paxton that you were going  
 4 to go to the FBI?  
 5 A. On September 30th --  
 6 Q. It's a --  
 7 A. -- we did not.  
 8 Q. -- yes-or-no question, Mr. Bangert. It is a  
 9 yes or no --  
 10 A. It is not a yes-or-no --  
 11 Q. It is a yes or no.  
 12 A. -- question, Counsel.  
 13 MR. HARDIN: Excuse me. Excuse me, sir.  
 14 Your Honor, he said -- he answered the  
 15 question, but because he was talking on top of him, he  
 16 didn't hear it. He said on September the 30th, we did  
 17 not. And he starts interrupting him halfway before.  
 18 And the court reporter probably had trouble hearing "we  
 19 did not."  
 20 So I just ask him to let him finish what  
 21 he's saying and not talk on top of him, if for no other  
 22 person than the court reporter.  
 23 PRESIDING OFFICER: You can ask the  
 24 question one more time.  
 25 Q. (BY MR. OSSO) Mr. Bangert, it is a yes-or-no

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1 question, and I want a yes-or-no answer. Did you tell  
 2 Ken Paxton that you were going to the FBI?  
 3 A. I did not tell Ken Paxton before I went to the  
 4 FBI.  
 5 Q. Okay. Your next message after we're talking  
 6 about the first draft of y'all's complaints says, Okay.  
 7 Sounds like we need to beef up the specific allegations.  
 8 Does it not?  
 9 A. Yes, that's what I wrote.  
 10 Q. So you actually had to go back in there and  
 11 put more words and more filler into that complaint,  
 12 didn't you?  
 13 A. No.  
 14 Q. No? Well, the first -- the first complaint  
 15 clearly wasn't sufficient if we're to go off your text  
 16 messages, right?  
 17 A. You said the word "filler." That's an  
 18 inaccurate characterization --  
 19 Q. You had to --  
 20 A. -- of what we were doing.  
 21 Q. Well, let's look down there.  
 22 MR. OSSO: Erick, if you could hop off of  
 23 the -- zoom in.  
 24 Q. (BY MR. OSSO) To sound like we need to beef  
 25 up the specific allegations. You needed to beef them

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1 up, right? You needed to make them sound stronger; true  
 2 or no?  
 3 A. We needed to include additional allegations to  
 4 substantiate what had happened.  
 5 Q. Okay. And so it's after that that you started  
 6 talking about other things that Ken Paxton had done  
 7 previously that you didn't think to include in the first  
 8 version of the complaint, right?  
 9 A. I wouldn't put it that way.  
 10 Q. You wouldn't put it that way.  
 11 And to be clear, this is all coming to  
 12 fruition because Brandon Cammack is serving subpoenas on  
 13 a bank, true?  
 14 A. That was in part, but not entirely.  
 15 Q. And all the while you didn't even know that  
 16 the Travis County District Attorney's Office sent a  
 17 complaint directly to Mr. Cammack that did not go to the  
 18 Office of Attorney General?  
 19 A. That would have been much more concerning if I  
 20 had known that.  
 21 Q. So you didn't know that?  
 22 A. No.  
 23 MR. OSSO: Okay. Erick, would you mind  
 24 pulling up Article VI -- or excuse me, Article V.  
 25 Q. (BY MR. OSSO) The allegation in Article V is

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1 that Paxton misused his official powers by violating the  
 2 laws governing the appointment of prosecuting attorney  
 3 pro tem. You would agree with that, right, that that's  
 4 the allegation?  
 5 A. Yes, that is the allegation.  
 6 Q. Mr. Bangert, Mr. Paxton -- excuse me --  
 7 Brandon Cammack was not an attorney pro tem. True or  
 8 not true?  
 9 A. It's difficult to --  
 10 Q. True or --  
 11 A. -- classify what he was.  
 12 Q. -- not true?  
 13 A. I don't personally believe he was properly  
 14 ever appointed a prosecutor pro tem.  
 15 Q. And the Travis County District Attorney's  
 16 Office never recused themselves officially and formally  
 17 from the complaints made by Nate Paul to their office.  
 18 True or not true?  
 19 A. I'm not aware of any recusal.  
 20 Q. Okay.  
 21 MR. OSSO: May I approach you, Your  
 22 Honor?  
 23 PRESIDING OFFICER: Yes.  
 24 Q. (BY MR. OSSO) I want to go back to your last  
 25 answer, and I'm going to re-ask you this. Brandon

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1 Cammack was not -- he wasn't just not improperly  
 2 appointed as an attorney pro tem. Brandon Cammack was  
 3 not appointed as an attorney pro tem at all.  
 4 A. Not to my knowledge.  
 5 MR. OSSO: At this time, Judge, I would  
 6 offer AG Exhibit 95.  
 7 PRESIDING OFFICER: I think that's on our  
 8 list of already admitted.  
 9 MR. HARDIN: It is. No objection.  
 10 MR. OSSO: Okay.  
 11 PRESIDING OFFICER: It's already  
 12 admitted.  
 13 MR. OSSO: Thank you, Judge.  
 14 Erick, would you mind pulling up the  
 15 first page to AG 95.  
 16 Q. (BY MR. OSSO) Mr. Bangert, we talked about  
 17 you being heavily active on October 1st of 2020, and you  
 18 agreed, right?  
 19 A. I was.  
 20 Q. And one of the many actions you took that day  
 21 was that you took it upon yourself to email Jeff  
 22 Mateer's letter to Brandon Cammack terminating his  
 23 employment, did you not?  
 24 A. I did not take it upon myself. I agreed with  
 25 Mr. Mateer that this would be an appropriate way to

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1 handle this.  
 2 Q. Okay. So you and Mr. Mateer were both of  
 3 agreement to do that?  
 4 A. We were in agreement to do this.  
 5 Q. All right. I want you to flip to the second  
 6 page of that correspondence. You would agree that --  
 7 MR. OSSO: And, Erick, if you would do  
 8 the same.  
 9 Q. (BY MR. OSSO) You would agree that that is  
 10 the letter that Jeff Mateer provided to terminate  
 11 Brandon Cammack's employment, right?  
 12 It's produced by the House, Mr. Bangert.  
 13 A. Correct. I'm reading -- I want to make sure  
 14 that the word "terminate" is accurate here. We were  
 15 told to cease and desist.  
 16 Q. Third line, notice of termination effective  
 17 immediately.  
 18 A. Yes.  
 19 Q. Yeah.  
 20 A. We do say that, yes.  
 21 Q. Okay. And just to be clear, you don't know  
 22 all the work that Brandon Cammack put into that  
 23 investigation, do you?  
 24 A. At that time I was not aware of what he was up  
 25 to.

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1 Q. And you were willing to just fire him without  
 2 even thinking to pay him or compensate for his time and  
 3 his services as a lawyer?  
 4 A. We -- we terminated him in this letter and  
 5 told him to cease and desist.  
 6 Q. Without even thinking about giving the guy a  
 7 little bit of money for the time and effort he spent on  
 8 this investigation, yes or no?  
 9 A. I would not put it that way.  
 10 Q. Okay. You didn't pay him, did you?  
 11 A. No, we did not.  
 12 Q. All right. But the thing I really want to  
 13 focus on, Mr. Bangert, because you're a man that has  
 14 attention to detail, right?  
 15 A. I do my best.  
 16 Q. I want you to look right under that attorney  
 17 general seal at the top of that exhibit, okay? Do you  
 18 recognize anything that should be there?  
 19 A. It's been several years since I worked with  
 20 letterhead. It has the seal of the attorney general's  
 21 office there.  
 22 Q. How about your boss's name? You see that  
 23 there?  
 24 A. His name is not here, no.  
 25 Q. Yeah. You went ahead and sent it without his

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1 name, didn't you?  
 2 A. I'm trying to recall. I think there was a  
 3 version --  
 4 Q. You're looking at the document, Mr. Bangert.  
 5 MR. HARDIN: Excuse me. He's trying to  
 6 answer the question. Can he please let him before he --  
 7 PRESIDING OFFICER: Overruled.  
 8 Q. (BY MR. OSSO) You're looking at the document.  
 9 Is Ken Paxton's name on that document you sent to  
 10 Brandon Cammack or not?  
 11 A. His name is not on this letterhead, no.  
 12 And just for the record, I do want to  
 13 point out his name does appear --  
 14 MR. OSSO: Objection, Judge.  
 15 Nonresponsive. I didn't ask this witness a question.  
 16 PRESIDING OFFICER: Sustained.  
 17 MR. OSSO: And I'll pass Mr. Bangert.  
 18 REDIRECT EXAMINATION  
 19 BY MR. HARDIN:  
 20 Q. Mr. Bangert, I want to start to try to ask you  
 21 a few questions again to go back to this opinion that  
 22 sometimes it's been referred to as "the midnight  
 23 opinion."  
 24 Originally --  
 25 MR. HARDIN: If I can, I would like to

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1 bring up, please, Stacey, Exhibit 112.  
 2 Q. (BY MR. HARDIN) Can you look at this and  
 3 determine -- and help me out and tell me whether or not  
 4 this is the original draft that you-all did on -- and  
 5 presented to the attorney general on that Saturday  
 6 afternoon. And do you need a moment to look at it, or  
 7 can -- or would it help you to have a hard copy?  
 8 A. A hard copy would be helpful, yes, sir.  
 9 MR. HARDIN: Can we -- Stacey, do we  
 10 perhaps have a hard copy for the Court?  
 11 A. But I can tell you without looking at it that  
 12 this is not the original version that we sent.  
 13 Q. (BY MR. HARDIN) Let me follow up on what your  
 14 observation is. What -- what order would this draft  
 15 have been?  
 16 A. I'm assuming this is the final draft. It  
 17 would have been the very last thing that was produced.  
 18 Q. Would you look at the first page, please, and  
 19 the last page, if that helps you.  
 20 A. Ah, no. This is not the final draft. I  
 21 cannot -- I can now see there's no signature on it.  
 22 Q. Right. Would you look at the opening  
 23 paragraph and see what that seems to be saying in terms  
 24 of the original position you took?  
 25 A. Yes. This refreshes my recollection.

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1 Q. Pardon me?  
 2 A. Yes, this does refresh my recollection.  
 3 Q. All right. And now that you look at the  
 4 language in the first paragraph of Exhibit 112, what  
 5 does that tell you in terms of which draft order it was?  
 6 A. This was one of the early --  
 7 Q. Now, let me tell you a problem for you to keep  
 8 in mind. When you look to the left for the -- there you  
 9 go. Perfect. There you go.  
 10 A. There we go.  
 11 Q. All right.  
 12 A. Yes. This was -- this was one of the early  
 13 drafts.  
 14 Q. And in the first paragraph, would you look at  
 15 the sentence that begins with, We conclude.  
 16 MR. HARDIN: Would you highlight for me,  
 17 Stacey? Would you highlight for me, Stacey?  
 18 Q. (BY MR. HARDIN) Read this paragraph out loud  
 19 to the jury, please.  
 20 A. Yes. We conclude that a foreclosure sale of  
 21 residential or commercial real property constitutes a  
 22 service to which no occupancy limit applies under  
 23 Executive Order GA-28 and local governmental bodies  
 24 therefore lack authority to restrict in-person  
 25 attendance at these sales.

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1 Q. All right. Now, at that time, what was the  
 2 legal basis for you concluding that there wasn't a  
 3 restriction and that it could be conducted?  
 4 A. It was GA-28, the governor's order.  
 5 Q. All right. And what was it about GA-28, the  
 6 governor's order? And I may have a copy there. I  
 7 couldn't locate it on my desk. If somebody finds it,  
 8 they can bring it up to me.  
 9 But what was it about the governor's  
 10 order, and when was that order, that you concluded would  
 11 allow essentially the foreclosure sales to go forward  
 12 particularly outside?  
 13 A. Yes. There was an -- there were a number of  
 14 exceptions in the governor's order to in-person  
 15 gathering restrictions.  
 16 MR. HARDIN: With the Court's -- with the  
 17 Court's permission, I'm going to mark this as an  
 18 exhibit, Number 631. Thank you so much.  
 19 631 or 633? 631. Thank you. I'm going  
 20 to tender it to counsel, Your Honor, because I don't  
 21 have an extra copy right now.  
 22 MR. OSSO: No objection, Judge.  
 23 PRESIDING OFFICER: 631 shall be admitted  
 24 into evidence.  
 25 (HBOM Exhibit 631 admitted)

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1 MR. HARDIN: Thank you, Your Honor.  
 2 Do we have a copy by chance for the Court  
 3 to have up there?  
 4 PRESIDING OFFICER: Always nice for the  
 5 Court to have a copy.  
 6 MR. HARDIN: This only came up during the  
 7 lunch hour. I apologize.  
 8 PRESIDING OFFICER: Thank you, sir.  
 9 MR. HARDIN: And one for him. Thank you  
 10 very -- thank you very much.  
 11 Now, I don't know whether or not -- and  
 12 I'm going to ask as we go along -- whether Ms. Manela  
 13 can figure out a way to balance these.  
 14 First of all, if there's a way to do a  
 15 split screen here, Stacey, 112 and 115. And I believe I  
 16 will represent 115 is the final order. And I believe  
 17 115 is in evidence.  
 18 Q. (BY MR. HARDIN) Now, if you could, if you  
 19 could look at these two orders, is the one on the left  
 20 the draft we talked about, Exhibit 112, what your first  
 21 finding was?  
 22 A. Yeah. So our first finding is summarized in  
 23 the first paragraph. We conclude that a foreclosure  
 24 sale -- yeah, there we go. Thank you.  
 25 We conclude that a foreclosure sale of

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1 residential or commercial real property constitutes a  
 2 service to which no occupancy limit applies under  
 3 Executive Order GA-28 and local governmental bodies  
 4 therefore lack authority to restrict in-person  
 5 attendance at these sales.  
 6 Q. All right. Now, I'm going to ask you --  
 7 MR. HARDIN: If you could leave that up,  
 8 please, Stacey, first.  
 9 Q. (BY MR. HARDIN) And then I want you, if you  
 10 would, I want you to look over to the government's  
 11 executive order on Page 3.  
 12 A. Okay. And I don't have a copy of the order.  
 13 MR. HARDIN: Do we have one more, Mark?  
 14 Thank you.  
 15 And I believe that 112, which was never  
 16 discussed as one of those that you did not object to,  
 17 I'm going to tender it to you again to look at. I just  
 18 looked -- make sure. I'm told that 112 is not in  
 19 evidence. And I apologize.  
 20 MR. OSSO: No objection, Judge.  
 21 PRESIDING OFFICER: No objection, 112  
 22 will be submitted to evidence.  
 23 (HBOM Exhibit 112 admitted)  
 24 MR. HARDIN: And I apologize for having  
 25 published that before I realized that. That's my fault,

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1 not anybody else's.  
 2 Q. (BY MR. HARDIN) Now, I want to ask you, you  
 3 referred in your testimony just a moment ago that in  
 4 your first draft in which you basically had a ruling  
 5 that said these foreclosures, particularly outside,  
 6 would be allowed. And then you said that was partly  
 7 based on the governor's executive order that he had  
 8 previously issued. And you talked about it as General  
 9 Order 28. Correct?  
 10 A. Yes. No occupancy limit applies.  
 11 Q. I'm sorry?  
 12 A. Yes. No occupancy limit applies --  
 13 Q. All right.  
 14 A. -- under GA-28.  
 15 Q. And what role -- can you point us in the  
 16 governor's General Order 28 to the section that you  
 17 relied on in that initial opinion that said they could  
 18 be open to the public -- they could -- foreclosure  
 19 proceedings could be open?  
 20 A. Yes. May I see the second page of --  
 21 Q. Pardon me?  
 22 A. May I see the second page of Exhibit 112?  
 23 Q. All right.  
 24 MR. HARDIN: Move to the second page.  
 25 Thank you, Stacey.

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1 A. Yes. Yes. We reference it here. We address  
 2 your question.  
 3 MR. HARDIN: No, I'm sorry, Stacey. What  
 4 I want to do now is go to -- if you have -- I don't know  
 5 if you have 631 loaded. Do you?  
 6 If you do have 631 loaded, could you go  
 7 to the second page of that?  
 8 And just you can sacrifice the one on the  
 9 right, and take down 115 and put in the governor's  
 10 general order.  
 11 And by the way, the executive order --  
 12 before you move, Stacey, that is dated.  
 13 Q. (BY MR. HARDIN) Can you see on there what  
 14 date it is? Is it June -- can you see June 20th --  
 15 A. I can. It's June 26, 2020.  
 16 Q. All right. Now, so that executive order, did  
 17 it not, existed at the time that you were drafting your  
 18 opinions at the request of the attorney general?  
 19 A. They did.  
 20 Q. All right. Now, what is it on Page 2 of the  
 21 governor's executive order that led y'all to conclude  
 22 and say in your first draft the foreclosure sales could  
 23 be conducted?  
 24 A. Yes. If you will go to Page 2 of Exhibit 112.  
 25 MR. HARDIN: All right. Stacey, if you

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1 go to Page 2 of the general order.  
 2 A. The first full paragraph.  
 3 Q. (BY MR. HARDIN) Pardon me?  
 4 A. The first full paragraph. We point out that  
 5 Executive Order 28 has a baseline limitation that does  
 6 not apply to --  
 7 MR. HARDIN: Well, no -- I don't -- I'm  
 8 confused here. This is probably my fault, Stacey.  
 9 May I approach, please?  
 10 Q. (BY MR. HARDIN) As usually Ms. Manela is more  
 11 on top of it than I.  
 12 You directed me -- it's my fault. You  
 13 directed me to Page 2 of --  
 14 A. Exhibit 112.  
 15 Q. -- 112, your initial draft opinion.  
 16 A. The initial opinion.  
 17 Q. And I was trying to go over to the governor's  
 18 order.  
 19 A. Ah.  
 20 Q. But let's stay with 112 first.  
 21 A. Okay.  
 22 MR. HARDIN: So now, Stacey, let's put up  
 23 112 and the governor's order. Those are going to be the  
 24 two on the screens. Go ahead.  
 25 Q. (BY MR. HARDIN) All right. Tell me what it

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1 is about 112 that -- that you think is relevant to what  
 2 we're saying.  
 3 A. Yes. This paragraph that is highlighted --  
 4 second paragraph --  
 5 Q. Moving away from that microphone. You got to  
 6 move into it.  
 7 A. Yes, sir.  
 8 Q. There you go.  
 9 A. The paragraph calls out the executive order  
 10 baseline limitations on gatherings. In this -- it says  
 11 this limitation does not apply to any services listed of  
 12 the U.S. Department of Homeland Security's cybersecurity  
 13 and infrastructure workforce Version 3.1 or subsequent  
 14 version. CISA guidance is how we referred to that.  
 15 Among the services listed in Version 3.1  
 16 of CISA are residential and commercial real estate  
 17 services including settlement services --  
 18 (Simultaneous crosstalk)  
 19 Q (BY MR. HARDIN) Go down to --  
 20 A. Yeah.  
 21 Q. You go down to -- about a sentence or two down  
 22 there, you say you're not -- And there is no better  
 23 indication of that intent than the words that are  
 24 chosen. Correct?  
 25 A. That is correct.

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1 Q. All right. Now let's stop there. And let's  
 2 go over to the second page of the -- and, by the way,  
 3 could you just explain to us laypeople what CISA is,  
 4 C-I-S-A, what does that stand for?  
 5 A. It's the cybersecurity infrastructure -- CISA  
 6 is a -- I'm trying to recall exactly what that acronym  
 7 stood for. But there was a guidance document issued by  
 8 an agency within the federal government that called out  
 9 essential services and infrastructure that should be  
 10 exempt from COVID limitations.  
 11 Q. Okay. So for -- for us laypeople, essentially  
 12 are you saying that you are going from your draft that  
 13 you did to show why the government's proclamation or  
 14 executive order would have exempted it, as far as you  
 15 were concerned when you draft the original draft; is  
 16 that right?  
 17 A. That's exactly right. We were trying to  
 18 demonstrate, and we did demonstrate here, that a  
 19 straight application of the governor's executive order  
 20 excluded these types of foreclosure sales from  
 21 limitations.  
 22 Q. All right. Stay with me. I -- I don't want  
 23 to tell everybody how to build a Swiss village when we  
 24 are trying to just do what time it is. But if we go to  
 25 Page 2 of the governor's order, where in there does it

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1 point people to the legal basis you made for your  
 2 original order?  
 3 A. Paragraph 1A.  
 4 MR. HARDIN: Stacey, can you -- yeah, on  
 5 the left? Can you do 1A? Thank you.  
 6 Can you highlight 1A for me? There you  
 7 go.  
 8 Q. (BY MR. HARDIN) Mr. Donnelly wants to make  
 9 sure that I let you know that we can't give you a copy  
 10 of the CISA document because it's a government  
 11 confidential document. Okay? But having said that,  
 12 would you explain in this highlighted language how this  
 13 tells you --  
 14 MR. OSSO: Objection to that sidebar  
 15 about the CISA document. I don't believe it's  
 16 confidential.  
 17 PRESIDING OFFICER: Sustained.  
 18 Q. (BY MR. HARDIN) Can you explain in the  
 19 highlighted portion here?  
 20 A. Say again?  
 21 Q. Yes. Explain in the highlighted portion how  
 22 that impacted your original opinion you recommended in a  
 23 draft to the attorney general?  
 24 A. Yes. This was part of the exemptions from  
 25 occupancy limits. And the CISA guidance called out a

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1 number of essential services infrastructure, among  
 2 which, as we point out in our original draft guidance,  
 3 are residential and commercial real estate services,  
 4 including settlement services.  
 5 Q. So explain to the Court what that meant as far  
 6 as the conclusion that you ultimately reached and  
 7 recommended to the attorney general?  
 8 A. Based on a plain-text interpretation of the  
 9 governor's order, foreclosure sales would not be subject  
 10 to occupancy limitations.  
 11 Q. If, in fact, any real estate?  
 12 A. Yes. And that was a straightforward textual  
 13 interpretation.  
 14 Q. So your original one, did you actually base it  
 15 upon an exception to the governor's executive order had  
 16 given to say that it was -- should be open to the  
 17 public?  
 18 A. Yes. It was a straightforward application of  
 19 the governor's executive order.  
 20 Q. Now, how did you get around that, then, when  
 21 you were ordered to come up with a different answer?  
 22 MR. HARDIN: And if we can, Stacey, let's  
 23 now put -- take down the governor's executive order and  
 24 put up Exhibit 115, please.  
 25 Q. (BY MR. HARDIN) Now, tell us what it is about

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1 one -- how did you -- what did you do that -- since you  
 2 had based it on a specific reading of the governor's  
 3 statute and now you're being asked to give an opposite  
 4 view, how did you do that?  
 5 A. Could you go to Page 2 of Exhibit 115?  
 6 Q. Yes. Where do you want to be?  
 7 A. If you'll look at the third paragraph, we  
 8 simply jumped straight to the general occupancy limits.  
 9 Q. Pardon me?  
 10 A. We jumped right to the general occupancy  
 11 limits --  
 12 Q. All right.  
 13 A. -- excluding conversation about CISA.  
 14 Q. Direct us and Ms. Manela where to highlight  
 15 that you're talking about.  
 16 A. The language, This general limitation,  
 17 however, is subject to several exceptions.  
 18 Q. Are you --  
 19 A. One such exception is found in Paragraph 5 of  
 20 the order, which limits outdoor gatherings to ten  
 21 persons or fewer without approval by the mayor or the  
 22 unincorporated territory.  
 23 So we switched out the applicable  
 24 exceptions in the order to eliminate any reference to  
 25 the CISA guidance.

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1 Q. So what you did is you just wrote out a  
 2 paragraph, did you not, of the governor's order?  
 3 A. We -- we determined, based on the attorney  
 4 general's instructions to us, that we would no longer  
 5 apply the exception that had been granted by the  
 6 governor's order.  
 7 Q. When you say "based on his instruction," did  
 8 he actually talk about that language?  
 9 A. No. He told us to reach a different  
 10 conclusion, and that was the only way to do it.  
 11 Q. All right. Now, finally, I want to make  
 12 sure -- I don't -- I don't know that I need to introduce  
 13 this, but had you read --  
 14 MR. HARDIN: May I approach the witness  
 15 very briefly?  
 16 PRESIDING OFFICER: Yes.  
 17 MR. HARDIN: I'm going to approach you  
 18 and show you what we have just marked as a new exhibit,  
 19 House Board of Managers Exhibit 632 is a new listing.  
 20 I'll tender to the Court and to counsel, with the  
 21 admonition that I don't intend to read all this.  
 22 Q. (BY MR. HARDIN) So my question to you,  
 23 though, without having introduced it yet --  
 24 MR. HARDIN: I will actually make it for  
 25 ease move to introduce it. We move to introduce House

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1 Board of Managers Exhibit 632.  
 2 MR. OSSO: Judge, I would object to this  
 3 witness testifying to this document. And additionally  
 4 this document has not been produced. There's no Bates  
 5 stamps on this document.  
 6 MR. HARDIN: No. That's certainly right.  
 7 It has not been produced. We never foresaw this issue.  
 8 So we've just gathered this during the lunch hour and  
 9 printed it out here and we've tendered it to him.  
 10 Whatever his position is is fine. But he's certainly  
 11 right, it's never been produced. We did not foresee  
 12 this issue.  
 13 MR. OSSO: It's a 40-page document  
 14 riddled with hearsay, Judge.  
 15 MR. HARDIN: It's a government record. I  
 16 think probably stands on its own. It's a public  
 17 government record.  
 18 PRESIDING OFFICER: Mr. Osso, do you need  
 19 time to review this 40-page document?  
 20 MR. OSSO: Judge, if I could have one or  
 21 two minutes.  
 22 MR. HARDIN: If I may, I think that's a  
 23 reasonable question. So if I could speed it along, what  
 24 I'll do is I'll hold, withdraw, or wait on the motion to  
 25 admit it. See if I can elicit testimony that gets the

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1 same, but it may not become an issue ultimately. But if  
 2 I do want to, I'll give him notice so he has time to  
 3 read it.  
 4 PRESIDING OFFICER: Hold one second.  
 5 MR. OSSO: Judge, we're ready to go.  
 6 MR. HARDIN: Thank you.  
 7 Now --  
 8 PRESIDING OFFICER: You withdraw the  
 9 objection then?  
 10 MR. OSSO: No, Judge. Judge, may we have  
 11 five minutes to just look through this document real  
 12 quick?  
 13 MR. HARDIN: Fine.  
 14 PRESIDING OFFICER: We will stand at ease  
 15 for five minutes.  
 16 (Brief recess)  
 17 PRESIDING OFFICER: Mr. Osso.  
 18 MR. OSSO: Your Honor, I have no -- Your  
 19 Honor, I have no objection to this exhibit. Just for  
 20 clarification, it was House Exhibit -- what's the  
 21 number, Rusty?  
 22 No objection to House Exhibit 652 --  
 23 excuse me, 632.  
 24 PRESIDING OFFICER: No objection to 632.  
 25 Do you want to admit it into evidence?

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1 MR. HARDIN: Yes, please.  
 2 PRESIDING OFFICER: Okay. House  
 3 Exhibit 632 is admitted.  
 4 (HBOM Exhibit 632 admitted)  
 5 Q. (BY MR. HARDIN) I want, if I can, I'm going  
 6 to walk up to you and I'm going to show you a page. I  
 7 have -- by the way, I mistakenly called this a  
 8 confidential document. I've looked at it. It is not.  
 9 It's a public document. There's nothing confidential  
 10 about it. It's one of 230 mistakes I'll make during  
 11 this trial.  
 12 MR. OSSO: Objection. Sidebar, Judge.  
 13 Object to that sidebar.  
 14 PRESIDING OFFICER: What is the  
 15 objection?  
 16 MR. OSSO: Sidebar. And I just move to  
 17 strike Mr. Hardin's comments.  
 18 PRESIDING OFFICER: Sustained.  
 19 You know -- you know better than that.  
 20 There you go.  
 21 MR. HARDIN: That makes -- that makes it  
 22 237. Thank you.  
 23 Q. (BY MR. HARDIN) I want to walk up. I'm going  
 24 to show you with a tab. I'll show counsel where I'm  
 25 pointing you to. I'll go by him, show him what I'm

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1 about to address you to, because I can't send you to a  
 2 page number. Just a second.  
 3 Now, on Exhibit 632, can you -- is there  
 4 a provision of it -- and I showed you a tab so there is  
 5 no secret about this. Is there a provision in this  
 6 document that you relied on in coming to your  
 7 conclusions that you presented in your first draft to  
 8 the attorney general --  
 9 A. Yes.  
 10 Q. -- and shown in Exhibit -- can you explain  
 11 and --  
 12 MR. HARDIN: I don't know that -- Stacey,  
 13 you don't have this loaded, do you?  
 14 Do you really? All right. Let me show  
 15 you where I'm going, Stacey, because, again, I don't  
 16 have a page number.  
 17 May I approach her?  
 18 Q. (BY MR. HARDIN) Now, if you would, on the  
 19 screen that she's already anticipated, is there  
 20 somewhere on this screen that you can direct the viewers  
 21 to that has any language that used -- you used as a  
 22 basis for your original opinion that you delivered to  
 23 the attorney general on that Saturday afternoon?  
 24 A. Yes. The very last bullet point, Residential  
 25 and Commercial Real Estate Services, Including

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1 Settlement Services.  
 2 Q. And what did that mean to you?  
 3 A. We interpret that in the original opinion.  
 4 Q. And, again, you read the portion of  
 5 Exhibit 112 --  
 6 MR. HARDIN: Stacey, can you split it for  
 7 me?  
 8 Q. (BY MR. HARDIN) 112, in your opinion that was  
 9 really based on this segment -- this one little excerpt  
 10 out of 632?  
 11 A. Yes. Second paragraph, second page, A court's  
 12 main objective in construing the law is to give effect  
 13 to the intent of its provisions.  
 14 And then we footnote, And there is no  
 15 better indication of that intent than the words that are  
 16 chosen.  
 17 Then we footnote, Where text is clear,  
 18 text is determinative of that intent.  
 19 Q. Microphone. Microphone.  
 20 All right.  
 21 A. Oh.  
 22 Q. Keep going.  
 23 A. One dictionary defines a service as work that  
 24 is done for others as an occupation or business. Real  
 25 estate is defined as land and the buildings and

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1 permanent fixtures attached to it. Thus, real estate  
 2 services include services performed for others as an  
 3 occupation or business that pertain to land or the  
 4 buildings and permanent fixtures attached to the land,  
 5 insofar as the performance of auction or foreclosure of  
 6 sale services related to commercial or residential real  
 7 property, such services are one specific iteration of  
 8 residential and commercial real estate services.  
 9 Q. All right. So to reduce it down to its  
 10 basics, and recommending or in your drafting to the  
 11 attorney general, saying that there should be no  
 12 restriction on the foreclosure sales, did you rely on a  
 13 government document as guidance as to why it would be  
 14 considered an essential service or activity that was  
 15 exempted based on the governor's executive order?  
 16 A. Yes. The specific government document  
 17 referenced and incorporated into the governor's order.  
 18 Q. All right. So in effect in y'all's opinion at  
 19 that time, was your recommendation that it would be open  
 20 and they could have foreclosures based on a combination  
 21 of the governor's order? And if you go to the basic  
 22 item that they're referring to in the governor's order,  
 23 that would have said essential services that would have  
 24 included foreclosure sales for either commercial or real  
 25 estate property?

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1 A. Yes.  
 2 Q. Residential property, excuse me.  
 3 A. Yes. We conclude that it is not -- there's no  
 4 occupancy limit applicable pursuant to Executive Order  
 5 GA-28.  
 6 Q. Now, when you then were directed to come to  
 7 the opposite conclusion in the drafting, that is the  
 8 final product, and the exhibit that we've been using I  
 9 think is 515 -- 115, you had a challenge to write around  
 10 the basis for your first -- your first opinion. So what  
 11 did you do?  
 12 MR. OSSO: Objection to leading and  
 13 assuming the answer in the question.  
 14 PRESIDING OFFICER: Sustained.  
 15 Rephrase.  
 16 Q. (BY MR. HARDIN) What did you do to come up  
 17 with the opposite conclusion you had originally arrived  
 18 at?  
 19 A. Couple of things. If you go to Page 2 of  
 20 Exhibit 115, we first point to the general occupancy  
 21 limitations in the third paragraph. Next, we do point  
 22 ultimately to CISA at the bottom paragraph.  
 23 And if you would go to the next page, at  
 24 the very bottom of the first full paragraph -- this is  
 25 really the kicker -- the Court's main objective in

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1 construing the law is to give effect to the intent of  
 2 its provisions --  
 3 Q. Slow down, please, on behalf of the court  
 4 reporter --  
 5 A. Yes. My apologies.  
 6 Q. -- and the volume on behalf of the people on  
 7 the floor. Could you speak a little louder, please?  
 8 A. Yes.  
 9 We repeat our commitment to textualism,  
 10 which was a guiding star of our office at all times. We  
 11 then point out that based on our analysis of the words,  
 12 we believe that outdoor foreclosure sales, last  
 13 sentence, are not exempted from the ten-person  
 14 attendance limitation.  
 15 Q. And --  
 16 A. And completely reversed it.  
 17 Q. Excuse me, I'm sorry.  
 18 What was the only thing that changed  
 19 since you had the original opinion?  
 20 A. The direction from the attorney general.  
 21 Q. All right. Now, you had questions about  
 22 whether or not it would have happened anyway because of  
 23 other subsequent events. At the time that you drafted  
 24 these two opinions, did you have any idea that Nate Paul  
 25 had bankruptcy hearings scheduled?

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1 MR. OSSO: Objection. Asked and  
 2 answered. And this witness said he didn't have specific  
 3 knowledge, so speculation.  
 4 PRESIDING OFFICER: Sustained.  
 5 Q. (BY MR. HARDIN) In this particular matter,  
 6 did you yourself know about any bankruptcy hearings that  
 7 was set in the -- excuse me, any foreclosure hearings  
 8 that were set in the foreseeable future? Just you  
 9 yourself, were you aware?  
 10 MR. OSSO: Objection. Asked and  
 11 answered.  
 12 MR. HARDIN: Not by me.  
 13 MR. OSSO: And lacks specific knowledge.  
 14 PRESIDING OFFICER: Overruled. I ruled  
 15 for -- I sustained your first objection, which forced  
 16 him to ask the question a second time.  
 17 MR. HARDIN: Thank you, Your Honor.  
 18 Q. (BY MR. HARDIN) Did you yourself?  
 19 A. No, I had no specific knowledge of any  
 20 specific foreclosure sales.  
 21 Q. All right. You -- you were there when he  
 22 introduced a certain document.  
 23 MR. HARDIN: And if I can, can I have  
 24 Exhibit -- AG Exhibit 295, please, Stacey.  
 25 Q. (BY MR. HARDIN) You heard earlier questions

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1 on direct as to whether or not, have you not, sir, these  
 2 opinions would be of help to somebody who was either --  
 3 that somebody that was opposing a foreclosure hearing,  
 4 right?  
 5 A. I recall those.  
 6 Q. All right. Now, if you could, if we -- can  
 7 you identify, had you seen before we showed you this --  
 8 this attorney general exhibit -- had you seen it before  
 9 this exhibit that he's entered into evidence?  
 10 A. No. This is the first time I've seen this  
 11 document.  
 12 Q. All right.  
 13 A. With the cross-examination.  
 14 Q. All right. Now, I want you -- if you -- if  
 15 you -- I'm going to read this to you and ask you what  
 16 the import of this when you look at the exhibit is.  
 17 Judge Campbell, August 3, 2020, as it is relevant to  
 18 these proceedings, please see the attached guidance just  
 19 released by the attorney general's office.  
 20 Had been just released, hadn't it? What  
 21 date was it released?  
 22 A. The 1st.  
 23 Q. 1st of August. That was a Sunday, was it,  
 24 right?  
 25 A. I believe midnight the 1st, I think that's

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1 right, yes.  
 2 Q. So this is just Tuesday after you released the  
 3 opinion on -- or after you've provided the attorney  
 4 general opinion on Sunday the 1st, correct?  
 5 A. It's two days later, yes.  
 6 Q. Keep your voice up. Away from the microphone.  
 7 A. Two days later, yes.  
 8 Q. All right. Regarding the foreclosures may not  
 9 proceed unless specifically authorized by the mayor and  
 10 the City of the foreclosure, given the standing  
 11 ten-person restriction would violate Texas Property  
 12 Code, Chapter 51.  
 13 Does the attachment include the opinion  
 14 that we have just been so laboriously going over?  
 15 A. Yes.  
 16 Q. Would you look to the last page of that  
 17 opinion and see if that's the final one that we  
 18 identified as Exhibit 115?  
 19 A. It is.  
 20 Q. With your signature?  
 21 A. It is.  
 22 Q. Does the cover page identify on behalf of  
 23 whom --  
 24 A. It does.  
 25 Q. -- this particular email -- excuse me -- this

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1 particular pleading was filed in a court here in Travis  
 2 County?  
 3 A. Yes.  
 4 Q. And who was the person that represented whom?  
 5 A. This is --  
 6 Q. Was presenting -- was presenting this  
 7 particular pleading and urging that your opinion was  
 8 relevant to their case?  
 9 A. This is one of Nate Paul's companies.  
 10 Q. Do you even yourself personally know how the  
 11 judge ruled one way or the other on this motion?  
 12 A. Not in this case, no.  
 13 Q. All right. And, in fact, are you familiar  
 14 with any other cases Nate Paul cited this opinion in  
 15 seeking to foreclose -- foreclosures in that year of  
 16 2020 after you rendered your final opinion?  
 17 A. Only through news reports that came out after.  
 18 Q. All right. Was it multiple places?  
 19 A. Yes.  
 20 MR. OSSO: Objection to hearsay, Judge.  
 21 MR. HARDIN: I'm through.  
 22 PRESIDING OFFICER: You withdraw that  
 23 question?  
 24 MR. HARDIN: Yeah. I think actually he  
 25 meant to say leading. It was leading. It wasn't

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1 hearsay.  
 2 MR. OSSO: I meant to say hearsay, but  
 3 I'll retract the objection, Mr. Hardin.  
 4 MR. HARDIN: That's all I have.  
 5 PRESIDING OFFICER: Recross --  
 6 MR. OSSO: Yes, Judge.  
 7 PRESIDING OFFICER: -- Mr. Osso?  
 8 RECROSS-EXAMINATION  
 9 BY MR. OSSO:  
 10 Q. You just cited the Cybersecurity and  
 11 Infrastructure Security Act pretty precisely to  
 12 Mr. Hardin on direct examination, did you not?  
 13 A. I had it in front of me.  
 14 Q. Okay. You also cited the day of the week that  
 15 you issued that opinion, did you not?  
 16 A. The day of the week was August 1st when we  
 17 issued the opinion.  
 18 Q. I'm just surprised because you showed an  
 19 uncanny ability to remember things when Mr. Hardin was  
 20 asking you questions, as opposed to when I asked you  
 21 about the same documents during my cross-examination.  
 22 Can you explain that?  
 23 A. I disagree with your characterization.  
 24 Q. Okay. We'll agree to disagree.  
 25 I don't have an e-copy of this CISA

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1 document that the House has just produced, but I think  
 2 Mr. Hardin had you reference Page 16 of that document,  
 3 did he not?  
 4 A. He did.  
 5 Q. He had you reference the very bottom part that  
 6 I have highlighted in orange. And I'm going to show the  
 7 jury. And it says settlement services, correct?  
 8 A. One of the things it says is settlement  
 9 services.  
 10 Q. Now, behind the term settlement services in  
 11 this document, there is no definition as to what  
 12 settlement services are?  
 13 A. I do not see a definition.  
 14 Q. I don't see the word foreclosure sale or  
 15 nonjudicial foreclosure sale behind it, do you?  
 16 A. The word "foreclosure sale" does not appear.  
 17 Q. Okay. Do you have a real estate license?  
 18 A. No.  
 19 Q. Okay. Would it surprise you to know that  
 20 people that have real estate licenses oftentimes engage  
 21 in settlement services to close on homes?  
 22 A. I would not know.  
 23 Q. It deals with title work and things of that  
 24 nature?  
 25 A. I would not know.

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1 Q. Okay. You won't find the word "foreclosure  
2 sale" in that definition, sir.  
3 A. This definition? It is not in -- the word  
4 "foreclosure" does not appear there, but that's why you  
5 engage in legal analysis and construction.  
6 Q. Legal analysis and construction, which means  
7 that somebody else, another attorney, perhaps the  
8 attorney general, could have a different viewpoint as to  
9 what a settlement service is, correct?  
10 A. He could have any number of viewpoints about  
11 that.  
12 Q. That's why they call it the practice of law.  
13 Zone of reasonable disagreement, that  
14 happens a lot in law, does it not?  
15 A. Not in this case.  
16 Q. Okay. Well, that's your opinion, but let's  
17 talk about facts.  
18 Did -- are you aware of -- are you aware  
19 of whether or not the opinion that you wrote that you  
20 said was unconscionable and opposite of attorney general  
21 policy, did anybody challenge that in a court of law?  
22 A. Did anyone challenge the opinion?  
23 Q. Yeah, the opinion in a court of law.  
24 A. I'm not aware of it being challenged. I don't  
25 know how you would do that under standing doctrine.

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1 Q. Okay.  
2 MR. OSSO: Pass the witness, Judge.  
3 PRESIDING OFFICER: The witness may step  
4 down.  
5 MR. OSSO: Judge, I have one more  
6 question, if the Court would entertain it.  
7 PRESIDING OFFICER: Will the witness come  
8 back. One more question.  
9 Q. (BY MR. OSSO) Prior to your term as a  
10 politician, did you or did you not practice real estate  
11 law? Paxton practiced real estate law, did he not?  
12 A. I believe he had some real estate experience  
13 back in his past.  
14 Q. Okay. So when you guys are going back and  
15 forth regarding the definition of things, it's possible  
16 he had some background knowledge of what "settlement  
17 services" meant?  
18 A. In this case that was not the best  
19 interpretation.  
20 Q. Okay. That's your opinion, sir, correct?  
21 A. No. That's the law.  
22 Q. That's your opinion?  
23 A. I disagree.  
24 Q. Okay.  
25 MR. OSSO: Pass the witness.

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1 PRESIDING OFFICER: You may step down.  
2 House call their next witness.  
3 MR. HARDIN: We call Mr. Ryan Vassar.  
4 PRESIDING OFFICER: Mr. Vassar, were you  
5 sworn in the other day in the group?  
6 MR. VASSAR: No, Your Honor.  
7 PRESIDING OFFICER: Okay. I need to  
8 swear you in. Please raise your right hand.  
9 (The following oath was given to the  
10 witness.)  
11 PRESIDING OFFICER: I do solemnly swear  
12 or affirm that the evidence I give upon this hearing by  
13 the Senate of Texas of Impeachment charges against  
14 Warren Kenneth Paxton, Jr. shall be the truth, the whole  
15 truth, nothing but the truth, so help you God.  
16 You may be seated.  
17 RYAN VASSAR,  
18 having been first duly sworn, testified as follows:  
19 DIRECT EXAMINATION  
20 BY MR. HARDIN:  
21 Q. Good afternoon.  
22 A. Good afternoon.  
23 Q. Mr. Vassar, you and I have met at least  
24 once -- once or twice, correct?  
25 A. Yes, sir.

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1 Q. But I don't think we've talked about this  
2 subject. And that is we have some microphone issues  
3 that you and I have to -- to worry about. If you will  
4 try to make sure that you're speaking into that  
5 microphone, we'll -- to where everybody in the back of  
6 the room would hear, and I'll try to make sure that I  
7 don't talk on top of you, and we go from there. Okay?  
8 A. Yes, sir.  
9 Q. Your full name?  
10 A. Ryan Vassar.  
11 Q. That's going to work, if you'll just stay with  
12 that.  
13 How old a man are you?  
14 A. I'm 39.  
15 Q. And are you married?  
16 A. I'm married.  
17 Q. How many children?  
18 A. Four kids.  
19 Q. How old? What ages?  
20 A. Ages between 3 and 7.  
21 Q. Wow. In 2020 how old were they?  
22 A. I had a six-month-old, a two-year-old, a  
23 three-year-old, and a four- -- four-year-old, I believe.  
24 Q. How are you employed now?  
25 A. I'm general counsel for a local nonprofit

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1 organization in Austin.

2 Q. When you left the attorney general's office,  
3 and we'll get to that, how long were you unemployed  
4 before you found a place to land?

5 A. Six months.

6 Q. What was your source of income?

7 A. Savings, but I was not employed as a lawyer  
8 for that six-month period.

9 Q. Does your wife work outside the home?

10 A. No, sir.

11 Q. Let's go back now a little bit of an  
12 autobiographical sketch review for about a minute and a  
13 half, if we can. I'm not going to time you, but just  
14 roughly, like where you grew up, your parents, what your  
15 background was.

16 A. I grew up in Big Spring, Texas, a small town  
17 in West Texas. I'm the oldest of three siblings. I  
18 attended Texas Tech University and majored in  
19 accounting. My dad -- my father and grandfather are  
20 both certified public accountants. They both attended  
21 Texas Tech. They've had a CPA practice in Big Spring  
22 for the past 40 years where they serve three generations  
23 of farmers and ranchers and salt-of-the-earth people.

24 Q. So how -- how many years has your family been  
25 living in Big Spring?

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1 A. My whole life.

2 Q. All right. Now, when you finished as an  
3 accountant at Texas Tech, what did you do?

4 A. I moved to Dallas and worked in finance for  
5 about a year and decided I wanted to go to law school.  
6 And so I started to work at Jones Day as a litigation  
7 assistant and -- during my application periods.

8 Q. Does litigation assistant mean a runner?

9 A. Essentially, yes, sir.

10 Q. All right.

11 A. I was in charge of the documents.

12 Q. And did you clerk or get to know anybody else  
13 in the legal profession while you were there, other than  
14 the lawyers at Jones Day?

15 A. No, sir.

16 Q. All right. Now -- and then after you  
17 graduated -- what year did you graduate from law school?

18 A. Law school was December of 2012 -- I'm sorry,  
19 December of 2011.

20 Q. 2011. And, Mr. Vassar, were you involved in  
21 any outside either political or social activities in  
22 addition to going to college and law school?

23 A. I was a member of the Federalist Society for  
24 law and public policy studies while in law school. And  
25 then I interned for two federal judges, one on the

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1 Southern District and one on the Fifth Circuit.

2 Q. Which judges did you intern for?

3 A. Judge Lynn Hughes on the Southern District.  
4 And then Judge Jennifer Elrod on the Fifth Circuit.

5 Q. Those were both law school internships,  
6 correct?

7 A. Yes, sir.

8 Q. Did you get -- were you involved in Republican  
9 politics at that time?

10 A. Not at the time, no, sir, other than just  
11 typical voting.

12 Q. All right. And then after you finished law  
13 school, what'd you do?

14 A. I served in Governor Perry's office of general  
15 counsel as an attorney fellow.

16 Q. How long did you do that?

17 A. It was -- I think six weeks. It was a summer.

18 Q. And then what?

19 A. And then I was invited to clerk for Justice  
20 Don Willett of the Texas Supreme Court.

21 Q. So Justice Willett was on the Supreme Court.  
22 How long, to your knowledge?

23 A. How long had Justice Willett been on the  
24 Court?

25 Q. Yes.

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1 A. He might have been appointed by Governor Perry  
2 at the time, maybe around 2010.

3 Q. I haven't sought to -- to introduce it, but is  
4 it a fair statement that Justice Willett had an  
5 extremely complimentary letter for you to have you go  
6 off and seek employment elsewhere when your service was  
7 over?

8 MR. OSSO: Objection. Relevance.  
9 PRESIDING OFFICER: Sustained.

10 Q. (BY MR. HARDIN) Now, at the end of the day,  
11 how long did you work for Justice Willett?

12 A. Three years.

13 Q. And was that always exclusively on the Supreme  
14 Court, or did you work for him after he went to the  
15 Fifth Circuit?

16 A. Just the Supreme Court.

17 Q. Now, at the end of those three years, what was  
18 your -- what was your internship supposed to be? How  
19 long was it supposed to last?

20 A. Well --

21 Q. Or your clerkship, excuse me.

22 A. Right. Justice Willett had asked that I  
23 commit to two years. Two years came and went, and he  
24 said I could stay as long as I wanted to. But just with  
25 the circumstances that had changed, I joined -- when I

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1 joined the court to work for Justice Willett, I was  
 2 single. My wife and I got married while I was working  
 3 there. And then about a year and a half later, we were  
 4 pregnant with our first kid. So I think it was just a  
 5 necessary transition from the court to other  
 6 opportunities.  
 7 Q. All right. So where did you go to work after  
 8 clerking for Justice Willett?  
 9 A. I joined the office of the attorney general.  
 10 Q. And who did -- who interviewed you? Who hired  
 11 you?  
 12 A. Amanda Crawford at the time was the division  
 13 chief of general counsel division.  
 14 Q. And what year was it that you joined the Texas  
 15 Attorney General's Office?  
 16 A. It was July of 2015.  
 17 Q. Do you recall what your first assignment was  
 18 in the office?  
 19 A. No, sir, I don't.  
 20 Q. Okay. And then as time went on, by the time  
 21 we reach the period of 2019, what was your position?  
 22 A. 2019, I was chief of the general counsel  
 23 division.  
 24 Q. What does that mean? What would your  
 25 responsibilities be?

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1 A. So I advised the agency as the general  
 2 counsel, whether it was employment matters or  
 3 contracting matters, state procurement law, just the  
 4 typical day-to-day business, legal advice.  
 5 Q. And then as you went along there, did you  
 6 continue to move up within the organization?  
 7 A. Yes.  
 8 Q. When was your next promotion?  
 9 A. It was April of 2020.  
 10 Q. Now, was Attorney General Paxton already the  
 11 attorney general when you joined the office?  
 12 A. Yes, sir.  
 13 Q. So your entire career at the -- at the  
 14 attorney general's office was under the guidance and --  
 15 and service of General Paxton?  
 16 A. Yes, sir.  
 17 Q. How well did you get to know him?  
 18 A. I might have met him for the first time at an  
 19 office Christmas holiday party where he and Senator  
 20 Paxton were taking photographs with employees. That  
 21 might have been two years into my -- my employment, so  
 22 maybe around 2017. From then until I was promoted to  
 23 deputy for legal counsel, I might have seen him once or  
 24 twice at a division chief's meeting, but nothing --  
 25 Q. And then what about by the time we approached,

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1 let's say, January of 2020, how much contact by that  
 2 time in your different positions that you had with  
 3 General Paxton?  
 4 A. He might have contacted me once about a  
 5 matter, but other than just the typical monthly division  
 6 chief's meeting or holiday party, it was -- it was  
 7 nothing substantive.  
 8 Q. All right. So we, the jury, and the Court  
 9 assume that you yourself did not personally know  
 10 Mr. Paxton that well at the time?  
 11 A. That's correct.  
 12 Q. All right. Were you around him socially other  
 13 than a periodic office gathering?  
 14 A. No, sir.  
 15 Q. All right. Now, when we enter the year of  
 16 2020, whom did you have under your supervision in the --  
 17 in the office?  
 18 A. April -- April of 2020, I was promoted to be  
 19 the deputy attorney general for legal counsel.  
 20 Q. Does that mean that you were one of the top  
 21 eight deputies, or 12 deputies rather, up on the eighth  
 22 floor?  
 23 A. Yes, sir.  
 24 Q. Would you describe -- I'm not sure we've  
 25 broken it down -- to people. When we talk about the

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1 eighth floor, what does that mean in common vernacular  
 2 for you?  
 3 A. So the eighth floor refers to the eighth floor  
 4 of the Price Daniel building where the majority of the  
 5 executive staff at the Office of Attorney General have  
 6 offices.  
 7 Q. All right. So when we talk -- if the jury is  
 8 to hear about people where General Paxton dropped into  
 9 this person's office, this deputy's office, that  
 10 deputy's office, were all of these offices along the  
 11 same area or how -- what was the physical layout?  
 12 A. So if you can imagine, there's two elevator  
 13 banks in the middle of the building, the middle of the  
 14 floor. And the offices are spaced out around the  
 15 perimeter of the inside of the building. So each deputy  
 16 would have an office. There were roughly three or four  
 17 offices on one span or one length of the building. So  
 18 each deputy would have an office.  
 19 Q. So my reason for asking, and I'm asking you  
 20 the answer to this, is that were the offices readily  
 21 accessible to each other and to the attorney general  
 22 where any of those folks were within a very short  
 23 distance on the same floor of dropping in or out on each  
 24 other?  
 25 A. Yes, sir.

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1 Q. All right. Now, when did you first hear, if  
2 you ever did, of a person named Nate Paul?  
3 A. I think it was May of 2020.  
4 Q. And what was the occasion for you to first --  
5 well, let's back up.  
6 What was your position in May of 2020?  
7 A. I was deputy attorney general for legal  
8 counsel.  
9 Q. Now, how much contact did you have with  
10 Mr. Mateer?  
11 A. We had weekly meetings, one-on-one meetings  
12 with Mr. Mateer, Mr. Bangert, and myself.  
13 Q. Now, you're dropping off. I want you to  
14 remember that microphone. Maybe you need to move up  
15 just a little bit or...  
16 All right. You had these weekly  
17 meetings, staff meetings. Were they scheduled with the  
18 deputies and Mr. Paxton?  
19 A. So there are -- there are deputy -- deputies  
20 meetings that occur weekly. And then there are also  
21 one-on-one deputy meetings with Mr. Mateer. So I would  
22 meet in all of the deputy meetings, but then I would  
23 also meet individually with Mr. Mateer and Mr. Bangert.  
24 Q. And at that time how old were you?  
25 A. I would have been 37 --

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1 Q. All right.  
2 A. -- or 36 at the time.  
3 Q. And you would have been there at the attorney  
4 general's office since you were about 32 or so?  
5 A. Yes, sir.  
6 Q. Would you agree that you had moved pretty fast  
7 in the organization?  
8 MR. LITTLE: Objection. Leading.  
9 PRESIDING OFFICER: Sustained.  
10 MR. HARDIN: Sure.  
11 PRESIDING OFFICER: Ask differently.  
12 MR. HARDIN: Yeah.  
13 Q. (BY MR. HARDIN) Now, at the end of the day,  
14 when you entered into, say, your new position as deputy  
15 for general counsel, what type of matters would that  
16 have put you primarily over?  
17 A. So the deputy attorney general for legal  
18 counsel oversees the opinion writing process, the open  
19 records division, the public finance division, the  
20 general counsel division, and I believe that's it.  
21 Q. All right. So in May -- or April or May of  
22 2020, what was the occasion with you becoming familiar  
23 with the name of Nate Paul?  
24 A. There was a pending open records matter  
25 involving the Department of Public Safety that had been

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1 connected to Nate Paul's name.  
2 Q. Now, at this time how well did you know  
3 Mr. Mateer?  
4 A. I believe Mr. Mateer joined the office in  
5 2016, if I'm not mistaken, so I had become familiar with  
6 him just in my experience over the past five years  
7 working at the agency.  
8 Q. What was he like as an administrator and first  
9 assistant?  
10 A. He was great. I mean he was -- he was a  
11 people person. He wanted to know how staff were doing.  
12 He wanted to connect with each -- each person. He was  
13 invested in what they were doing, what they were  
14 interested in. He would host book clubs where we  
15 would -- we would -- he would select a book, whether it  
16 was a managerial book or leadership book, and we'd meet  
17 over a brown-bag lunch and just talk about a chapter of  
18 the book and how it -- how we could implement it in our  
19 work and at home. So he was -- he was a role model.  
20 Q. Was he religious?  
21 A. Yes, sir.  
22 Q. How about you?  
23 A. I am.  
24 Q. In what way?  
25 MR. LITTLE: Objection. Relevance, Your

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1 Honor.  
2 MR. HARDIN: It's very relevant to who  
3 these people are, and in light of --  
4 PRESIDING OFFICER: Overruled.  
5 MR. HARDIN: -- what he's being accused  
6 of. Thank you.  
7 A. My wife and I attend an independent Baptist  
8 church here in Austin. We've been members at different  
9 churches here in Austin. And I've been a member  
10 throughout my life.  
11 Q. (BY MR. HARDIN) What did you view your duty  
12 as an assistant AG to be?  
13 A. Assistant AG or -- as far as deputy attorney  
14 general for legal counsel, I was responsible for  
15 providing legal advice to the agency through the various  
16 functions of the divisions, whether that was the open  
17 records division, the opinions division, the public  
18 finance division, or the general counsel division.  
19 Q. You've heard, have you not -- or have you  
20 heard you're being referred to by the attorney general,  
21 all of you, as rogue employees?  
22 A. Yes, sir.  
23 Q. What was your reaction when you heard that  
24 allegation?  
25 A. It was hurtful.

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1 Q. Why? Tell me.  
 2 A. I -- I've -- sorry. I worked for the State  
 3 for eight years as a public servant, as one who  
 4 values --  
 5 MR. LITTLE: Your Honor, may I approach  
 6 the witness?  
 7 PRESIDING OFFICER: Yes.  
 8 THE WITNESS: Thank you.  
 9 A. -- as one who values the commitment to public  
 10 service, to set an example for my kids, the people that  
 11 I worked with, the people that I managed, and it's  
 12 contrary -- the statement of being rogue is contrary to  
 13 the years that I dedicated my life to the State.  
 14 Q. (BY MR. HARDIN) How did you become familiar  
 15 with Nate Paul?  
 16 A. Well, as I mentioned, the first time that I  
 17 had heard the name was connected to the open records  
 18 request that was pending at the agency, the Office of  
 19 Attorney General involving the Department of Public  
 20 Safety.  
 21 Q. And -- and did you learn what the issue was  
 22 about this open records request?  
 23 A. Yes, I did.  
 24 Q. And what was the issue?  
 25 A. The Department of Public Safety had received a

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1 request for public information. Under the Public  
 2 Information Act, agencies that desired to withhold  
 3 information for a valid purpose have to ask for the  
 4 attorney general's ruling on withholding information  
 5 within ten days. The Department of Public Safety had  
 6 requested a ruling from the attorney general's office on  
 7 whether it could withhold information under the law  
 8 enforcement exception to disclosure.  
 9 So in other words, if there is  
 10 information in the request that qualifies as law  
 11 enforcement information that is not required to be  
 12 disclosed, the agency is requesting the -- the Office of  
 13 Attorney General to make that determination so that that  
 14 information can be withheld.  
 15 Q. At the time that you -- you began to have  
 16 awareness of Nate Paul, how would you describe your  
 17 sense of loyalty and support of the attorney general?  
 18 A. It's -- it was my understanding that General  
 19 Paxton had met personally with Nate Paul. He considered  
 20 what had happened to Nate Paul to be wrong and he wanted  
 21 us to find a way to help Nate Paul.  
 22 Q. And what -- when was the first time -- did you  
 23 have conversations with the attorney general about this  
 24 matter?  
 25 A. Yes.

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1 Q. When did personal conversations with the  
 2 attorney general begin in person either -- well, in  
 3 person or by phone, or by text, any of that way? When  
 4 did you first have contact of some type with the  
 5 attorney general about Nate Paul?  
 6 A. It was in the month of May of 2020.  
 7 Q. And what form did that take and how did it  
 8 happen?  
 9 A. I believe it was all in person. There --  
 10 there were no phone calls or text messages or emails, to  
 11 my knowledge.  
 12 Q. All right. And when they had these phone  
 13 calls, do you recall what the attorney general said in  
 14 the first one and what the occasion was for that call?  
 15 A. The initial call was a request to pull the  
 16 file basically.  
 17 Q. By whom? Who asked you?  
 18 A. General Paxton.  
 19 Q. Do you recall what he said on the call?  
 20 A. Well, I say it wasn't a call. It was  
 21 generally in person.  
 22 Q. Oh.  
 23 A. So stopped by the office, asked me, I would  
 24 like to see this file. And so I would have -- I  
 25 contacted Justin Gordon, who is the chief of the open

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1 records division, and asked him to bring the file to my  
 2 office.  
 3 Q. Now, at that time had you had any contact with  
 4 Nate Paul's case yet, or was the general -- General  
 5 Paxton's request of you the first time you had become  
 6 involved?  
 7 A. That was the first time that I was involved in  
 8 the DPS file.  
 9 Q. All right.  
 10 A. The request at that time.  
 11 Q. So did you get the file?  
 12 A. Yes, I did.  
 13 Q. What did you do with it?  
 14 A. I reviewed it and notified the attorney  
 15 general that I was prepared to meet to discuss it.  
 16 Q. How did you do that? How did you notify him?  
 17 A. Normally, it would have been an email to his  
 18 scheduler just to see if he was going to be in the  
 19 office to see if we could schedule a time to meet. I  
 20 don't recall specifically if I emailed the scheduler or  
 21 contacted his aide.  
 22 Q. All right. Did you -- when you reviewed it,  
 23 what all did you do? I mean, how much time did you  
 24 spend reviewing this file?  
 25 A. It's my recollection everything was drafted,

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1 the initial draft of the ruling was already complete,  
2 and it was -- a standard law enforcement exception was  
3 raised, law enforcement exception applies, the  
4 information should not be disclosed. So it was a pretty  
5 straightforward review.

6 Q. Did you learn one way or the other whether  
7 there had been a previous ruling and finding from the  
8 department as to whether or not the law exception  
9 applied to the same event that was now happening with  
10 DPS?

11 MR. LITTLE: Mr. President, I believe the  
12 objection would be this question calls for the  
13 solicitation of hearsay.

14 MR. HARDIN: I don't agree it's leading,  
15 but I withdraw it because I don't think it was  
16 understandable, so I take it back.

17 PRESIDING OFFICER: Withdraw the  
18 question.

19 MR. HARDIN: Thank you very much.

20 Q. (BY MR. HARDIN) So let me ask you this: When  
21 you reviewed the file, did you find out anything about  
22 whether or not -- what event was being complained of  
23 that they wanted access -- whose files they wanted  
24 access to?

25 A. The subject of the event was the August 2019

1 raid of Nate Paul's home and businesses.

2 Q. All right. When you reviewed the file, did  
3 you find out one way or the other whether this issue had  
4 come before the agency once before about the file on the  
5 same event?

6 A. At the time I did not connect this event to  
7 any previous determination by the office, but  
8 subsequently, I did connect the two.

9 Q. All right. So ultimately did you discover or  
10 connect -- this was the second time around for Mr. Paul  
11 and/or his attorneys seeking information to overcome the  
12 law enforcement exception?

13 MR. LITTLE: Objection. Leading.

14 PRESIDING OFFICER: Sustained.

15 Q. (BY MR. HARDIN) All right. Now, let me ask  
16 you this: When you -- after you reviewed the file and  
17 you informed the attorney general you were available to  
18 meet, was there a meeting?

19 A. Yes.

20 Q. And would you -- can you put a time limit  
21 on -- time area for us as to when this meeting occurred?

22 A. It was in the middle of May. And the reason  
23 that I believe that it was between that period is  
24 because when the Office of the Attorney General receives  
25 an open records request for a ruling, the office has 55

1 days -- up to 55 days to issue that ruling. The DPS  
2 ruling was due June 2nd. That was the 55th day. So we  
3 would have been discussing it in the middle of May  
4 before it was released on June 2nd.

5 Q. Now, you may -- was there already a draft  
6 opinion regarding a matter that was intended to be  
7 issued before July 1?

8 A. Yes.

9 Q. Was it June 1 or July 1? I've got --

10 A. June 2nd was the 55-day deadline.

11 Q. All right. And what was the preliminary  
12 opinion already existed in the file when you started  
13 looking at it?

14 A. It was to withhold the information under the  
15 law enforcement exception.

16 Q. Now, when you told the lieutenant -- the  
17 attorney general that you were available, how soon did  
18 you meet with him, if you did?

19 A. It would have been a matter of days between  
20 notifying him and scheduling a meeting in his office.

21 Q. Where did you -- you met with him in his  
22 office?

23 A. Yes.

24 Q. All right. Was anybody else present in the  
25 meeting?

1 A. There were a series of meetings at which  
2 Justin Gordon, the chief of the open records division,  
3 and Ryan Bangert attended.

4 Q. All right. So at this first meeting were they  
5 both present?

6 A. I don't recall if both were present, but there  
7 were just in the -- this meeting and the subsequent  
8 meeting, they were both in attendance at one or the  
9 other.

10 Q. What did the attorney general say in this  
11 meeting?

12 A. He asked us to review the file. He asked us  
13 what -- what our interpretation of the file was. He  
14 told us that he had spoken personally with Mr. Paul. He  
15 said that he believed that something bad had happened to  
16 Mr. Paul. He felt that Mr. Paul was being railroaded by  
17 the FBI and by DPS. And General Paxton said that he  
18 didn't trust law enforcement.

19 He asked us to find a way to release the  
20 information that had been requested to be withheld.

21 Q. In your experience and your familiarity with  
22 the subject, what was your response to that?

23 MR. LITTLE: Objection. Hearsay.

24 MR. HARDIN: It's not. This is the  
25 witness. This is his --

1 PRESIDING OFFICER: Overruled.  
 2 MR. HARDIN: Thank you.  
 3 A. I told General Paxton that if we were to reach  
 4 the opposite conclusion and to require the Department of  
 5 Public Safety to release the information, it would upset  
 6 decades of precedent involving the law enforcement  
 7 privilege where law enforcement agencies rely on the  
 8 protection that the Public Information Act gives it to  
 9 protect ongoing information, to protect confidential  
 10 information, to protect witnesses who could be  
 11 compromised if their names or their identities were  
 12 released.  
 13 So there's -- there's incalculable  
 14 problems with reversing the decision to withhold the  
 15 information and require it to be produced, not just  
 16 across the state but with the Office of Attorney  
 17 General.  
 18 MR. LITTLE: Mr. President,  
 19 Mr. President, if I may. A lot of this is in narrative  
 20 and not responsive to the question.  
 21 MR. HARDIN: It is exactly responsive.  
 22 PRESIDING OFFICER: Just state the  
 23 objection.  
 24 But sustained. Go ahead.  
 25 MR. HARDIN: Thank you.

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1 Q. (BY MR. HARDIN) What was your opinion based  
 2 on your experience as a potential danger to innocent  
 3 citizens who had cooperated with the police, thinking  
 4 that would be confidential?  
 5 A. It could silence people who might ordinarily  
 6 comply or speak to the police, if suddenly their names  
 7 or identities could be released.  
 8 Q. So what was the attorney general's reaction  
 9 when you told him -- first of all, the stuff that you  
 10 just said, is that essentially in the sense the  
 11 information you gave him in explaining what your  
 12 position was?  
 13 A. Yes, sir.  
 14 Q. Did anybody else speak up as well?  
 15 MR. LITTLE: Objection. Hearsay.  
 16 MR. HARDIN: I asked if anybody else  
 17 spoke up. That is not --  
 18 PRESIDING OFFICER: Overruled.  
 19 MR. HARDIN: Thank you.  
 20 Q. (BY MR. HARDIN) Did anybody else speak up?  
 21 A. Ryan Bangert also spoke. I don't recall  
 22 exactly what he said other than --  
 23 Q. And what was the attorney general's reaction  
 24 to all this?  
 25 A. He, again, insisted that what had happened to

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1 Mr. Paul was wrong and that he didn't trust law  
 2 enforcement.  
 3 Q. And did he make any distinction about which  
 4 agencies or did he talk about all law enforcement?  
 5 A. It was specifically the FBI and the Department  
 6 of Public Safety.  
 7 Q. And did he say why he didn't trust them?  
 8 A. He said that he compared what had happened to  
 9 Nate Paul to General Paxton's own personal situation  
 10 involving the Department of Public Safety and the State  
 11 Securities Board and the FBI.  
 12 Q. Well, he was -- he was -- were you aware of  
 13 who provided his security?  
 14 A. Yes, sir.  
 15 Q. And who was that?  
 16 A. The Department of Public Safety.  
 17 Q. Did he indicate in his comments whether --  
 18 what his level of feeling or trust or distrust about  
 19 them was?  
 20 A. Not to me.  
 21 Q. All right. Now, how long did he -- when you  
 22 expressed what his initial opinions were, did he go any  
 23 further or how did the conversation proceed?  
 24 A. He asked me if he could obtain a copy of the  
 25 DPS file.

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1 Q. Had you ever been asked or know of any other  
 2 time where the attorney general had asked to see a  
 3 particular file that there's a public information  
 4 request for?  
 5 A. No, sir.  
 6 Q. So what did you do?  
 7 A. I said that it was possible for him to receive  
 8 a copy of the file.  
 9 Q. And I believe you said this was around  
 10 May 15th, did you not?  
 11 A. Yes, sir.  
 12 Q. Did you provide him the file?  
 13 A. Yes, I did.  
 14 Q. Did it have everything in it?  
 15 A. It -- yes, sir.  
 16 Q. Did you take anything out of it?  
 17 A. No, sir.  
 18 Q. Were you -- can you tell us whether or not in  
 19 that file you had there was any brief from the FBI  
 20 weighing in as to their materials in the file and their  
 21 position as to whether it ought to be released?  
 22 A. Yes. The FBI had submitted a brief in  
 23 response to the DPS request.  
 24 Q. Was it -- what was the process or procedure  
 25 within your department if you have a request for open

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1 records, people want to get -- some portion of it from  
2 another agency, what was your policy as to let the other  
3 agency weigh in?

4 A. The Public Information Act requires state  
5 agencies to notify the third party whose information may  
6 be at stake that they have a right to submit a letter  
7 ruling or letter brief to the Office of Attorney General  
8 for consideration.

9 Q. So in these circumstances, would it be normal  
10 or unusual for y'all to have notified the FBI there was  
11 this request that the request was to an agency whose  
12 files included FBI materials, would it have been usual  
13 or unusual for them to let them know so that they could  
14 respond if they wanted to?

15 A. So in this situation involving the DPS  
16 request, the Department of Public Safety did notify the  
17 FBI that its information may be at stake in this request  
18 for a ruling. And the FBI responded by submitting a  
19 letter brief to the Office of the Attorney General under  
20 the ordinary principles of the statute.

21 Q. Were you aware through these materials in  
22 looking through the file that there was an ongoing  
23 federal investigation of Mr. Paul at that time?

24 A. Yes. It was clear.

25 Q. Did you take a position with the attorney

1 general that there was an ongoing at least federal -- I  
2 don't -- I'm not including right now State because I  
3 have no knowledge one way or the other. But that there  
4 was at least a federal ongoing investigation of Mr. Paul  
5 that release of these documents would interfere with?

6 MR. LITTLE: Objection. Leading.

7 PRESIDING OFFICER: Sustained.

8 Q. (BY MR. HARDIN) Did you inform him one way or  
9 the other about -- did you have discussions with him  
10 concerning the topic of an ongoing federal  
11 investigation?

12 A. Yes.

13 Q. And what did you tell him and what was said?

14 A. It was -- it's my recollection that there --  
15 there were discussions about the substance of the brief  
16 that the FBI had submitted, the quality of the arguments  
17 that they had raised and made.

18 Q. And did -- and did the -- this brief provide  
19 details of the ongoing federal investigation?

20 MR. LITTLE: Objection. That will  
21 solicit hearsay, Your Honor.

22 MR. HARDIN: No. I've not asked him for  
23 communication. I'm just asking whether or not it  
24 contained details about it.

25 MR. LITTLE: May I be heard on that?

1 PRESIDING OFFICER: Yes.

2 MR. LITTLE: Mr. President, so Mr. Hardin  
3 is asking the witness about the contents of some other  
4 document that is not currently in evidence, pretty much  
5 right down the fairway of hearsay.

6 MR. HARDIN: I'm not asking --

7 PRESIDING OFFICER: I'm going to sustain.  
8 Rephrase your question.

9 Q. (BY MR. HARDIN) I'm not asking you for  
10 specifics of what it said. I am only saying: Were  
11 there documents and information in this file that  
12 would -- that uses the basis of a conversation with the  
13 attorney general concerning the presence of an ongoing  
14 federal investigation of Mr. Paul?

15 A. Yes, sir.

16 Q. All right. Now, when you gave the file to  
17 him, how did that happen? Did you go to his office?  
18 What did you do?

19 A. I believe I delivered the file to Andrew  
20 Wicker, who is General Paxton's aide at the time.

21 Q. And did you later confirm that Mr. Wicker gave  
22 it to the attorney general?

23 A. Yes.

24 Q. And how long was it -- how long was it after  
25 they had an event that you retrieved your file from the

1 attorney general?

2 A. Well, as I mentioned, when the Office of  
3 Attorney General has to make a ruling, it's on the  
4 clock, so we have a timeline. I was -- I was notified  
5 by Justin Gordon, the chief of the open records  
6 division, that we need to -- needed to make a decision  
7 because the clock was coming -- coming up.

8 It was approximately seven to ten days  
9 before that when I delivered the file to Andrew Wicker  
10 and Mr. Gordon had emailed me asking for a status  
11 update.

12 Q. And so then how after -- how long after --  
13 back to the original question -- was it from the time  
14 you gave it to the attorney general till you -- let me  
15 ask you this: Was it ultimately returned to you?

16 A. Yes, it was returned to me.

17 Q. And when was it -- approximately when was it  
18 returned to you?

19 A. I believe it was May 28th or May 29th.

20 Q. All right. And in the meantime, were you part  
21 of any later conversations, after the one you just  
22 relayed, in which you expressed your opinion the  
23 attorney general expressed his -- well, let me back up.

24 In that second meeting, counting the  
25 first meeting being him asking you to look at the file,

1 okay, the second meeting would be the one we just  
2 discussed. In that second meeting, did the attorney  
3 general give you any indication as to what he wanted you  
4 to do?

5 A. Well, he wanted us to find a way to release  
6 the information.

7 Q. And after you expressed yourself, Mr. Bangert  
8 expressed himself, the attorney general expressed  
9 himself, in that second meeting was there a conclusion  
10 as to what was going to happen?

11 A. No, sir, not that I recall.

12 Q. All right. How did the meeting end up?

13 A. We were essentially at an impasse on our  
14 recommendation not to release the information and the  
15 attorney general's decision to release it in some form.  
16 We told the attorney general that we would review our  
17 options and follow up with him to see if there's  
18 anything else we can look at.

19 Q. What was his position as to whether or not he  
20 wanted the -- thought the law enforcement exception  
21 should apply?

22 A. He didn't necessarily take a position, that I  
23 recall, other than something happened to Mr. Paul, it  
24 was wrong, this shouldn't be allowed for the FBI and the  
25 DPS to get away with.

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1 Q. All right. Now, after that, when was the next  
2 time you had any contact with the attorney general on  
3 this matter?

4 A. Again, it probably was a matter of days after  
5 that, just in light of the timeline and the deadline.

6 We followed up and let General Paxton know that we  
7 looked at it again. We didn't think that we could reach  
8 an alternative conclusion.

9 Q. And who was the "we" in that part?

10 A. Ryan Bangert and myself.

11 Q. And how did you let the attorney general know?

12 A. We met in his office.

13 Q. And do you recall when this third meeting was?

14 A. I believe it was toward the end of May.

15 PRESIDING OFFICER: Counselor, we're a  
16 little past our midafternoon break. Is this a good  
17 spot?

18 MR. HARDIN: This is fine.

19 PRESIDING OFFICER: You're fine here.

20 MR. HARDIN: Sure.

21 PRESIDING OFFICER: We'll stand in recess  
22 until 3:30.

23 (Recess: 3:09 p.m. to 3:33 p.m.)

24 PRESIDING OFFICER: Mr. Hardin, the floor  
25 is yours.

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1 MR. HARDIN: Thank you, Your Honor.

2 Q. (BY MR. HARDIN) Now, Mr. Vassar, I'm just  
3 curious, what size is this file? You know, it just  
4 occurred to me. Everybody's been talking about this  
5 file that was essentially an open records request for  
6 Nate Paul and all. We've talked about what was in there  
7 in terms of descriptions. But what size file are we  
8 talking about, just visually?

9 A. It was -- it was a manila envelope that was  
10 maybe a quarter inch or less in thickness.

11 Q. All right. And was it actually contained in a  
12 manila envelope?

13 A. Yes.

14 Q. So like a -- not a seal, but like a little  
15 closing up at the top?

16 A. A label.

17 Q. All right. Did you keep it sealed, or is it  
18 just in a manila envelope?

19 A. It's just in an envelope, not -- not with the  
20 flap on top, but just a folding manila envelope.

21 Q. I gotcha. All right.

22 Now, at this time, we are -- I think you  
23 said somewhere around May 28th, is that right, when the  
24 file you're estimating was brought back to you?

25 A. Yes, sir.

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1 Q. And that would've meant you said that you  
2 believed you gave it to him around when in May?

3 A. The middle of -- the middle of May.

4 Q. So about -- the math would say like 13, 14  
5 days, but you give me what your figure is.

6 A. I would say May 23rd.

7 Q. May 23rd when you gave it to him?

8 A. Correct.

9 Q. All right.

10 A. And then it was returned on the 28th.

11 Q. I gotcha.

12 So you didn't have it for about five  
13 days?

14 A. Seven to ten days was what I recall. I  
15 apologize for the math.

16 Q. All right. So at any rate, that period of  
17 time it was out of your possession for the -- to be in  
18 the possession of the attorney general, correct?

19 A. Yes, sir.

20 Q. All right. Now, when you got it back, so  
21 let's say toward the end of May, what was the next event  
22 or conversation you had with anybody -- the attorney  
23 general concerning Mr. Paul?

24 A. The last meeting that we had regarding the  
25 Department of Public Safety file was that we did not

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1 recommend changing our conclusion to protect the  
 2 information, but that there might be an alternative  
 3 solution to take in issuing a ruling.  
 4 Q. Why did you come up with an alternative?  
 5 A. General Paxton had asked us to find a way to  
 6 release the information.  
 7 Q. So who came up with the possible alternative?  
 8 A. Justin Gordon, who is the chief of the open  
 9 records division.  
 10 Q. And what was that partial -- that compromised  
 11 position?  
 12 A. It was basically taking a position of no  
 13 position. So we were not making a ruling saying to  
 14 withhold the information, and we were not making a  
 15 ruling to release the information.  
 16 Q. Had you ever participated in that kind of  
 17 position before?  
 18 A. No, sir.  
 19 Q. Were you aware of it having been done before?  
 20 A. Not until Mr. Gordon suggested it.  
 21 Q. And I'm not suggesting to you that never had  
 22 it before happened in my question in the AG's office. I  
 23 really am just simply asking were you familiar with it  
 24 ever having happened before?  
 25 A. No, not in the open records context.

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1 Q. All right. Now, what would be the  
 2 implications of taking a position of no position? Would  
 3 that be of any advantage to anyone as opposed to  
 4 declining to release it?  
 5 Let's do this. Under no position would  
 6 there have been three possibilities then that you would  
 7 be treating that request? Here's what I mean. Just a  
 8 flat out not -- we're not going to release the  
 9 information because of law enforcement. That would be  
 10 one, would it not?  
 11 A. Yes.  
 12 Q. Another would be release the information, give  
 13 it to them as they request. That would be one, right?  
 14 A. Yes.  
 15 Q. And then the middle of that would be take no  
 16 position. Correct?  
 17 A. That's right.  
 18 Q. If you take no position, does that have any  
 19 different consequences than refusing to turn it over?  
 20 MR. LITTLE: Objection, Mr. President.  
 21 Calls for speculation on the witness's part.  
 22 PRESIDING OFFICER: Sustained.  
 23 Q (BY MR. HARDIN) All I'm really asking you --  
 24 try to ask you in a way that's acceptable. I'm trying  
 25 to determine what -- why do no position then as opposed

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1 to just you can't have it? What's the significance of  
 2 no position?  
 3 A. General Paxton didn't want to -- for it to  
 4 appear that his office was aiding the Department of  
 5 Public Safety or the FBI. And so by taking a position  
 6 of no position, it was semantics, I suppose.  
 7 Q. Well, what is your testimony as to whether if  
 8 you say no position in terms of what you're  
 9 communicating to people outside the agency as to the  
 10 level of resistance you have to resisting?  
 11 MR. LITTLE: Objection, Mr. President.  
 12 Calls for speculation on the witness's part.  
 13 PRESIDING OFFICER: Sustained.  
 14 Q. (BY MR. HARDIN) Now, at any rate, was that  
 15 the decision that was made?  
 16 A. Yes.  
 17 Q. No position?  
 18 A. We -- we were directed to take a position of  
 19 no position.  
 20 Q. And in these conversations and all with the  
 21 attorney general?  
 22 A. Yes.  
 23 Q. Had you expressed your position being opposed  
 24 to that?  
 25 A. Yes.

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1 Q. Had Mr. Bangert expressed his position of  
 2 being opposed?  
 3 A. Yes.  
 4 Q. Was there anybody else involved in talking  
 5 about it with the attorney general?  
 6 A. Not with the exception of Mr. Gordon, who had  
 7 attended one of the series of meetings.  
 8 Q. All right. And did Mr. Gordon have the same  
 9 position as y'all did, even though he's the one who came  
 10 up with no position?  
 11 A. Yes. His -- my recollection is his initial  
 12 review was very flattering of the quality and the  
 13 content in the FBI's letter ruling.  
 14 Q. Now -- then, after that, did there become a  
 15 separate issue from reviewing the file? At some time  
 16 did Mr. Paxton's lawyers' position -- or excuse me --  
 17 Mr. Paul's lawyer's position become, well, we want the  
 18 unredacted FBI brief?  
 19 MR. LITTLE: Objection. Leading and  
 20 compound.  
 21 MR. HARDIN: Well, I'll be glad to  
 22 rephrase that. Let me give it -- if that's okay.  
 23 PRESIDING OFFICER: I'll sustain it. And  
 24 rephrase.  
 25 MR. HARDIN: Thank you very much.

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1 Q. (BY MR. HARDIN) So let's go back now. And  
 2 we -- in that file was there a brief that had been  
 3 prepared by the FBI saying why the documents should not  
 4 be released to Mr. Paul?  
 5 MR. LITTLE: Objection, Mr. President.  
 6 Asked and answered.  
 7 PRESIDING OFFICER: Overruled.  
 8 Q. (BY MR. HARDIN) Was there?  
 9 A. Yes, there was.  
 10 Q. And you got to speak into the microphone. Is  
 11 your microphone on?  
 12 A. Yes.  
 13 Q. Okay.  
 14 A. Yes, there was.  
 15 Q. That's all right. And you're going to find  
 16 you get tired and tired as the day goes on. You got  
 17 to stay up there. I speak from experience, okay.  
 18 In this particular case, did the FBI  
 19 brief -- what type of information was in the FBI brief  
 20 if it was not redacted?  
 21 MR. LITTLE: Objection, Mr. President.  
 22 This calls for hearsay in the contents of a document  
 23 that is not in evidence.  
 24 MR. HARDIN: There's no hearsay at all  
 25 here. This is simply asking what documents are these.

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1 These are not communications. This is nothing --  
 2 PRESIDING OFFICER: Hold on one second.  
 3 MR. HARDIN: Excuse me.  
 4 PRESIDING OFFICER: Overruled.  
 5 Q. (BY MR. HARDIN) What type of documents were  
 6 in there?  
 7 A. The FBI's --  
 8 Q. Or I say in there. Referred to in the FBI  
 9 brief.  
 10 A. Right. The FBI's brief identified emails,  
 11 text messages, strategic planning, staging locations for  
 12 the raid in August of 2019. They identified the task  
 13 force members, the brief identified under seal, probable  
 14 cause affidavit that said it was filed under seal. And  
 15 the FBI brief indicated that it -- that seal had not  
 16 been lifted.  
 17 Q. And so including all this, when we talk about  
 18 the affidavit seal, it was actually under seal at that  
 19 time in a federal court, wasn't it?  
 20 A. That's what the FBI brief said.  
 21 Q. A federal judge has ordered it sealed. It had  
 22 not been unsealed. But if the FBI brief unredacted was  
 23 released to the object of the investigation, that person  
 24 would have all kinds of information that a federal judge  
 25 had sealed, correct?

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1 MR. LITTLE: Objection, Mr. President.  
 2 Leading.  
 3 MR. HARDIN: I'm asking just is that  
 4 correct?  
 5 PRESIDING OFFICER: Sustained.  
 6 Rephrase.  
 7 Q. (BY MR. HARDIN) What type of information --  
 8 and without going into the details of -- let me back up  
 9 this way.  
 10 In the FBI brief, did they -- without  
 11 saying right now what they were saying -- did they lay  
 12 out sources, names of witnesses, background and history  
 13 of the investigation, personal data of investigating  
 14 officers, and personal data on individuals? Was that  
 15 included in the FBI brief as they argued against its  
 16 disclosure?  
 17 MR. LITTLE: Objection, Mr. President.  
 18 Once again, this is not -- the witness's testimony is  
 19 not the best evidence. And the content of this material  
 20 has not been entered into evidence and it remains  
 21 hearsay.  
 22 MR. HARDIN: Your Honor, surely we can't  
 23 keep that information from this record. I'm asking him  
 24 simply of the types of information was in there.  
 25 PRESIDING OFFICER: I will overrule. You

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1 can ask for the types of information.  
 2 MR. HARDIN: Thank you, Your Honor.  
 3 Q. (BY MR. HARDIN) So I believe my question was  
 4 in the FBI brief, did they -- without saying right now  
 5 what they were saying -- did they lay out sources, names  
 6 of witnesses, background, history of the investigation,  
 7 personal data of investigating officers, and personal  
 8 data on individuals, was that included in the FBI brief  
 9 as they argued against this disclosure?  
 10 A. Yes. That was all the content of the probable  
 11 cause affidavit that I recall.  
 12 Q. So was it -- what was your understanding as to  
 13 whether or not lawyers for Mr. Paul were asking for  
 14 things to be disclosed by the attorney general's office  
 15 that a federal judge had refused to disclose and sealed?  
 16 MR. LITTLE: Objection, Mr. President.  
 17 Leading.  
 18 MR. HARDIN: I can --  
 19 PRESIDING OFFICER: Sustained.  
 20 MR. HARDIN: I can ask it another way.  
 21 Q. (BY MR. HARDIN) Were you aware that a federal  
 22 judge had placed these documents under seal?  
 23 A. Yes, sir. Based on the content of the FBI  
 24 brief that indicated that the records were sealed and  
 25 that the probable cause affidavit was identified as

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1 sealed.

2 Q. So essentially was the attorney general of the

3 State of Texas seeking to reveal to a person under a

4 federal investigation the basis of the evidence so far

5 that the government had against him?

6 MR. LITTLE: Objection. Leading.

7 PRESIDING OFFICER: Sustained.

8 Can you rephrase that?

9 MR. HARDIN: Sure.

10 Q. (BY MR. HARDIN) Was there a clear clash here

11 between what the judicial system had decided somebody

12 that should be sealed versus a man under investigation

13 seeking the sealed information?

14 A. Yes. That was my opinion.

15 Q. And was the information he was seeking

16 potentially harmful and dangerous to other people to be

17 disclosed?

18 A. I believe so. To the extent it revealed the

19 law enforcement information within the probable cause

20 affidavit, the investigators that were involved, and

21 other government officials that participated in the

22 decision.

23 Q. All right. So how did it proceed now about

24 whether or not -- and by the way, by this time, can you

25 give us a time frame where all of a sudden they're

1 seeking the FBI brief?

2 A. I believe the request was submitted May 24th

3 of 2020. So it was in the middle of our conversations

4 about the DPS file itself.

5 Q. All right. And did they -- when they were

6 seeking it, how long do you think it was before y'all

7 provided an answer?

8 A. I think the answer was due sometime in July.

9 I want to say July 28th.

10 Q. Of their open records request for the FBI

11 brief? Is that what you mean?

12 A. Correct.

13 Q. Okay.

14 A. So if I can lay it out --

15 Q. Yeah, please.

16 A. -- on the calendar.

17 Q. Please.

18 A. The DPS file was due June 2nd. The request by

19 Nate Paul's lawyers to the AG's office for the FBI brief

20 was received May 24th. I believe the deadline to issue

21 that ruling was July 28th, just based on the 45-day or

22 55-day time period.

23 Q. Mr. Vassar, if we do this in a time frame,

24 what is your testimony as to whether or not the request

25 for the FBI brief by itself came before the no decision

1 on the release of the DPS file? Did it become before or

2 after?

3 A. It -- it came before, because the DPS decision

4 was not issued until June 2nd.

5 Q. All right. When the June 2nd position was

6 issued -- I believe that was what you said, was the no

7 decision; is that right?

8 A. Correct.

9 Q. All right. Now, any time after y'all said no

10 decision, was there any attempt anymore by people on

11 that Mr. -- Mr. Paul's position -- excuse me -- was

12 there any attempt any longer to get access to the whole

13 file?

14 A. No, not to my knowledge. So just generically

15 under the Open Records Act, when the Office of Attorney

16 General makes a ruling, the parties have the right to

17 appeal that ruling to the district court. I'm not aware

18 if that happened.

19 Q. That's another way. So to your knowledge are

20 you familiar whether or not after y'all said no to the

21 DPS file on June 2nd, was there any attempt by

22 Mr. Paul's lawyers to appeal that to a district court as

23 they were entitled to?

24 A. I'm not advised of that.

25 Q. And instead, did they move to be trying to get

1 an unredacted version of the FBI brief?

2 A. It's -- the time lines are suspicious.

3 Q. And they're suspicious for what reason?

4 MR. LITTLE: Sorry. Mr. President, I'm

5 going object to the witness's speculation and

6 unresponsive statement. And ask Your Honor to strike it

7 from the record.

8 PRESIDING OFFICER: We'll sustain that

9 and strike that from the record.

10 You can ask another question.

11 Q. (BY MR. HARDIN) When you issued no opinion on

12 June 2nd, was there, in that no opinion, a redacted

13 version of the FBI brief?

14 A. No, sir.

15 Q. All right. As of June 2nd, did they -- they

16 had access to the FBI brief with the probable cause

17 affidavit, setting out the basis for the search and

18 arrest?

19 MR. LITTLE: Objection. Vague.

20 MR. HARDIN: Sorry. Excuse me just a

21 second. I'm sorry.

22 MR. LITTLE: Please.

23 MR. HARDIN: Strike the word "arrest."

24 It wasn't arrest. I didn't mean that.

25 Q. (BY MR. HARDIN) Go ahead.



1 MR. LITTLE: Objection, Mr. President.  
 2 Calls for speculation. I understand the question to be  
 3 asking for what Nate Paul's lawyers did or didn't have,  
 4 unless I misunderstood Mr. Hardin.  
 5 PRESIDING OFFICER: Objection sustained.  
 6 MR. HARDIN: Would it change if I said he  
 7 misunderstood me?  
 8 PRESIDING OFFICER: Give a try.  
 9 MR. HARDIN: All right. No problem.  
 10 Q. (BY MR. HARDIN) All right. Now, let's do  
 11 this. What was the decision -- was -- did you have any  
 12 conversations with the attorney general on the issue of  
 13 releasing to Mr. Paul the FBI brief?  
 14 A. Yes.  
 15 Q. What did -- how did those conversations  
 16 happen, when, where?  
 17 A. They coincided with our conversations about  
 18 the DPS file, just given that the time lines overlapped.  
 19 Q. All right. So can you estimate the time frame  
 20 when you talked to the AG about whether to release the  
 21 FBI brief?  
 22 A. I believe it was the last week of May.  
 23 Q. And when you did so, what did you do? I mean,  
 24 what was the decision? Can you tell me what the  
 25 attorney general said?

1 A. I had notified General Paxton that the office  
 2 had received a public information request related to the  
 3 DPS file, and it was a request for the unredacted FBI  
 4 brief that the -- that the FBI had submitted.  
 5 Q. And what was his response?  
 6 A. He asked to see a copy of the two briefs, the  
 7 redacted version and the unredacted version.  
 8 Q. Did you give them to him?  
 9 A. Yes.  
 10 Q. What happened next?  
 11 A. We met maybe the next day, and he showed me  
 12 the two versions that I had sent to him and he had  
 13 highlighted and circled and marked up some of the  
 14 documents. And he stated to me that he didn't see  
 15 anything in here that should be withheld.  
 16 Q. Attorney General of the State of Texas are you  
 17 saying actually went over the affidavit and the brief,  
 18 all the information that was referred to in the brief  
 19 and made circles himself on it?  
 20 A. He -- he marked up the copies of the letter  
 21 brief that the FBI had submitted to the Office of  
 22 Attorney General.  
 23 Q. And the attorney general decided -- what had  
 24 been your advice as to whether it should be released?  
 25 A. Well, the initial step in that process would

1 have been to notify the FBI that the office had received  
 2 a request for its information.  
 3 Q. Did you do that?  
 4 A. I -- yes, I did not personally, but --  
 5 Q. Was it done?  
 6 A. It was -- yes, sir, it was done.  
 7 Q. And what was the status? Were you waiting for  
 8 their response?  
 9 A. Yes.  
 10 Q. What was the -- did the attorney general have  
 11 a position about that?  
 12 A. On the response?  
 13 Q. Yes.  
 14 A. So it was my understanding that there was a  
 15 delay in either connecting with the FBI or the correct  
 16 person to make a decision on whether to respond and how  
 17 to respond. After a follow-up attempt to contact their  
 18 office, I don't know the content of that conversation,  
 19 but I know we made a couple of attempts to contact them.  
 20 Q. And then when you were unsuccessful in  
 21 figuring out who in the FBI to talk to, what happened  
 22 then?  
 23 A. After mentioning all of these sequences of  
 24 events to General Paxton, he directed us to let the  
 25 brief go out.

1 Q. And he had earlier told you he didn't see  
 2 anything that was a problem releasing?  
 3 A. That's right.  
 4 Q. Do you know anything about the criminal law of  
 5 practice history that attorney general might have been  
 6 particularly informed about to make those kind of  
 7 decisions?  
 8 MR. LITTLE: Objection, Mr. President.  
 9 Calls for speculation.  
 10 MR. HARDIN: No, I -- rephrase it to make  
 11 sure it's understood.  
 12 PRESIDING OFFICER: Sustained.  
 13 Q. (BY MR. HARDIN) Do you know of anything that  
 14 you ever witnessed or observed in terms of knowledge,  
 15 background, or history of the attorney general to be  
 16 making a decision about what law enforcement information  
 17 should and should not be released?  
 18 A. No, sir.  
 19 Q. All right. Now, when you released -- so  
 20 the -- are you saying that the attorney general's office  
 21 released an FBI brief unredacted to the subject of a  
 22 federal investigation, in spite of it having pointed out  
 23 that the information in there currently was under seal  
 24 with a federal judge?  
 25 MR. LITTLE: Objection, Mr. President.

1 Leading.  
 2 MR. HARDIN: I don't think that's  
 3 leading. I can --  
 4 PRESIDING OFFICER: Leading. Sustained.  
 5 MR. HARDIN: Pardon me?  
 6 PRESIDING OFFICER: Sustained.  
 7 Rephrase.  
 8 MR. HARDIN: All right.  
 9 Q. (BY MR. HARDIN) Tell us exactly what the  
 10 consequences and what he did when he ordered that brief  
 11 to be released to the subject of a federal  
 12 investigation?  
 13 A. So the decision to release the information was  
 14 done under the Public Information Act in order to reach  
 15 a decision that we -- that the office was required to  
 16 make in response to a request for information. Based on  
 17 what I recall, the absence of the third party responding  
 18 or responding in time or informing the office that it  
 19 didn't intend to fight the -- the release resulted in a  
 20 release under the act.  
 21 Q. Well, would you have released it even if you  
 22 were making the decision -- let me put it this way.  
 23 You, as a courtesy, tell fellow law  
 24 enforcement agencies this is under consideration.  
 25 Correct?

1 A. It's -- it's a required notice under the  
 2 Public Information Act.  
 3 Q. And your process is -- are you allowed and  
 4 able to review law enforcement information from another  
 5 agency. And even if you don't hear from that agency one  
 6 way or the other, do you have the authority to declare  
 7 the law enforcement exception to apply and hold it back,  
 8 even if you don't hear from the other agency?  
 9 A. There are cases -- there are situations in the  
 10 open records context when the open records division may  
 11 raise exceptions based on the information that it  
 12 reviews that may not have been raised by the parties.  
 13 Q. In this particular case, what was your  
 14 position, even when you had not heard from the FBI yet,  
 15 what was your position as to whether this FBI brief  
 16 unredacted should be released to the subject of the  
 17 investigation?  
 18 A. I believe that it should have been withheld  
 19 just based on the content of the document.  
 20 Q. And did you argue that position?  
 21 A. Yes.  
 22 Q. Did you argue that position even when you had  
 23 not heard yet from the FBI?  
 24 A. Yes.  
 25 Q. And once that information is released, is it

1 released under any conditions, or can the recipient  
 2 share it with anybody he wants to?  
 3 A. It's not released under any conditions.  
 4 Q. So when you release law enforcement  
 5 information through a Freedom of Information Act or  
 6 public records request, once that information is out, if  
 7 anybody wants to find out, what would be the possibility  
 8 if anybody with larceny in their heart wants to know  
 9 addresses, names, all kind of personal information about  
 10 law enforcement or witnesses, would they potentially  
 11 have access to it if the possessor wants to give it to  
 12 them?  
 13 MR. LITTLE: Objection, Mr. President.  
 14 This is leading and calls for speculation on  
 15 Mr. Vassar's part.  
 16 PRESIDING OFFICER: Sustained.  
 17 Q. (BY MR. HARDIN) Mr. Vassar, are you aware  
 18 that in September of 2020, a quote special prosecutor  
 19 was serving subpoenas using the names and addresses of  
 20 officials that appeared in the file that your agency  
 21 released?  
 22 MR. LITTLE: Objection, Mr. President.  
 23 Q. (BY MR. HARDIN) Are you aware of that?  
 24 MR. LITTLE: I'm sorry. Objection,  
 25 Mr. President.

1 MR. HARDIN: That is why this is  
 2 relevant --  
 3 PRESIDING OFFICER: No, don't talk to  
 4 each other.  
 5 What is your objection?  
 6 MR. LITTLE: Objection. Assumes facts  
 7 not established in evidence in this trial, Your Honor.  
 8 MR. HARDIN: Your Honor, I swear to you  
 9 under my oath as a lawyer you're going to have that  
 10 evidence presented. Now --  
 11 PRESIDING OFFICER: I don't have it now.  
 12 MR. HARDIN: Pardon me?  
 13 PRESIDING OFFICER: We don't have it now.  
 14 MR. HARDIN: I know, but it's coming.  
 15 The point being is I'm going to ask him if he was aware  
 16 the event happened. When he talks about evidence not be  
 17 before the Court as yet, I'm seeking to find out if he's  
 18 aware how this information was used. He can say he's  
 19 not aware and that ends the inquiry.  
 20 But if he says he does, it points out the  
 21 danger of what exactly happened here in this case, which  
 22 is at the heart of the major impeachment contentions  
 23 that we have.  
 24 MR. LITTLE: Mr. President, may I be  
 25 heard?

1 PRESIDING OFFICER: Yes.  
 2 MR. LITTLE: I've great esteem for my  
 3 colleague. However, "I promise it's coming" is not a  
 4 proper response to that objection.  
 5 PRESIDING OFFICER: Sustained.  
 6 Q. (BY MR. HARDIN) I'll ask this question. Was  
 7 the type of information I talked to you about available  
 8 then to the recipient once you released the FBI brief?  
 9 MR. LITTLE: Mr. President, same  
 10 objection. Same horse, different question.  
 11 MR. HARDIN: Still a legitimate question.  
 12 The question was, was it available to the recipient.  
 13 That's all. I haven't asked about anybody else you  
 14 haven't heard information about. I'm talking about the  
 15 person in this case, Nate Paul.  
 16 PRESIDING OFFICER: In this case,  
 17 Counselor, I'll overrule.  
 18 Go ahead.  
 19 Q. (BY MR. HARDIN) Was it?  
 20 A. The information that would have been in the  
 21 FBI brief is what would have been disclosed to the  
 22 requestor.  
 23 Q. Thank you.  
 24 Now, can I move on to -- is that the last  
 25 contact -- to your knowledge, did the representatives of

1 Nate Paul make any more attempt after you released the  
 2 FBI brief? Was there any more attempt to get the  
 3 information from the DPS?  
 4 A. Not to my knowledge.  
 5 Q. So what is your testimony, as to whether or  
 6 not after you issued no opinion but then released the  
 7 FBI brief, was there any more attempt to try to get to a  
 8 fuller file of DPS?  
 9 A. Not to my knowledge.  
 10 Q. And was any lawsuit to your knowledge filed in  
 11 state court to try to get it?  
 12 A. No, sir.  
 13 Q. What did that indicate to you?  
 14 A. They may have gotten the information.  
 15 Q. From some other way?  
 16 A. Yes, sir.  
 17 Q. All right. Now, if we can, when's the next  
 18 thing you had to do with Mr. Nate Paul?  
 19 A. Well, unknown to me at the time, Ryan Bangert  
 20 contacted me on July 31st, which I think was a Friday,  
 21 in the evening. And asked me about our foreclosure  
 22 opinion.  
 23 Q. Did you -- and how did that come about? That  
 24 was -- do you remember what day of the week that was?  
 25 A. It was a Friday. Friday evening.

1 Q. All right. And, Mr. Vassar, what did you  
 2 understand that your responsibilities and mission were?  
 3 A. So Mr. Bangert contacted me and told me that  
 4 we needed to look into foreclosure sales.  
 5 Q. And did you understand -- who did you  
 6 understand this was a request from that you were asked  
 7 to do this?  
 8 A. From General Paxton.  
 9 Q. Do you recall where you were when you got the  
 10 information?  
 11 A. I was at home.  
 12 Q. And what did you do as a result?  
 13 A. I start -- I responded to Mr. Bangert over the  
 14 phone and told him that I would look into it. I would  
 15 give him a first draft as soon as I could.  
 16 Q. Now, what time of day -- first of all, what  
 17 day of the week was it?  
 18 A. Friday.  
 19 Q. And what -- what time was it on Friday night  
 20 that Mr. Bangert called you?  
 21 A. Between 5:00 and 7:00. I mean, it was -- it  
 22 was --  
 23 Q. And at that time did you understand in  
 24 response to the initial call there was any urgency one  
 25 way or the other?

1 A. Yes, it was a --  
 2 Q. And when -- the urgency, when you were  
 3 supposed to try to have this opinion?  
 4 A. As soon as possible.  
 5 Q. What did that mean to you?  
 6 No, it's okay. Go ahead.  
 7 A. I was -- I told Ryan that I would get him a  
 8 draft sometime that evening, if not first thing in the  
 9 morning.  
 10 Q. All right. Did you do that?  
 11 A. Yes.  
 12 Q. And then what did you do the rest of the  
 13 morning in connection with it?  
 14 A. Ryan and I spoke about the draft. He agreed  
 15 with the initial conclusion, which decided that  
 16 foreclosure sales should be allowed to proceed under the  
 17 governor's executive order at the time.  
 18 Q. All right. And were the two of you in  
 19 agreement with that?  
 20 A. Yes.  
 21 Q. About what time of day did y'all get a  
 22 document that you thought was sufficient to send over to  
 23 the attorney general as a draft?  
 24 A. It was probably 11:00 to 12:00 on Saturday,  
 25 that next day.

1 Q. What's the next thing you did in connection  
2 with it?  
3 A. Ryan called me not long after that, probably  
4 30 to 45 minutes after he had sent it to General Paxton.  
5 Q. Were you aware as a result of that phone call  
6 whether he had talked to the attorney general?  
7 A. Yes.  
8 Q. And as a result, what did you understand your  
9 new mission was?  
10 A. I understood that General Paxton said that we  
11 got the wrong answer.  
12 Q. All right. So the wrong -- the right answer  
13 had been what in your view?  
14 A. Well, based on the office's position on  
15 numerous COVID-related matters, we had erred on the side  
16 of opening Texas, not closing Texas or prohibiting  
17 people from gathering. We had issued number -- a number  
18 of opinions relating to houses of worship, election  
19 issues, and schools, all of them encouraging opening,  
20 not closing it. So the initial conclusion was based on  
21 my understanding of the office's position throughout the  
22 summer.  
23 Q. And did you make a legal determination that --  
24 that went in line with what you believe the office  
25 policy was?

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1 A. Yes.  
2 Q. And then what happened when you were told you  
3 had the wrong answer? What did you do?  
4 A. I laughed.  
5 Q. Why'd you laugh?  
6 A. I -- I just -- because I found out that I had  
7 gotten the wrong answer when I believed I had reached  
8 the right answer, just based on the office's position  
9 throughout the summer.  
10 Q. All right. So then what did y'all do?  
11 A. I told Ryan that I would take a look at  
12 reaching a different conclusion. I think he volunteered  
13 to do that, and made modifications to the draft that I  
14 had sent him.  
15 Q. Now, you two guys are deputy chiefs of the  
16 whole office. Right?  
17 A. Ryan at the time was deputy first assistant,  
18 and I was deputy for legal counsel, yes, sir.  
19 Q. Were you -- you were pretty high up in the --  
20 in the food chain, were you not?  
21 A. Yes, sir.  
22 Q. How often do you two write opinions?  
23 A. Rarely.  
24 Q. Do you have any idea why the two of y'all were  
25 doing it rather than very capable lawyers underneath you

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1 in the litigation section?  
2 A. I think it was a priority issue that General  
3 Paxton wanted someone to get it done as quickly as  
4 possible.  
5 Q. All right. So -- so who did the main drafting  
6 the second time?  
7 A. It was essentially the same shell of the first  
8 draft. And Ryan Bangert revised the conclusion to  
9 conclude that foreclosure sales should not proceed.  
10 Q. Were you -- were you aware of, at that time,  
11 any contacts that Mr. Bangert and the attorney general  
12 were having in drafting the opinion?  
13 A. I knew that Ryan Bangert was speaking with  
14 General Paxton.  
15 Q. And were you getting any kind of progress  
16 request or were you aware of how often they were  
17 speaking one way or the other?  
18 A. No.  
19 Q. All right. And then did you -- was it any  
20 challenge to rewrite it?  
21 A. Well, we had to go back and adjust the  
22 analysis to the extent we could, based on the position  
23 that we had taken initially.  
24 Q. All right. Now, once you completed it --  
25 about what time in the morning on Sunday did you

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1 complete it?  
2 A. I spoke with Ryan throughout the day on  
3 Saturday, after we were exchanging drafts and trying to  
4 reach an opposite conclusion. It's my understanding  
5 that he finished around midnight on Saturday evening.  
6 Q. Was he passing on to and y'all discussing at  
7 that time any involvement of the attorney general in the  
8 editing process?  
9 A. I was not involved in any conversations  
10 direct --  
11 Q. That was going to be my next question. So  
12 during that entire evening that night, is it correct to  
13 say you were not dealing with the attorney general, only  
14 Ryan was?  
15 A. That's right.  
16 Q. Okay. Now, once it was produced, at any time  
17 during that process, did you have any idea whether or  
18 not this was something that would or would not benefit  
19 Nate Paul?  
20 A. No, sir.  
21 Q. Did you later change your opinion or your  
22 sense of awareness?  
23 MR. LITTLE: Objection, Mr. President.  
24 This calls for speculation.  
25 MR. HARDIN: I'm only asking about his

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1 mind state. I'm not asking about --  
 2 PRESIDING OFFICER: Overruled.  
 3 MR. HARDIN: Thank you.  
 4 Q. (BY MR. HARDIN) Go ahead.  
 5 A. Yes, sir. I believe Monday, the next -- or --  
 6 I think it was Tuesday.  
 7 Q. And what changed your mind Tuesday?  
 8 A. Well, foreclosure sales across the state are  
 9 held on the first Tuesday of each month. So when the  
 10 opinion was announced on our website on Sunday at  
 11 roughly 1:00 in the morning, the foreclosure sale was  
 12 reported in the media to have been --  
 13 MR. LITTLE: Objection, Mr. President.  
 14 Any reports in the media would be obvious hearsay and  
 15 inadmissible.  
 16 PRESIDING OFFICER: Sustained.  
 17 Q. (BY MR. HARDIN) All right. All I'm going to  
 18 ask you is: Did news reports provide you information  
 19 that changed your sense of awareness?  
 20 MR. LITTLE: Same objection.  
 21 Q. (BY MR. HARDIN) I'm not asking you what you  
 22 heard. I'm not asking you what you read. Not asking  
 23 you any hearsay or anything. Just simply: Did news  
 24 reports later change your sense of awareness, whatever  
 25 it was?

1 PRESIDING OFFICER: He just -- excuse me.  
 2 He's just asking about did it, not what was in them.  
 3 Overruled.  
 4 A. Yes.  
 5 Q. (BY MR. HARDIN) All right. Now, at the end  
 6 of the day, did -- whatever that opinion was, did that  
 7 concern you? And if so, why?  
 8 A. Well, not at the time. It was odd, but it  
 9 wasn't concerning. But I was -- at the time I had no  
 10 context for who was involved or or what it was for.  
 11 Q. And then once you did have a context about who  
 12 might be involved, did that change -- what was your  
 13 reaction to that?  
 14 A. It -- it was even stranger that we would have  
 15 gone through that effort to become involved in a  
 16 potential Nate Paul-related issue involving foreclosure  
 17 sales.  
 18 Q. Okay. Now, after that opinion was done, did  
 19 you have anything else to do with anything that Mr. Nate  
 20 Paul and his businesses did, whether it was later  
 21 bankruptcy or any other events? Did you know anything  
 22 else -- did you have anything else to do on that front,  
 23 on the foreclosure front, with Mr. Nate Paul or his  
 24 affairs?  
 25 A. No, sir.

1 Q. All right. Now, let's go to the final area I  
 2 want to talk to you about. Was it your -- tell us what  
 3 your responsibilities were if somebody above you or  
 4 below you wants to do a contract with an outside lawyer.  
 5 Let's start here.  
 6 What was the policy generally of  
 7 outside -- of getting outside law firms within the  
 8 agency? How would that happen ordinarily?  
 9 A. So ordinarily with an agency of 800 lawyers  
 10 and 4,000 employees, there are sometimes a need to  
 11 retain outside counsel. That could be because it's a  
 12 specialized area of law. Intellectual property law  
 13 where the Office of Attorney General doesn't employ IP  
 14 lawyers. It could also be a local counsel issue. If  
 15 the State of Texas wants to intervene in a Virginia  
 16 case, the office would need local counsel. So there are  
 17 unique instances where we would have engaged outside  
 18 counsel to represent the agency.  
 19 All of those requests are managed by the  
 20 general counsel division, which I oversaw in my role as  
 21 deputy attorney general for legal counsel.  
 22 Q. Well, now, how often in your memory have you  
 23 ever recall outside counsel being retained to do a  
 24 criminal investigation?  
 25 A. None.

1 Q. Ever?  
 2 A. No, sir.  
 3 Q. All right. And why is that?  
 4 A. Mostly just because the prosecutors and the  
 5 attorneys in the office would handle that work.  
 6 Q. So when did you first become aware that the  
 7 attorney general wanted to hire an outside law firm for  
 8 a criminal investigation regarding the complaints of  
 9 Nate Paul?  
 10 A. Well, the first time that General Paxton  
 11 contacted me I believe was in the middle of August of  
 12 2020.  
 13 Q. And what was the nature of that contact?  
 14 A. He wanted to know what the basic process was  
 15 to retain outside counsel.  
 16 Q. What did you tell him?  
 17 A. I told him exactly what I just explained to  
 18 this chamber of there has to be a request. There has to  
 19 be a specific need. The attorneys have to be vetted to  
 20 ensure that there's no potential conflicts of interest.  
 21 And there's a formal approval memorandum and an outside  
 22 counsel contract template that is signed by the attorney  
 23 and the law -- and the Office of Attorney General.  
 24 MR. HARDIN: So can we have H --  
 25 Exhibit -- our Exhibit 160, please, Stacey.

1 Is that not in evidence? All right. We  
 2 move to offer -- we move into evidence 160.  
 3 MR. LITTLE: No objection at all,  
 4 Mr. President.  
 5 PRESIDING OFFICER: Show 160 be admitted  
 6 into evidence.  
 7 (HBOM Exhibit 160 admitted)  
 8 Q. (BY MR. HARDIN) Now, I'll represent -- well,  
 9 you tell me. What is Exhibit -- do you have a hard  
 10 copy?  
 11 A. It's on the screen right now.  
 12 Q. Okay. Do you recognize what it is?  
 13 A. I do. It's an email from myself to General  
 14 Paxton's Proton Mail email address dated September 3rd  
 15 of 2020.  
 16 Q. Now, it's a different type of email address  
 17 than the address than the official attorney general  
 18 email route, isn't it, or is it?  
 19 A. It is.  
 20 Q. What is a Proton address?  
 21 A. I'm not -- I'm not sure. I -- I believe it's  
 22 a private email --  
 23 Q. All right.  
 24 A. -- service.  
 25 Q. Well, it's been suggested by his lawyers that

1 that's very frequently used in your -- in your  
 2 organization. Is that true? And does a Proton email  
 3 address in addition to your official one very commonly  
 4 used with the people in the office?  
 5 MR. LITTLE: Objection, Mr. President.  
 6 Lack of foundation. And calls for speculation by  
 7 Mr. Vassar.  
 8 MR. HARDIN: No, no, no. They can't do  
 9 what they did. You heard the cross-examination in this  
 10 case talking about how common and ordinary it was and  
 11 everything. Surely I am allowed to ask this witness if  
 12 that's true.  
 13 MR. LITTLE: Mr. President --  
 14 MR. HARDIN: That's all I'm doing.  
 15 MR. LITTLE: I'm sorry. Mr. President, I  
 16 believe we've invoked the rule. And perhaps should not  
 17 be talking about what other witnesses testify to with  
 18 this witness.  
 19 PRESIDING OFFICER: I was getting ready  
 20 to say that.  
 21 MR. HARDIN: Pardome?  
 22 PRESIDING OFFICER: I was getting ready  
 23 to say that. Sustained. And you should not be talking  
 24 about other testimony given in that specific instant.  
 25 Q. (BY MR. HARDIN) Well, let me ask you. If one

1 were to contend it is commonly used within your agency  
 2 to have a Proton email address, would that be accurate  
 3 or inaccurate?  
 4 MR. LITTLE: Objection, Mr. President.  
 5 Calls for speculation.  
 6 MR. HARDIN: Your Honor, this is  
 7 really --  
 8 PRESIDING OFFICER: Overruled.  
 9 Go ahead.  
 10 MR. HARDIN: Thank you.  
 11 A. Not to my knowledge --  
 12 Q. (BY MR. HARDIN) Pardon?  
 13 A. Not to my knowledge. It would not be ordinary  
 14 to me. I am not even sure what it was.  
 15 Q. Yes. I'm not trying to suggest it's never  
 16 done. But in your experience, have you frequently or  
 17 infrequently been dealing with official business in your  
 18 agency with a Proton email address?  
 19 MR. LITTLE: Objection. Relevance.  
 20 MR. HARDIN: I asked whether --  
 21 PRESIDING OFFICER: Overruled.  
 22 MR. HARDIN: Thank you.  
 23 Q. (BY MR. HARDIN) Go ahead.  
 24 A. No, sir.  
 25 Q. All right.

1 A. This could be the first time that I have used  
 2 that email address for General Paxton before I -- I  
 3 hadn't seen it before.  
 4 Q. How did you know to use it here?  
 5 A. I think I asked him for his email address that  
 6 he wanted me to send the contract to, the draft.  
 7 Q. The general himself?  
 8 A. Yes, sir.  
 9 Q. So you're saying that five years you've been  
 10 there, this email address is the first time you ever  
 11 used it in dealing with -- in dealing with him?  
 12 MR. LITTLE: Objection. Leading.  
 13 MR. HARDIN: I'm asking -- just try to be  
 14 clear.  
 15 PRESIDING OFFICER: Sustain the  
 16 objection, but rephrase.  
 17 MR. HARDIN: Thank you.  
 18 Q. (BY MR. HARDIN) Is -- in this particular  
 19 case, do you recall when he gave you this -- how did he  
 20 ask you to do it, first of all? Did he call you, drop  
 21 in on you, or how did this happen?  
 22 A. The first time was a phone call, when he asked  
 23 about the basic process for retaining outside counsel.  
 24 The second, he came into my office on September 3rd and  
 25 he instructed me to draft a contract for Brandon

1 Cammack.  
 2 Q. And then did he tell you at that occasion  
 3 where to send it?  
 4 A. Possibly, if I -- if I didn't follow up with  
 5 him to ask him, he could have instructed me in my office  
 6 on that day of where to send it.  
 7 Q. Ordinarily if he -- if you sent it to his  
 8 regular official agency email address, who would have  
 9 access to it?  
 10 A. I believe the assistant has access to his  
 11 email box. I don't know if -- if he had access.  
 12 Q. Would this Proton address be on access with  
 13 other people -- is there any way other people would be  
 14 aware of it or ultimately run into it? If you sent  
 15 something at this address, does that become available to  
 16 others, or would it be only to the user of this email?  
 17 MR. LITTLE: Objection, Mr. President.  
 18 Q. (BY MR. HARDIN) If you know.  
 19 MR. LITTLE: Calls for speculation. Lack  
 20 of foundation. Assumes facts not in evidence.  
 21 MR. HARDIN: I'm not asking for -- I  
 22 don't know what facts are not in evidence I have talked  
 23 about. I simply want -- am trying to find out is if  
 24 this is used, would that then be restricted in  
 25 availability to the attorney general. That's all I'm

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1 asking.  
 2 MR. LITTLE: And, Mr. President, what I  
 3 will renew is my objection that there is no foundation  
 4 laid for Mr. Vassar to know anything about what the  
 5 other agency employees can access or cannot access.  
 6 PRESIDING OFFICER: Sustained.  
 7 Q. (BY MR. HARDIN) Now, when you sent him this  
 8 contract, did you draft anything in there that was a  
 9 little different?  
 10 A. Well, I drafted the scope of work.  
 11 Q. And when the attorney general asked you to do  
 12 the draft, was anybody else around you when he asked you  
 13 to send it?  
 14 A. No, sir.  
 15 Q. Did he describe to you what he wanted this  
 16 person to get a contract for?  
 17 A. Yes.  
 18 Q. What did he tell you?  
 19 A. It was my understanding that Mr. Cammack was  
 20 being hired as a second set of eyes, if you will, to  
 21 review the Travis County District Attorney's referral of  
 22 the complaint involving Nate Paul.  
 23 Q. And had you been ever asked to do that in the  
 24 criminal law area before?  
 25 A. No, sir.

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1 Q. When was the last time you had done an outside  
 2 agency contract for somebody to do a criminal  
 3 investigation?  
 4 A. I can't recall when.  
 5 Q. Does that mean you don't remember any?  
 6 A. That's -- that's right.  
 7 Q. All right. So when you did that, did you  
 8 have -- pay attention to particular concern as to how to  
 9 limit the scope of work?  
 10 A. Yes, sir.  
 11 Q. Why did you do that?  
 12 A. Well, the referral from Travis County used  
 13 specific language about providing assistance to Travis  
 14 County.  
 15 Q. Did the referral -- did you look at it at the  
 16 time, the referral?  
 17 A. I -- the first time I was given a copy of the  
 18 referral from Travis County was September 3rd.  
 19 Q. Were you aware at that time one way or the  
 20 other of any conversations and disagreements that had  
 21 been occurring internally as to whether Mr. Cammack  
 22 should be hired to do this? Were you aware through  
 23 talking to other people or any other source?  
 24 MR. LITTLE: Objection, Mr. President.  
 25 That response would call for hearsay.

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1 MR. HARDIN: I'm not asking for the  
 2 statements yet. I'm asking if he's aware of anything.  
 3 PRESIDING OFFICER: I'm going to sustain.  
 4 Would you re-ask the question?  
 5 MR. HARDIN: Thank you.  
 6 Q. (BY MR. HARDIN) So at that time were you  
 7 aware of any other concern about this matter, namely  
 8 Mr. Cammack being hired to review a criminal  
 9 investigation or whatever the assignment was, were you  
 10 aware one way or the other as to whether there was any  
 11 opposition by other people in the organization to hiring  
 12 Mr. Cammack for this project?  
 13 MR. LITTLE: Objection, Mr. President.  
 14 That would be derivative of hearsay.  
 15 MR. HARDIN: I have asked simply whether  
 16 he's aware --  
 17 PRESIDING OFFICER: Overruled.  
 18 MR. HARDIN: Thank you.  
 19 PRESIDING OFFICER: He can answer.  
 20 Q. (BY MR. HARDIN) Are you?  
 21 A. Yes, sir.  
 22 Q. Is that another reason you wanted to be  
 23 cautious?  
 24 MR. LITTLE: Objection. Leading.  
 25 MR. HARDIN: All right. That's fair

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1 enough.

2 PRESIDING OFFICER: Sustained.

3 MR. HARDIN: Thank you. Thank you,

4 Judge.

5 Q. (BY MR. HARDIN) Were you -- because without

6 going into what you said, had you had conversations

7 before September 3rd with the attorney general about

8 this matter?

9 A. Yes, sir.

10 Q. When did you have your first conversation with

11 him about it?

12 A. The first time would have been when he asked

13 about the basic process. That would have been around

14 August 15th.

15 Q. And at that time did he talk to you at all

16 about what he had in mind?

17 A. No, sir. It wasn't until the week of

18 August 26th, I believe, when I was on vacation. General

19 Paxton called me and asked me to explain the process,

20 the basic process, to two individuals.

21 Q. Did he mention Mr. Cammack's name?

22 A. Yes.

23 Q. What did he say to you?

24 A. He just asked me to contact both of the

25 individuals, explain the process to them, and that these

1 were the two individuals that --

2 Q. The other -- the other person -- well, why two

3 individuals? Was there somebody else under

4 consideration?

5 A. There were two names that General Paxton gave

6 me.

7 Q. What was the other name he asked you to

8 prepare a potential contract for?

9 A. Joe Brown.

10 Q. All right. Mr. Joe Brown had been a previous

11 U.S. attorney, had he not?

12 A. That -- yes, sir.

13 Q. All right. Now, so did you prepare a contract

14 like we just introduced for both -- both Mr. Cammack and

15 Joe Brown?

16 A. No, sir.

17 Q. All right. Whom did you prepare the contract

18 for exclusively?

19 A. So the only contract that was prepared in this

20 matter was for Brandon Cammack.

21 Q. And why did you not do one for Mr. Brown?

22 A. Based on when the attorney general came into

23 my office on September 3rd and directed me to prepare a

24 contract for Brandon Cammack, it was my understanding

25 that there was no longer any need for a contract for

1 Mr. Brown.

2 MR. HARDIN: All right. I want to take

3 the contract now, Stacey, if you could put up -- I move

4 to introduce 160. I'm not sure I got a reaction one way

5 or the other.

6 MR. LITTLE: Mr. Hardin, you admitted it.

7 MR. HARDIN: Thank you.

8 MR. LITTLE: Yes.

9 PRESIDING OFFICER: Yeah, it's admitted.

10 MR. HARDIN: Thank you, Your Honor.

11 Q. (BY MR. HARDIN) I want to move on this

12 contract of September 3rd over to the addendum. Can you

13 go to the next-to-last page, which says Addendum A. You

14 have that?

15 A. Yes, sir.

16 Q. And is there a portion of this contract in

17 this addendum that you can direct the Court and the jury

18 to that will show how you tried to restrict the scope of

19 activity in this contract?

20 A. Well -- and, again, this was -- this was all

21 drafted based on my understanding of General Paxton's

22 decision of what Mr. Cammack should be doing, as well as

23 the conversations about the Travis County referral and

24 the extent to which it authorized our office to assist.

25 You can see that the first paragraph

1 specifically refers to certain criminal violations made

2 by state and federal employees. So there's a singular

3 referral that this contract is referring to.

4 Q. And it says, does it not, that this is to be a

5 review of the allegations, correct?

6 A. That's correct.

7 Q. One could review the allegations just by

8 looking at them, right?

9 A. That's right.

10 MR. LITTLE: Object to the sidebar. Move

11 to strike.

12 MR. HARDIN: It's not a sidebar. It's a

13 question, Your Honor.

14 PRESIDING OFFICER: You can strike the

15 word "right."

16 Q. (BY MR. HARDIN) Okay. And in reviewing the

17 allegations, which include complaints of potential

18 criminal violations made by certain state and federal

19 employees, were you aware at that time of any of the

20 details of what were -- what was in Mr. Paul's

21 complaint?

22 A. When I drafted this scope, that was the first

23 time that I received a copy of the referral and a copy

24 of the complaint.

25 Q. And when you looked in the referral, when you



1 looked at the documents that Mr. Paul had provided to  
 2 Travis County DA's office and that they sent over to the  
 3 attorney general's office, what type of allegations did  
 4 you note as to what type of people and conduct this  
 5 young man was to look into?  
 6 A. Based on what I recall, Mr. Paul had alleged  
 7 that certain members of the FBI and the task force, the  
 8 Department of Public Safety, may have taken his phone  
 9 from him or not allowed him to contact his attorney.  
 10 They may have damaged property searching through  
 11 evidence. I don't recall the specific nature of the  
 12 allegations, other than just --  
 13 Q. Were there allegations about improper conduct  
 14 by a federal magistrate?  
 15 A. Yes, sir.  
 16 Q. Did that give you pause?  
 17 A. It did.  
 18 Q. Well, all right. So when you see these kind  
 19 of allegations, then how did you draft it to try to take  
 20 care of that in your opinion?  
 21 A. Well, the last paragraph refers to conducting  
 22 an investigation under the authority of the OAG, which  
 23 would be derivative of the complaint, which is to  
 24 assist. Towards the end of the last -- the paragraph,  
 25 it explains that notwithstanding anything else, outside

1 counsel should only conduct an investigation consistent  
 2 with the complaint and only as directed by the Office of  
 3 Attorney General, meaning that any activities that he  
 4 wanted to pursue should have been authorized and  
 5 approved by the office.  
 6 Q. And the way you structured this, do you make  
 7 any reference in there to this man becoming a special  
 8 prosecutor?  
 9 A. There's -- there's a plain exception that says  
 10 that the legal services under this contract do not  
 11 include any other post-investigation activities  
 12 including but not limited to indictment or prosecution.  
 13 Q. So as you believed when you drafted this  
 14 contract and circulated it to be approved by others,  
 15 what did you think this contract was setting out giving  
 16 him the authority to do if it was approved?  
 17 A. In short, he was to review the allegations in  
 18 the complaint -- the statements in the complaint,  
 19 prepare a report that would be returned to our  
 20 investigators to provide a second opinion to General  
 21 Paxton.  
 22 Q. And those investigators of yours would be who?  
 23 Who would they have been turned over to?  
 24 A. David Maxwell and Mark Penley. David Maxwell  
 25 was the director of law enforcement at the office. And

1 Mark Penley was the deputy attorney general for criminal  
 2 justice.  
 3 Q. Did you make -- did you have discussions with  
 4 the attorney general that this is what he was authorized  
 5 to do, or how did -- first, did you have any  
 6 conversations with the attorney general about this?  
 7 A. Yes.  
 8 Q. About this restriction?  
 9 A. About the nature of the services that Cammack  
 10 was being hired for, yes, sir.  
 11 Q. What did you say to him?  
 12 A. I just explained that we can't -- the OAG, the  
 13 Office of the Attorney General, cannot ordinarily engage  
 14 in a criminal investigation, except for a referral, a  
 15 case of a referral. General Paxton explained that he  
 16 had a referral from Travis County. And then I explained  
 17 that even under a referral, we wouldn't have outside  
 18 counsel representing the agency in a prosecutorial role.  
 19 Q. What was his reaction?  
 20 A. He didn't have one that I recall.  
 21 Q. All right. And so then after you have done  
 22 this, what kind of process it was supposed to go? Did  
 23 you -- when you sent this to the attorney general, did  
 24 you get a response from him?  
 25 A. No, sir.

1 Q. Did you hear back from him on this?  
 2 A. Not that I recall. When he asked me to send  
 3 him a draft of the contract, he also asked me to send it  
 4 to Brandon Cammack.  
 5 MR. HARDIN: Well, so if I can, I move to  
 6 introduce 161, please.  
 7 PRESIDING OFFICER: I don't see this on  
 8 our list.  
 9 MR. HARDIN: I move to introduce it. I  
 10 believe it's not in evidence.  
 11 PRESIDING OFFICER: Okay.  
 12 MR. LITTLE: No objection, Mr. President.  
 13 MR. HARDIN: Stella, can I have a hard  
 14 copy, please?  
 15 PRESIDING OFFICER: There are no  
 16 objections. When you receive it, Mr. Hardin, you may --  
 17 MR. HARDIN: Thank you -- thank you.  
 18 PRESIDING OFFICER: We'll admit 161 into  
 19 evidence.  
 20 (HBOM Exhibit 161 admitted)  
 21 Q. (BY MR. HARDIN) Now, this is -- would you  
 22 identify this for me on September the 3rd? This is --  
 23 MR. HARDIN: I'm sorry, Your Honor, may I  
 24 have just a second?  
 25 Q. (BY MR. HARDIN) Now, Mr. Vassar, I want you

1 to look at 161. I want you to look at 161 and see if  
 2 that is the -- basically the same document that you had  
 3 sent the same day, on September 3rd, except that this  
 4 one is to Mr. Cammack. Is it the same document?  
 5 A. Yes, sir, that's right.  
 6 Q. All right. So now you have forwarded a  
 7 contract to Mr. Cammack and the same contract to the  
 8 attorney general. But what all would be necessary to  
 9 happen before this became a true contract and  
 10 Mr. Cammack authorized to work for the attorney general?  
 11 What would be necessary?  
 12 A. So ordinarily when the Office of the Attorney  
 13 General wants to engage an outside counsel, that has to  
 14 be approved internally through what was referred to at  
 15 the time as an executive approval memorandum. That  
 16 memorandum would explain the background of the request,  
 17 the nature of the legal authority through which the  
 18 agency could act, and the amount that was likely to be  
 19 expended.  
 20 Q. All right. In this situation, if you're going  
 21 to go through the matrix for the contract, would you  
 22 explain on this type of procedure what all had been --  
 23 what would be the process? How many people would have  
 24 to approve of this?  
 25 A. I'll run through them very quickly, but

1 generally the process would start with the general  
 2 counsel division chief. It would be -- it would next go  
 3 to the financial litigation and charitable trust  
 4 division. Budget would be next. I believe I would be  
 5 next in line as the deputy attorney general for legal  
 6 counsel. Given the nature of the services involved,  
 7 criminal justice, Mark Penley, the deputy attorney  
 8 general for criminal justice would have been next. I  
 9 believe Lacey Mase was next.  
 10 Q. Well, in your -- in y'all's process, does  
 11 anyone along -- what happens if anyone along that chain  
 12 refuses to accept it or approve it? What happens?  
 13 A. Basically the request is denied, but it could  
 14 be revived based on further conversations.  
 15 Q. All right. In other words, everything stops  
 16 if somebody declines until at least it's talked about  
 17 more? Is that what you mean?  
 18 A. Yes, sir.  
 19 Q. All right. So what happens if the attorney  
 20 general goes out and unilaterally hires somebody without  
 21 sending it through the process at all? In your opinion  
 22 could he do that?  
 23 A. Yes, sir.  
 24 Q. All right. He has the authority, right?  
 25 A. Yes, sir.

1 Q. He's the guy, okay.  
 2 Now, if, in fact -- are you familiar with  
 3 why y'all follow those processes, though, that you just  
 4 described that would be in the ordinary situation? Why  
 5 do you do it that way?  
 6 A. Mainly for efficiency purposes, but also just  
 7 to ensure that each decision is vetted by the divisions  
 8 that may have input or advice on the specific.  
 9 Q. All right. So are the people that are put on  
 10 their division heads of the divisions that are affected  
 11 by the contract?  
 12 A. Yes, sir.  
 13 Q. So in this contract, what all divisions would  
 14 be affected that would have to okay it?  
 15 A. The general counsel division, the financial  
 16 litigation and charitable trust division, the budget  
 17 division, myself.  
 18 Q. All right.  
 19 A. The controller, the agency controller, the  
 20 deputy for administration, the deputy for criminal  
 21 justice, the chief of staff, and the first assistant.  
 22 Q. That's like eight people, isn't it?  
 23 A. It's -- it -- there's a lot.  
 24 Q. Okay. Thanks.  
 25 All right. Now, let me ask you -- in the

1 emails that we looked at or -- in this document, 161 is  
 2 a contract. Earlier some emails when we looked at  
 3 160 -- 160 is the contract that goes to Mr. Paxton. 161  
 4 is a contract that goes to Mr. Cammack. Is that  
 5 correct?  
 6 A. Yes, sir.  
 7 Q. And then you go, if you want, 228, contract  
 8 228 -- not contract. Exhibit 228.  
 9 MR. HARDIN: Well, hold that, please.  
 10 Don't put that -- I'm sorry, Stella. I apologize.  
 11 I want to ask you. Is -- I want you to  
 12 look at 166. I believe this is already in evidence,  
 13 Your Honor, because I think it's already been up on the  
 14 screen once.  
 15 PRESIDING OFFICER: Yes, it is.  
 16 MR. HARDIN: Thank you very much.  
 17 Q. (BY MR. HARDIN) 161. Now, this is -- I want  
 18 you to look at this and describe for everyone whether  
 19 this sets out the approval level that has to be done.  
 20 Does it?  
 21 A. Yes, sir.  
 22 Q. All right. Now, this is the contract that is  
 23 to be the process to get Mr. Cammack's contract  
 24 approved. Correct?  
 25 A. That's right.

1 Q. So it starts out with Joshua Godbey, the  
 2 charitable trust division. Why would he have to approve  
 3 it?  
 4 A. So the financial litigation and charitable  
 5 trust division manage the Office of Attorney General's  
 6 outside counsel contracts.  
 7 Q. Do y'all ever approve a contract that hasn't  
 8 been the agreement to fund it? Who has to agree to fund  
 9 it?  
 10 A. The budget division has to approve funding.  
 11 Q. All right. Let's go up. Then Josh Godbey.  
 12 After him is Ryan Vassar, you. Who drafted this  
 13 particular document?  
 14 A. I did.  
 15 Q. All right. And how did you know what to put  
 16 down here under the synopsis and background?  
 17 A. Just based on my understanding, again, of the  
 18 nature of the services that Cammack was being engaged  
 19 for.  
 20 Q. Now --  
 21 MR. LITTLE: Hold on.  
 22 MR. HARDIN: Excuse me.  
 23 MR. LITTLE: I'm sorry, Mr. President. I  
 24 believe there may be some distress over whether this  
 25 document is actually in evidence. We do not object to

1 it. It has not been offered.  
 2 PRESIDING OFFICER: Yeah, we're just  
 3 relooking at that now. So it was not entered, but you  
 4 do not object. Is that correct? Pardon?  
 5 MR. LITTLE: I do not.  
 6 MR. HARDIN: I believe it was shown by an  
 7 earlier lawyer on your side. I think you had --  
 8 PRESIDING OFFICER: It was a pretrial  
 9 issue that didn't --  
 10 MR. LITTLE: We are good.  
 11 PRESIDING OFFICER: But you're good. Go  
 12 forward.  
 13 MR. HARDIN: Thank you very much.  
 14 PRESIDING OFFICER: He did not object.  
 15 MR. HARDIN: Thank you. Thank you very  
 16 much.  
 17 Q. (BY MR. HARDIN) Now, let's --  
 18 PRESIDING OFFICER: Excuse me. For the  
 19 record, 166 is admitted into evidence.  
 20 (HBOM Exhibit 166 admitted)  
 21 MR. HARDIN: Thank you very much.  
 22 Q. (BY MR. HARDIN) Now, did you -- so you  
 23 prepared, over on the second page -- it says Page 1, but  
 24 it's the second when you turn it -- the synopsis of what  
 25 happened and the background and all that?

1 A. Yes, sir.  
 2 Q. I want you to tell us in your own words, when  
 3 you sign off and initial this particular contract, did  
 4 you sign off as if you approved it?  
 5 A. Yes.  
 6 Q. All right. Why did you do that?  
 7 A. I concluded based -- just on my position of  
 8 whether the agency had lawful authority to hire an  
 9 outside counsel, Brandon Cammack in this situation, that  
 10 it did.  
 11 Q. So you understood who wanted to hire him?  
 12 A. Yes.  
 13 Q. Who was it?  
 14 A. General Paxton.  
 15 Q. Describe in your own words: Did he make clear  
 16 he was going to do it?  
 17 A. Yes.  
 18 Q. So did you have any doubt whether or not  
 19 that's what he was instructing you to do?  
 20 A. No, sir.  
 21 Q. When you drafted, put a synopsis, and initial  
 22 it, tell us in your own words: What was your position,  
 23 then, as to whether this contract should or should not  
 24 be approved?  
 25 A. Based on my position as deputy for legal

1 counsel, my role is to recommend based on whether the  
 2 agency had lawful authority to act, not whether it  
 3 should act. So in my review, I determined that Cammack,  
 4 as outside counsel, could provide legal services to the  
 5 agency to investigate -- or to review the complaint  
 6 referred by Travis County.  
 7 Q. And what would be your position as to whether  
 8 he had the authority if he stepped outside the scope  
 9 that you had drafted so carefully in the addendum A?  
 10 MR. LITTLE: Objection, Mr. President.  
 11 That would call for speculation.  
 12 PRESIDING OFFICER: Sustained.  
 13 Q. (BY MR. HARDIN) Was he authorized to do more  
 14 on behalf of the attorney general's office than you set  
 15 out in the scope A of the contract?  
 16 A. Not in the draft that I -- that I wrote.  
 17 Q. All right. Now, when you sent these two  
 18 contracts or these proposed contracts that you just  
 19 raised an issue right there -- were these drafts or were  
 20 they -- were they final contracts?  
 21 A. They were both drafts.  
 22 Q. So at the time you sent these out to  
 23 Mr. Cammack and to the attorney general, what was  
 24 necessary to make them a binding contract where the  
 25 attorney general's office had actually legally hired

1 Mr. Cammack?  
 2 MR. LITTLE: Objection.  
 3 Q. (BY MR. HARDIN) What process was required?  
 4 MR. LITTLE: Objection, Mr. President.  
 5 This actually calls for a very important legal  
 6 conclusion. And this witness is not qualified to reach  
 7 that conclusion on the ultimate issue.  
 8 MR. HARDIN: I'm asking him what process  
 9 within his organization was necessary for it then to be,  
 10 at least him to consider it, a complete contract with  
 11 the agency. Let me put it that way.  
 12 MR. LITTLE: That is a different question  
 13 than the one you asked. I'm sorry.  
 14 PRESIDING OFFICER: So I'm going to  
 15 sustain the first -- the first objection I've sustained.  
 16 MR. HARDIN: But he's allowing the second  
 17 one.  
 18 PRESIDING OFFICER: Well, you can start  
 19 the second one now. One more time.  
 20 MR. HARDIN: All right. Thank you.  
 21 Q. (BY MR. HARDIN) So what was necessary in your  
 22 mind as the person responsible for both drafting and  
 23 initiating these contracts to make the drafts you sent  
 24 to Mr. Cammack and to the attorney general, what was  
 25 necessary, as far as your procedures and your experience

1 and in your opinion, to make it a contract that would --  
 2 where Mr. Cammack was actually officially hired and  
 3 entitled to be paid under the contract?  
 4 MR. LITTLE: Objection, Mr. President.  
 5 That question is extremely compound. There are several  
 6 questions in it. Procedures, policies, his opinion may  
 7 be very different things.  
 8 PRESIDING OFFICER: Sustained.  
 9 Q. (BY MR. HARDIN) The contract that you just  
 10 sent, had it been signed by anybody?  
 11 A. No, sir.  
 12 Q. To be a binding contract, as far as you would  
 13 be concerned, and the agency and your responsibilities,  
 14 whom did it have to be signed by to be a binding  
 15 contract?  
 16 A. Under the agency's signature delegation  
 17 policies at the time, it would have been Jeff Mateer.  
 18 Q. All right. And if the contract at that time  
 19 was signed by -- solely by Mr. Cammack, do you have a  
 20 contract or does it have to be signed by somebody that  
 21 can bind the agency along with Mr. Cammack?  
 22 A. It would have needed to be signed by the  
 23 agency as well as funding obligated to pay for --  
 24 Q. All right.  
 25 A. -- the services.

1 Q. So did we ever get to that process that you  
 2 were aware of at this time?  
 3 A. It was started. I believe June 4th we started  
 4 the internal approval process.  
 5 Q. And that's -- the internal process is  
 6 circulating it to the people on Exhibit 166?  
 7 A. Yes, sir.  
 8 MR. LITTLE: Just to correct the record,  
 9 the witness said June 4th. I believe you mean  
 10 September 4; is that correct?  
 11 THE WITNESS: That's right.  
 12 September 4th.  
 13 MR. HARDIN: I'm sorry?  
 14 PRESIDING OFFICER: Let the record  
 15 reflect September 4th.  
 16 MR. HARDIN: Okay. The cover sheet would  
 17 be 166, would it not? The contract, I believe were the  
 18 164 -- 161, I'm sorry. I don't -- I just want to make  
 19 sure we got it straight.  
 20 MR. LITTLE: Oh, I'm sorry. Were you  
 21 talking to me?  
 22 MR. HARDIN: We've got --  
 23 PRESIDING OFFICER: Speak to the Court?  
 24 MR. HARDIN: 166 is what I introduced and  
 25 you accepted. And that's a copy of the approval sheet.

1 MR. LITTLE: 166 is on the screen.  
 2 MR. HARDIN: I'm sorry, that's what I was  
 3 asking about.  
 4 PRESIDING OFFICER: Don't talk over each  
 5 other. Yes, sir.  
 6 MR. LITTLE: 166 is on the screen and it  
 7 has been admitted.  
 8 MR. HARDIN: Pardon me?  
 9 PRESIDING OFFICER: You can continue,  
 10 Mr. Hardin.  
 11 MR. HARDIN: I'm sorry. I'm all  
 12 confused.  
 13 PRESIDING OFFICER: 166 has been  
 14 admitted. 166, correct.  
 15 MR. HARDIN: And I thought you were  
 16 changing the number on me.  
 17 MR. LITTLE: I'm sorry. I'm confused by  
 18 your statement. Maybe this will be a good time for a  
 19 break.  
 20 MR. HARDIN: All right.  
 21 PRESIDING OFFICER: In about 15 more  
 22 minutes. About 15 more minutes we'll have a break.  
 23 MR. HARDIN: All right. Thank you.  
 24 Q. (BY MR. HARDIN) So let's try to move through  
 25 this real quickly. Did this start going through

1 different procedures, and what was the outcome of this  
 2 contract? Did it ultimately go all the way or did it  
 3 stop somewhere along the way?  
 4 A. It stopped.  
 5 Q. The approval process. And when did it stop?  
 6 A. Mark Penley declined to sign the approval  
 7 memorandum.  
 8 Q. And when did you become aware that Mr. Penley  
 9 would not sign it?  
 10 A. I don't recall the exact date. I -- I recall  
 11 there were conversations that, when I signed it, it  
 12 would go to Mark Penley next. I advised Jeff Mateer  
 13 that that was going to be the next line in the sequence.  
 14 I also advised Mark Penley that he was going to be next  
 15 after I signed it.  
 16 I don't recall exactly when Mark Penley  
 17 declined to sign.  
 18 Q. Now, I think there are other documents that we  
 19 can introduce later that would show that. We'll do it  
 20 through other people.  
 21 As to your involvement, Mr. Vassar, how  
 22 would you view your role, once you started sending out  
 23 the drafts? Did you start having contact personally  
 24 with Mr. Cammack where he would have different requests  
 25 that you would communicate with him or what?

1 A. I was the point of contact for Mr. Cammack  
 2 just based on the introduction through General Paxton.  
 3 After the internal approval process had started, I  
 4 received a call from Mr. Cammack. I believe it was  
 5 around the 13th of September.  
 6 Q. What did he want?  
 7 A. He asked if there were any official documents  
 8 or an official email address that we could give him.  
 9 Q. And at some stage along the line, were there  
 10 inquiry about whether he was going to -- inquiries by  
 11 him as to whether he was going to have credentials?  
 12 A. I'm sorry, could you say that again?  
 13 Q. Was he going to have credentials? Did that  
 14 ever become an issue that would show that he was  
 15 authorized to work on behalf of the AG's office?  
 16 A. No, sir.  
 17 Q. Did you ever provide him any?  
 18 A. No, sir.  
 19 Q. Did he ask you for any?  
 20 A. He did on that phone call.  
 21 Q. And what did you tell him?  
 22 A. I told him that he didn't have a contract yet.  
 23 I didn't understand why he needed credentials to  
 24 identify himself as representing the agency.  
 25 Q. All right. Were you aware -- what was your

1 level of awareness as to whether Mr. Cammack -- or  
 2 belief was authorized to be speaking for the AG's office  
 3 before this process was completed? What was your --  
 4 what was your belief?  
 5 A. He had none. He had no authority to represent  
 6 the office.  
 7 Q. And in your opinion when would he have had  
 8 authority to represent the office?  
 9 A. When?  
 10 Q. Yes.  
 11 A. When he had a binding and executed contract.  
 12 Q. And did he ever, to your knowledge, have a  
 13 binding and executed contract?  
 14 A. On --  
 15 MR. LITTLE: Objection, Mr. President.  
 16 This, once again, calls for a very important legal  
 17 conclusion. It goes to the heart of the matter.  
 18 MR. HARDIN: I'm not asking him for a  
 19 legal conclusion.  
 20 PRESIDING OFFICER: Witness can answer  
 21 the question, if you know of your own personal knowledge  
 22 not on hearsay.  
 23 A. On October 2nd, I believe Brandon Cammack sent  
 24 a contract that appeared to be signed by General Paxton  
 25 and Mr. Cammack himself.

1 Q. (BY MR. HARDIN) Do you know when you first  
 2 saw that?  
 3 A. I believe it was October 2nd.  
 4 Q. Is that the first -- describe for us, were you  
 5 aware before -- any time before that that General Paxton  
 6 had decided to sign the contract on behalf of the  
 7 attorney general's office?  
 8 A. No, sir.  
 9 Q. Did you have any idea at that time when you  
 10 saw it on October the 2nd how and when that happened?  
 11 A. No, sir.  
 12 Q. Did Mr. Paxton ever tell you that he had  
 13 signed a contract personally with Mr. Cammack?  
 14 A. Yes, he did.  
 15 Q. When did he tell you that?  
 16 A. I believe it was Friday in October, which may  
 17 have been the 3rd. He emailed me and informed me that  
 18 he had signed the contract with Cammack, and that there  
 19 had been a mistake in Jeff Mateer's letter terminating  
 20 the contract as an invalid --  
 21 Q. All right.  
 22 A. -- agreement.  
 23 Q. We need to jump ahead a little bit for this  
 24 particular portion. Let me -- let me -- you're aware,  
 25 are you not, that -- well, let me ask you: Do you

1 recall what date you and a group of people went to the  
 2 FBI to report your concerns?  
 3 A. September 30th.  
 4 Q. All right. And are you aware then when y'all  
 5 informed the attorney general that you had done so?  
 6 A. October 1st is when we notified General  
 7 Paxton.  
 8 Q. And after you informed the attorney general,  
 9 did -- at some time on either September the 30th or  
 10 October 1 had Mr. Cammack been sent a cease and desist  
 11 letter?  
 12 A. Yes.  
 13 Q. And whom did he send a cease and desist -- by  
 14 whom sent him a cease and desist letter?  
 15 A. I believe Mark Penley sent a letter to  
 16 Mr. Cammack, and Jeff Mateer sent a separate letter to  
 17 Mr. Cammack.  
 18 Q. And then separately, was action taken in the  
 19 courts concerning the subpoenas, grand jury subpoenas,  
 20 that Mr. Cammack had obtained and was serving? Was  
 21 there separate action undertaken by either Mr. Penley or  
 22 Mr. Mateer?  
 23 MR. LITTLE: Mr. President, we object as  
 24 to leading.  
 25 Q. (BY MR. HARDIN) Are you aware of --

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1 PRESIDING OFFICER: Sustained.  
 2 MR. HARDIN: Excuse me.  
 3 Q. (BY MR. HARDIN) Are you aware of any action  
 4 that had taken -- personally aware of any action that  
 5 was taken in the courts concerning the subpoenas that  
 6 Mr. Cammack had been serving?  
 7 A. Mr. -- Mr. Penley moved to quash the  
 8 subpoenas.  
 9 Q. All right. And so then when you get a letter,  
 10 did you get a letter from the attorney general? And if  
 11 so, what date that was, or text?  
 12 A. It -- it was an email indicating to me that he  
 13 had signed the contract with Brandon Cammack. And that  
 14 Jeff's letter telling Cammack to cease and desist was  
 15 improperly sent.  
 16 Q. All right. At that time, during that first  
 17 week in October, when we got to October 3rd, what was  
 18 your status with the agency?  
 19 A. I was still employed.  
 20 Q. And had Mr. Mateer retired -- I mean resigned  
 21 the day before October 2nd?  
 22 A. October 2nd. I believe he resigned on Friday.  
 23 Q. All right. When he -- when he resigned, had  
 24 he sent a letter to Mr. Cammack before that, if you  
 25 know?

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1 A. Yes.  
 2 Q. And at that time were all of these actions  
 3 being done with the -- with the involvement of each of  
 4 you deputies that had been called colloquially "the  
 5 whistleblowers"?  
 6 A. Yes.  
 7 Q. Now, when the -- before that, when this  
 8 contract -- what was your involvement as far as the  
 9 contract for Mr. Cammack once Mr. Penley refused to sign  
 10 off on it? What happened then?  
 11 A. From what I recall, Mr. Mateer, Mr. Penley  
 12 sent a cease and desist. Mr. Cammack followed up to our  
 13 agency mailbox, just the general mailbox, with invoices  
 14 that he had purported to work under some authorization  
 15 from General Paxton. Because we didn't have a record of  
 16 a contract or a copy of a signed agreement, we informed  
 17 Mr. Cammack that we could not pay him. And his response  
 18 was that he had a signed --  
 19 Q. What date was that?  
 20 A. I believe it was October 1st.  
 21 Q. All right. And during the time that you were  
 22 going back and forth with Mr. Cammack about the  
 23 contract, were you the person that was communicating  
 24 with him?  
 25 A. He had emailed me directly, but the rest of

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1 the conversation was through the general mail box that  
 2 he has.  
 3 Q. Did he send you an invoice seeking to be paid?  
 4 A. Yes.  
 5 Q. Do you recall when he did that?  
 6 A. It was right around the same period, so it  
 7 would have been October 1st.  
 8 Q. And when he sent you an invoice to be asking  
 9 to be paid, what was your response?  
 10 A. We informed him that we did not have a record  
 11 of a contract under which to pay him.  
 12 Q. And once -- did you tell him you need a  
 13 contract signed by somebody within the agency?  
 14 A. Well, we just told him we didn't have any  
 15 contract with his name on it.  
 16 Q. That had been signed by anybody?  
 17 A. Correct.  
 18 Q. So what did he do?  
 19 A. He responded and said that he had a signed  
 20 contract.  
 21 Q. Do you recall what date he told you he had a  
 22 signed contract?  
 23 A. He provided it to us in the morning. I  
 24 believe it was October 1st -- or no. I apologize. It  
 25 was September 30th because we went and met with law

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1 enforcement on September 30th.  
 2 Q. And did you get a contract from him that had  
 3 been signed by the attorney general before you went to  
 4 law enforcement?  
 5 A. Yes.  
 6 Q. Now, at the time this was all going on, were  
 7 you willfully and totally involved in the actions that  
 8 were decided and that led to you going to law  
 9 enforcement?  
 10 A. Yes, sir.  
 11 Q. Why did you go?  
 12 A. I formed a conclusion just based on my  
 13 good-faith --  
 14 Q. Keep it to the microphone.  
 15 A. -- belief that General Paxton was using the  
 16 power and authority of his office to benefit a private  
 17 individual.  
 18 Q. And what was your opinion as to whether or not  
 19 y'all had done everything you could to stop him before  
 20 that?  
 21 A. Well, all of these -- these sequences of  
 22 events, ranging from May of 2020 to the foreclosure  
 23 letter in late July and August of 2020, and the Cammack  
 24 issue in August and September of 2020, in isolation were  
 25 just activities that we tried to handle for General

1 Paxton.  
 2 MR. LITTLE: Mr. President, I'm sorry, I  
 3 must object as nonresponsive to the question.  
 4 MR. HARDIN: Well, let me --  
 5 PRESIDING OFFICER: Sustained.  
 6 Re-ask the question.  
 7 MR. HARDIN: Thank you.  
 8 Q. (BY MR. HARDIN) If -- now, let me ask you  
 9 this: What was your state of mind in terms of the  
 10 degree that you -- in your opinion, of the degree that  
 11 you and others had engaged in to try to dissuade him  
 12 from this conduct that you disagreed with?  
 13 A. We had -- we had repeatedly suggested that the  
 14 positions that we were being asked to take were contrary  
 15 to established law and policies. When we did that,  
 16 he -- he directed us to find a different way. So as  
 17 lawyers do, we found alternatives. And those were the  
 18 alternatives that he chose.  
 19 Q. Well, then, what was the tipping point about  
 20 September the 29th or 30th that led you to decide to go  
 21 en masse to the FBI?  
 22 A. Well, it became clear at that point that the  
 23 degree and the extent to which General Paxton appeared  
 24 to be using the office to benefit a single private  
 25 individual to target and harass law enforcement rose to

1 a level that just based on our good-faith belief that  
 2 criminal activity had occurred. And under no  
 3 circumstances did Brandon Cammack have any authority,  
 4 either under a contract that was unsigned or a contract  
 5 that was signed, or by some deputation by Travis County  
 6 District Attorney's Office to serve as a special  
 7 prosecutor for the Office of Attorney General. So he  
 8 was representing himself in a capacity that did not  
 9 exist. And doing so for the benefit of a single  
 10 individual.  
 11 Q. Under those circumstances, did you feel that  
 12 the attorney general had any authority to appoint a,  
 13 quote, special prosecutor?  
 14 A. No, sir.  
 15 MR. LITTLE: Objection, Mr. President.  
 16 Q. (BY MR. HARDIN) Did --  
 17 MR. LITTLE: The objection is relevance.  
 18 I don't believe that there is any contention on the part  
 19 of the House Board of Managers that General Paxton  
 20 appointed a special prosecutor. That is not the  
 21 allegation.  
 22 PRESIDING OFFICER: Sustained.  
 23 Q. (BY MR. HARDIN) Are you aware as to whether  
 24 or not Mr. Cammack was going around and serving special  
 25 grand jury subpoenas claiming he was a special

1 prosecutor of the attorney general's office? Are you  
 2 aware one way or the other as to whether he was doing  
 3 that?  
 4 MR. LITTLE: Objection. That would call  
 5 for hearsay.  
 6 MR. HARDIN: No, it doesn't call for  
 7 hearsay. This witness can be cross-examined about what  
 8 the basis of his knowledge is. And then he can say  
 9 whether it's hearsay.  
 10 PRESIDING OFFICER: Overruled.  
 11 You may answer the question.  
 12 A. Yes, sir, I'm aware.  
 13 Q. (BY MR. HARDIN) And, in fact, was Brandon  
 14 Cammack ever hired by the attorney general's office, by  
 15 anyone in the attorney general's office, and designated  
 16 a special prosecutor?  
 17 A. No, sir.  
 18 Q. And in your opinion -- what is your opinion as  
 19 to whether or not they even had the authority to hire a  
 20 special prosecutor in this case under the facts that you  
 21 knew them to be?  
 22 MR. LITTLE: Objection, Mr. President.  
 23 Lack of foundation. Speculation. And relevance.  
 24 PRESIDING OFFICER: Sustained.  
 25 Q. (BY MR. HARDIN) Mr. Vassar, what was your

1 concern if y'all did not go to law enforcement on  
 2 September the 30th of 2020?  
 3 A. Well, the concern was that it would only get  
 4 worse. General Paxton's use of the office would only  
 5 continue to be more extreme to benefit Nate Paul, and  
 6 the potential -- for us to be labeled as  
 7 co-conspirators.  
 8 Q. How long did you remain with the attorney  
 9 general's office after -- after October the 1st, 2020?  
 10 A. I was terminated November 17th, 2020.  
 11 Q. And what was the stated reason for terminating  
 12 you?  
 13 A. For disclosing confidential information  
 14 outside the agency.  
 15 Q. And did they describe to you or give you  
 16 anything in writing to tell you what confidential  
 17 information you were supposed to have disclosed?  
 18 A. No, sir.  
 19 Q. Did you ask for a meeting to find out what it  
 20 was?  
 21 A. I asked what it was, and they didn't provide a  
 22 response.  
 23 Q. Who replaced Mr. Mateer as the first assistant  
 24 after Mr. Mateer resigned?  
 25 A. Brent Webster.

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1 Q. Is he still acting as the first assistant to  
 2 your knowledge?  
 3 A. Yes.  
 4 Q. Did you -- without going into other  
 5 conversations, did you seek to find out what  
 6 confirmation -- or what information was being used to  
 7 terminate you? And did you ever find out what it was?  
 8 A. Yes. I asked Mr. Webster what information I  
 9 had allegedly disclosed outside the agency. And he  
 10 didn't give a response.  
 11 Q. To this day do you know what confidential  
 12 information you were supposed to have revealed?  
 13 A. I have not received a direct answer, but based  
 14 on the agency's own internal whistleblower report,  
 15 they've made allegations.  
 16 Q. Finally, when you -- when you were terminated,  
 17 how old were your children by then?  
 18 A. Six months to four years.  
 19 Q. I believe you indicated, but I'm not sure I  
 20 remember: How long did it take you to find another job?  
 21 A. Six months.  
 22 Q. How did you live?  
 23 A. Just on savings that we had -- we had saved.  
 24 Q. And when you took another job, where is it  
 25 now?

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1 A. It's for a local nonprofit policy think tank  
 2 here in Austin.  
 3 Q. At the end of the day, in light of all -- and  
 4 by the way, have you sued? Are you a whistleblower that  
 5 has sued the attorney general and the State of Texas?  
 6 A. Yes, sir.  
 7 Q. Why did you sue?  
 8 A. Mainly for my family.  
 9 Q. What do you mean?  
 10 A. Well, to take care of them financially, but  
 11 also just to be a good example for them.  
 12 Q. And what do you mean about a good example for  
 13 them?  
 14 A. Just to stand up for the truth.  
 15 Q. You read this report that they put out back in  
 16 '21?  
 17 A. Yes, sir.  
 18 Q. You saw what it said about you?  
 19 A. Yes, sir.  
 20 Q. You saw what it said about the others?  
 21 A. Yes, sir.  
 22 Q. How would you rate the level of accuracy of  
 23 the report that Mr. Webster says he primarily prepared?  
 24 A. On a scale of 1 to 10, I'd give it a 2.  
 25 Q. And has that report been out on the Internet

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1 to the world at large?  
 2 A. Yes, sir.  
 3 Q. All about you and the others being rogue  
 4 employees?  
 5 A. Yes.  
 6 Q. Is this the first time you've ever had an  
 7 opportunity to tell your side since this all happened?  
 8 A. Yes, sir.  
 9 Q. You feel better or worse?  
 10 A. It's not fun.  
 11 MR. HARDIN: I pass the witness.  
 12 PRESIDING OFFICER: We'll break now until  
 13 5:25. And, Members, there are some snacks back in the  
 14 back for you to get a little energized, and we'll come  
 15 back for another 60 to 90 minutes, depending on how it  
 16 goes.  
 17 (Recess: 5:03 p.m. to 5:28 p.m.)  
 18 PRESIDING OFFICER: Your witness.  
 19 MR. LITTLE: Thank you, Mr. President.  
 20 CROSS-EXAMINATION  
 21 BY MR. LITTLE:  
 22 Q. Mr. Vassar, my name is Mitch Little. I'm with  
 23 the law firm of Scheef & Stone, and I represent the  
 24 elected attorney general of Texas. We've much to  
 25 discuss. I'm going to try to pick up a few crumbs here.

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1 The word that I heard at the end of your  
2 testimony was "co-conspirators." Do you remember that  
3 word coming out of your mouth?  
4 A. Yes, sir.  
5 Q. One of your concerns on September 30th was if  
6 you didn't go to the FBI immediately, someone would  
7 think you were co-conspirators with the elected attorney  
8 general in this state, right?  
9 A. That was one of the concerns, yes, sir.  
10 Q. And your attorney that you hired before you  
11 went to the FBI is a man named Johnny Sutton; is that  
12 correct?  
13 A. That's right.  
14 Q. And he's here today, correct?  
15 A. He is.  
16 Q. And he's sitting in this courtroom. Yes?  
17 A. Yes, sir.  
18 Q. Would you indicate him for us?  
19 A. He's right there.  
20 Q. Yes. And he represented a number of you  
21 employees at the attorney general's office, correct?  
22 A. Yes, sir.  
23 Q. And by the time that you went to the FBI,  
24 Mr. Vassar, just tell the senators: Did you know who  
25 performed the home repairs and renovations at the

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1 Paxtons' home?  
2 A. No. I had no direct knowledge.  
3 Q. You didn't have any indirect knowledge, did  
4 you?  
5 A. It was discussed when all of the events came  
6 together and we met as deputies on September 29th, that  
7 was mentioned as one of the potential concerns of  
8 bribery of the attorney general.  
9 Q. And who mentioned it?  
10 A. Based on my recollection, it may have been  
11 Mr. Brickman.  
12 Q. And Mr. Brickman heard it where?  
13 A. I'm not sure.  
14 Q. He heard it from someone else, correct?  
15 A. I -- I'm not sure.  
16 Q. You don't know?  
17 A. I don't know where he heard it.  
18 Q. But one of the criminal complaints that you  
19 and your group of people who went to the FBI alleged was  
20 that the Paxtons' home was being renovated at the cost  
21 of someone who is under federal investigation. Correct?  
22 A. You said one of the criminal complaints. I'm  
23 not -- I'm not -- we did a verbal complaint --  
24 Q. Yes.  
25 A. -- at the office, but I'm not sure --

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1 Q. Let me be clearer. One of the things that you  
2 told the FBI in your meeting with them was that you were  
3 concerned that someone else was paying for the home  
4 renovations to the Paxtons' home, correct?  
5 A. Me individually, I had no knowledge. But,  
6 yes, in the meeting with the FBI with all of us present,  
7 there was a roundtable discussion about some  
8 individuals' good-faith belief that the attorney general  
9 was involved in bribery.  
10 Q. A good-faith belief based on what?  
11 A. I'm not -- I'm not sure. It wasn't my direct  
12 knowledge.  
13 Q. You were in the meeting?  
14 A. I would -- yes, I was in the meeting with the  
15 FBI.  
16 Q. What was the basis?  
17 A. I'm not sure. I think it was redoing the  
18 kitchen countertops.  
19 Q. Redoing the kitchen countertops; is that what  
20 you heard?  
21 A. I'm just giving you the context of what I -- I  
22 recall.  
23 Q. Did you see any documents exchanged with the  
24 FBI in this meeting?  
25 A. No, sir.

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1 Q. Not one?  
2 A. No. We did not provide any documents to the  
3 FBI.  
4 Q. And let me be clear because I think your  
5 testimony was a little bit confusing, at least to me.  
6 It may have been to the senators as well. But you  
7 learned about Brandon Cammack's signed contract with the  
8 attorney general after you reported the attorney general  
9 to the FBI, correct?  
10 A. I think that's correct, yes.  
11 Q. So when you went to the FBI and you told  
12 presumably some FBI agents that Brandon Cammack was out  
13 serving grand jury subpoenas without authority, you did  
14 not know that that man had a signed contract with the  
15 attorney general of this state's signature affixed to  
16 it, correct?  
17 A. That's my recollection.  
18 Q. Well, surely when you found out you went  
19 straight back to the FBI and told them, right?  
20 A. No. I mean at the time --  
21 Q. No?  
22 A. -- we were represented by Mr. Sutton.  
23 Q. Surely at that time Mr. Sutton asked you to go  
24 back to the FBI and correct that misinformation,  
25 correct?

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1 A. What information? What misinformation?  
 2 That -- that Mr. Cammack had a contract?  
 3 Q. Yes. He had a signed contract affixed with  
 4 the signature of the elected attorney general of this  
 5 state, correct?  
 6 A. Yes, based on -- what he had provided to us  
 7 was a signed contract. And General Paxton had confirmed  
 8 to us that he had signed a contract.  
 9 Q. And you had it in hand, correct?  
 10 A. Yes.  
 11 Q. And surely your lawyer said, guys, we need to  
 12 go back to the FBI and tell them that there's a signed  
 13 contract with the affixed signature of the elected  
 14 attorney general of this state, right?  
 15 A. There wouldn't have been any reason to provide  
 16 them with a signed contract because that wasn't part of  
 17 the complaint that we had filed with the FBI.  
 18 Q. Part of the complaint -- let's be clear about  
 19 the complaint, okay.  
 20 Part of the complaint to the FBI was that  
 21 Brandon Cammack was out serving grand jury subpoenas to  
 22 support someone else's agenda besides the people of the  
 23 state of Texas. True?  
 24 A. Yes.  
 25 Q. And at some point after your meeting with the

1 FBI, you discovered from Brandon Cammack that he had a  
 2 signed contract with the elected attorney general,  
 3 correct?  
 4 A. That's absolutely true, for nothing that he  
 5 was doing.  
 6 MR. LITTLE: And I'll object to the  
 7 nonresponsive portion of the question -- or answer and  
 8 move to strike, Your Honor.  
 9 PRESIDING OFFICER: Strike the last  
 10 comment.  
 11 Q. (BY MR. LITTLE) Now, let's be clear about  
 12 something else. After -- this contract that was signed  
 13 by the Attorney General of the State of Texas, Ken  
 14 Paxton, he had the authority to enter into it, correct?  
 15 A. Yes, I believe he did.  
 16 Q. And that's because over 4 million voters in  
 17 this state gave him that authority, correct?  
 18 A. Yes.  
 19 Q. And that authority exists to bind this state.  
 20 And if the voters don't like it, they can vote in  
 21 someone else, correct?  
 22 A. That's, yes, how the political system works.  
 23 Q. That's my understanding as well.  
 24 At what point in time did you come back  
 25 to the FBI and say, well, maybe there was some authority

1 for Brandon Cammack to do what he was doing? Did you  
 2 ever do that?  
 3 A. No, sir. And just because --  
 4 MR. LITTLE: Object. Nonresponsive to  
 5 anything after "no, sir," Mr. President.  
 6 PRESIDING OFFICER: Please keep your  
 7 answers to the questions.  
 8 Q. (BY MR. LITTLE) In your meeting with the FBI,  
 9 did you tell the FBI that Ken Paxton had illegally  
 10 disclosed some confidential material to someone?  
 11 A. We filed a complaint based on activity that we  
 12 had formed a reasonable belief that --  
 13 MR. LITTLE: Mr. President, I will object  
 14 that this line as nonresponsive.  
 15 PRESIDING OFFICER: Sustained.  
 16 MR. LITTLE: Madam Court Reporter, would  
 17 you mind reading my question back? I should have -- I'm  
 18 sorry, I don't have one.  
 19 (Requested portion was read.)  
 20 Q. (BY MR. LITTLE) Yes or no?  
 21 A. I disagree with the phrasing of the question.  
 22 Q. It's a very simple question. Did you tell the  
 23 FBI in this meeting -- did someone in this meeting tell  
 24 the FBI that Ken Paxton had illegally disclosed some  
 25 confidential information to someone; yes or no?

1 A. In the meeting, we alleged based on a  
 2 reasonable belief that that activity could have  
 3 occurred, but we were not investigators. That was what  
 4 law enforcement was for.  
 5 Q. That's right. And, Mr. Vassar, I want to see  
 6 us on this point. You're a lawyer, and you're doing  
 7 some -- I mean, you have very good command of the  
 8 language. You had a good-faith belief in certain  
 9 information, but you didn't know that Ken Paxton had  
 10 disclosed anything to anyone when you made this report  
 11 to the FBI, did you?  
 12 A. No, not --  
 13 Q. You were hoping the FBI would sort it out for  
 14 you and not think that you were co-conspirators with  
 15 him, correct?  
 16 A. No. The purpose of the complaint to the FBI  
 17 was because we had formed a belief in good faith that  
 18 the attorney general was involved in criminal activity.  
 19 Q. This is something that I keep hearing over and  
 20 over again. We formed a good -- we formed -- let me  
 21 make sure I get it right -- formed a good-faith belief  
 22 that the attorney general of this state was engaged in  
 23 illegal activity. Did I say that right?  
 24 A. That's accurate.  
 25 Q. But you didn't know, right?

1 A. Well --  
 2 Q. You didn't know, right?  
 3 A. That's the -- that's the point of the  
 4 good-faith belief, is we had no evidence that we could  
 5 point to, but we had reasonable conclusions that we  
 6 could draw.  
 7 Q. You went to the FBI and reported the attorney  
 8 general of this state with no evidence. Do I have that  
 9 correct?  
 10 A. We reported the facts to the FBI.  
 11 Q. That's not my question. You had no evidence  
 12 that Ken Paxton had done anything illegal, did you?  
 13 MR. HARDIN: Your Honor, it's not  
 14 necessary to yell at this witness. I suggest it's  
 15 disrespectful. I request he quit doing it.  
 16 MR. LITTLE: I apologize. Let me do this  
 17 again at a lower volume.  
 18 Madam Court Reporter, would you read my  
 19 question back for me, please, at an appropriate volume.  
 20 (Requested portion was read.)  
 21 Q. (BY MR. LITTLE) Yes?  
 22 PRESIDING OFFICER: Repeat that so --  
 23 because they could not hear her on the microphone.  
 24 MR. LITTLE: Yes, Mr. President, I will.  
 25 (Background noise)

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1 MR. LITTLE: Watching a livestream over  
 2 there. Hold on. Let me ask this question again.  
 3 Q. (BY MR. LITTLE) Let me get this straight.  
 4 You went to the FBI and reported him for potential  
 5 crimes without any evidence. Do I have that correct?  
 6 A. We went to the FBI and reported --  
 7 Q. Please answer my question yes or no.  
 8 A. -- our belief that criminal activity had  
 9 occurred.  
 10 Q. That was not my question.  
 11 PRESIDING OFFICER: The witness needs to  
 12 answer the question yes or no.  
 13 Q. (BY MR. LITTLE) Should I ask it again,  
 14 Mr. Vassar?  
 15 A. Please.  
 16 Q. I want to get this straight. You went to the  
 17 FBI on September 30th with your compatriots and reported  
 18 the elected attorney general of this state for a crime  
 19 without any evidence. Yes?  
 20 A. That's right. We took no evidence.  
 21 Q. Did you gain any after that? Did you gain any  
 22 after that?  
 23 A. Well, we weren't collecting evidence.  
 24 Q. Did you gain any after that?  
 25 A. Evidence of -- of what, sir? Of --

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1 Q. Evidence of a crime committed by the elected  
 2 attorney general in this state elected by over 4 million  
 3 voters? That guy.  
 4 A. I don't -- I don't recall if we had collected  
 5 any evidence.  
 6 Q. Don't you think that's something that you  
 7 should be able to recall, sir?  
 8 A. Well, when we presented ourselves to the FBI,  
 9 we did so as witnesses, not as investigators to collect  
 10 evidence.  
 11 Q. You did so as complainants, hoping that you  
 12 would not be named as co-conspirators. True? You made  
 13 a complaint. Yes?  
 14 A. Yes, it was --  
 15 Q. Without any evidence. Yes?  
 16 A. No.  
 17 Q. I'm sorry?  
 18 A. Again, these are our good-faith beliefs that a  
 19 crime had occurred.  
 20 Q. Respectfully, sir, we are not here in this  
 21 historic event for your good-faith beliefs. So if you  
 22 could just tell these senators who are taking up their  
 23 time and all of Texas' time with this impeachment --  
 24 MR. HARDIN: Excuse me. These sidebar  
 25 testifying comments are an inappropriate form of cross.

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1 If he'd just ask a question, I have no objection.  
 2 MR. LITTLE: I will throttle it down. I  
 3 withdraw it.  
 4 PRESIDING OFFICER: Pull that back.  
 5 MR. LITTLE: Yes.  
 6 PRESIDING OFFICER: Ask a question.  
 7 Q. (BY MR. LITTLE) Mr. Vassar, we've got a lot  
 8 of people whose time is invested in this impeachment  
 9 proceeding. Did you -- did you gain any evidence after  
 10 you went to the FBI?  
 11 A. I'm not sure what evidence that we would  
 12 have -- that I can recall. I --  
 13 Q. You had a good-faith belief. We've heard  
 14 those words a lot in this trial, a good-faith belief.  
 15 But without any evidence, correct?  
 16 A. The evidence that we provided --  
 17 Q. Why didn't you go -- why didn't you talk to  
 18 Ken Paxton -- I'm sorry.  
 19 MR. HARDIN: Excuse me. Please let him  
 20 finish his answer.  
 21 PRESIDING OFFICER: Overruled.  
 22 He was finished.  
 23 Q. (BY MR. LITTLE) Mr. Vassar, when you worked  
 24 for Ken Paxton, was he gentle?  
 25 A. As far as I knew, yes, sir.

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1 Q. Is he kind?  
 2 A. Yes, sir.  
 3 Q. He ever yell at you? Scream at you?  
 4 A. No, sir.  
 5 Q. Don't you think you owed him the courtesy of  
 6 at least a phone call before you reported a man to the  
 7 FBI without a shred of evidence?  
 8 A. Well, that's not how the reporting structure  
 9 worked.  
 10 Q. Oh, please tell these senators how it works.  
 11 A. Well, all of my interactions were directly  
 12 with Jeff Mateer and Ryan Bangert. General Paxton would  
 13 call me with questions like the open records issue or  
 14 the foreclosure letter, or I'm sorry -- not the  
 15 foreclosure letter. That was through Ryan Bangert,  
 16 outside counsel.  
 17 So every other instance was my weekly  
 18 meetings with Jeff Mateer and Ryan Bangert. And I never  
 19 called the attorney general. He always called me.  
 20 Q. I appreciate your answer, but that was not  
 21 really what I asked. So let me try again.  
 22 Don't you think you owed the Attorney  
 23 General of the State of Texas at least a phone call  
 24 before you reported him to the FBI without any evidence?  
 25 Yes or no?

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1 A. I --  
 2 Q. That's not the way it worked? Yes or no?  
 3 A. Would you like me to answer?  
 4 Q. Yes, I would.  
 5 A. Based on our conversations with Mr. Mateer and  
 6 Mr. Bangert, they were having conversations directly  
 7 with General Paxton. I was not part of those  
 8 conversations. So any concerns that they had raised  
 9 with him would have been in their conversations. I had  
 10 no reason to call him directly.  
 11 MR. LITTLE: Object. Nonresponsive.  
 12 PRESIDING OFFICER: Sustained.  
 13 Q. (BY MR. LITTLE) Let me try this again,  
 14 Mr. Vassar. Don't you think you personally --  
 15 Ryan Vassar, don't you think you owed the attorney  
 16 general of the state of Texas elected by over 4 million  
 17 voters a phone call before you reported him to the FBI  
 18 without any evidence, sir?  
 19 A. I was appalled at the time, so --  
 20 MR. LITTLE: Object. Nonresponsive.  
 21 MR. HARDIN: Excuse me, Your Honor.  
 22 PRESIDING OFFICER: Sustained.  
 23 MR. HARDIN: I object to the continued  
 24 interruption of the answer. If he doesn't like the  
 25 answers he's getting, he can then object to it being

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1 nonresponsive. But jumping in the middle of this man is  
 2 totally unfair, and I object.  
 3 PRESIDING OFFICER: I will listen more  
 4 closely, Counselor. I have not heard him interrupt him.  
 5 I will listen more closely so the witness can finish his  
 6 answer, and you can do a follow-up question.  
 7 MR. LITTLE: Thank you.  
 8 Q. (BY MR. LITTLE) Can we go --  
 9 PRESIDING OFFICER: Objection is  
 10 overruled.  
 11 MR. LITTLE: Thank you.  
 12 Q. (BY MR. LITTLE) May I go back to my question,  
 13 Mr. Vassar? My question was, don't you think you  
 14 personally owed Attorney General Ken Paxton elected by  
 15 over 4 million voters a phone call before you reported  
 16 him to the FBI without any evidence? Yes or no? No, I  
 17 don't; yes, I do?  
 18 A. Well, I would disagree that we didn't have any  
 19 evidence just based on our beliefs, but I don't think I  
 20 owed General Paxton anything.  
 21 Q. You don't? You worked for him for five years.  
 22 A. That's right. And I believed in him.  
 23 Q. He gave you a job, correct?  
 24 A. He did. And promotion.  
 25 Q. And a promotion, huh? Not enough to warrant a

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1 phone call before you reported him to the FBI, though,  
 2 true?  
 3 A. Like I said --  
 4 Q. Do you wish you could go back and call him?  
 5 A. I'm sorry, say --  
 6 Q. Do you wish you could go back in time and call  
 7 Ken Paxton and talk to him before you reported him to  
 8 the FBI without any evidence?  
 9 A. I wouldn't do anything else differently.  
 10 Q. Interesting. Okay.  
 11 You don't know anything about Ken  
 12 Paxton's campaign donations from 2018, do you?  
 13 A. No, sir, I don't.  
 14 Q. You didn't work on the Mitte Foundation case,  
 15 did you?  
 16 A. No, sir.  
 17 Q. When you went to the FBI, did you have Ken  
 18 Paxton's phone number at least? Could you call him on  
 19 his cell phone? Did you have the number?  
 20 A. I believe I had his phone number in my phone,  
 21 yes, sir.  
 22 Q. How did you get it?  
 23 A. I think he gave it to me.  
 24 Q. Why?  
 25 A. Just based on working with him and questions

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1 that he would call me with.  
 2 Q. So you could call him if you needed something,  
 3 and so he could call you if you needed something, right?  
 4 A. That could be an option, just based on a cell  
 5 phone use.  
 6 Q. You even had his secret email address, didn't  
 7 you?  
 8 A. I'm not sure which one is --  
 9 Q. Well, there is an email that's already entered  
 10 into evidence in this case. It's ag.wkp@protonmail.com.  
 11 Have you seen it?  
 12 A. Yes.  
 13 Q. He gave it to you, right?  
 14 A. Yes.  
 15 Q. Did you email him on his secret email address,  
 16 tell him that you were going to go and report him to the  
 17 FBI without any evidence?  
 18 A. No, sir.  
 19 Q. Why not?  
 20 A. It didn't occur to me.  
 21 Q. Didn't occur to you.  
 22 At some point since then has it occurred  
 23 to you that maybe you should have done that?  
 24 A. No, sir.  
 25 Q. How secret could this email address have

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1 really been, Mr. Vassar, if you had it?  
 2 A. I don't know exactly.  
 3 Q. Do you consider yourself a close confidante of  
 4 the attorney general?  
 5 A. No, sir.  
 6 Q. Do you think you're the only person that had  
 7 that email address?  
 8 A. I have no reason to believe that I was the  
 9 only one.  
 10 Q. So this gentle, kind man, was he attentive to  
 11 your concerns when you talked to him in the office,  
 12 talked to him on the phone?  
 13 A. Sure.  
 14 Q. He's gentle. He's kind. He's attentive. And  
 15 at what point in time did the weight of what you were  
 16 doing in reporting this gentle, kind, attentive man to  
 17 the FBI become apparent to you?  
 18 A. On September 29th.  
 19 Q. When you walked in there?  
 20 A. Walked in where?  
 21 Q. To the FBI.  
 22 A. No. That was September 30th.  
 23 Q. Okay. So what happened on September 29th when  
 24 the great weight of having to report this gentle, kind,  
 25 attentive boss struck you? What was going on?

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1 A. September 29th I was in a meeting. Just a  
 2 division meeting with Lacey Mase. And we received --  
 3 she received a text message on her phone from an  
 4 individual that I did not recognize. And the individual  
 5 asked if a Brandon Cammack was working for our office.  
 6 Q. And you knew exactly who that was, didn't you?  
 7 A. Yes. I recognized the name.  
 8 Q. And what happened in your mind was you  
 9 realized this contract didn't work its way all the way  
 10 through the executive action memorandum process, true?  
 11 A. Among other things, yes, that's -- that's a  
 12 thought that went through my mind.  
 13 Q. Yes. And the rest of that thought is if that  
 14 process has not been completed, he has no authority to  
 15 work on behalf of the Office of the Attorney General,  
 16 correct?  
 17 A. Yes.  
 18 Q. And that was alarming to you, true?  
 19 A. In addition to the fact that he was acting in  
 20 a capacity that he didn't have, even if a contract had  
 21 existed at the time.  
 22 Q. And in that moment, did you call General  
 23 Paxton and say, Brandon Cammack's working. What's going  
 24 on?  
 25 A. No, sir.

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1 Q. Do you think it's possible, is there room in  
 2 the -- in your mind for the possibility that if you had  
 3 called Ken Paxton and told him that information, Ken  
 4 Paxton would have said, yeah, Ryan. I signed the  
 5 contract with my own hands, with my own pen?  
 6 Is there room in your mind for the  
 7 possibility that that would have happened?  
 8 A. Well, it is possible, but he was out of the  
 9 state at that time. So I wouldn't have been connected  
 10 to him or had a reason to call him.  
 11 Q. You had his phone number. So what if he was  
 12 out of the state. Cell phone works out of the state,  
 13 surely, right?  
 14 A. Yes, sir.  
 15 Q. You didn't think to call him?  
 16 A. Well, as I -- as I explained, because he was  
 17 out of state, Jeff Mateer was running the office.  
 18 Q. That's another thing we're going to get to,  
 19 okay.  
 20 My understanding is your belief was that  
 21 while Ken Paxton was in Ohio working on the Google case,  
 22 the biggest case that the Office of the Attorney General  
 23 had, Jeff Mateer was the acting attorney general, right?  
 24 A. That's correct. Although, my understanding,  
 25 in addition --

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1 MR. LITTLE: I'm going to object as  
2 nonresponsive to the remainder of this answer.  
3 PRESIDING OFFICER: Sustained.  
4 Q. (BY MR. LITTLE) Mr. Vassar, can it possibly  
5 be in a state with as many millions of people as Texas  
6 has that it is the belief of the upper echelon of the  
7 attorney general's office that any time the attorney  
8 general gets on the plane, Jeff Mateer is the real  
9 attorney general?  
10 A. Only to the extent the Government Code is  
11 triggered. That's what -- that's what deputizes the  
12 first assistant to act under the authority of the  
13 attorney general.  
14 Q. And your belief was that on September 29th --  
15 September 29th and 30th, when Ken Paxton was in Ohio  
16 doing business on behalf of the people of the great  
17 State of Texas, litigation business, very important  
18 litigation business, that someone else was the attorney  
19 general and that's what the Government Code says; is  
20 that right?  
21 A. Well, it was my understanding it was a  
22 political event. It was a campaign event. I had no  
23 knowledge that he was working on the Google case.  
24 Q. He was doing a campaign event in Ohio?  
25 A. That was my understanding at the time.

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1 Q. Where on earth did you get that?  
2 A. I just -- conversations at the time with  
3 Mr. Mateer.  
4 Q. So if he was on -- let's say he was. Let's  
5 say he was in Ohio on a campaign event. Jeff Mateer is  
6 the attorney general while he's there?  
7 A. I was just clarifying my understanding based  
8 on your question.  
9 Your next question of whether Jeff Mateer  
10 is the acting attorney general, again, that would depend  
11 on the statute. The statute provides if the attorney  
12 general is absent or unable to act, the first assistant  
13 shall perform the duties.  
14 Q. Tell the senators what "absent" means.  
15 A. The statute doesn't define it.  
16 Q. Tell me what you think it means.  
17 A. Well --  
18 Q. Out of the state?  
19 A. It would mean the ordinary meaning of the  
20 word, under a statutory interpretation approach.  
21 Q. Tell these senators, many of whom are very  
22 accomplished attorneys, what the word "absent" means to  
23 your understanding, please.  
24 A. I am not advised of what the dictionary  
25 definition would be. That would be an interpretive

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1 guide. "Absent" could mean out of state. Absent or  
2 unable to act could mean incapacitated.  
3 Q. Like if Ken Paxton was on life support in a  
4 hospital somewhere, for example?  
5 A. I presume so.  
6 Q. But he wasn't. He was in Ohio, which I guess  
7 is debatable one way or the other.  
8 A. I'm not -- I'm not aware if that statute has  
9 ever been interpreted by a court, so I could not be able  
10 to say.  
11 Q. But in any event, it provides the perfect  
12 cover for someone in your office to remove Ken Paxton's  
13 name from the letterhead and begin sending out letters  
14 on behalf of the Attorney General of the State of Texas,  
15 true?  
16 A. No. Nobody removed his name from letterhead.  
17 Q. You don't think so?  
18 A. No, sir.  
19 Q. Have you ever seen -- have you ever seen  
20 attorney general's office letterhead without Ken  
21 Paxton's name on it?  
22 A. All the time.  
23 Q. All the time?  
24 A. Yes, sir.  
25 Q. How did correspondence in September of 2020

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1 come to be sent to parties outside of the attorney  
2 general's office without Ken Paxton's name on it? Tell  
3 us.  
4 A. Well, the agency has different letterhead.  
5 There -- probably even today, letterhead that's  
6 available on the attorney general's website that does  
7 not have his name on it.  
8 Q. So --  
9 A. Letterhead that he signed.  
10 Q. I see. So when the attorney general is absent  
11 in Ohio, someone at the office goes, grab me the  
12 letterhead without Ken Paxton's name on it. He's in  
13 Ohio today. Is that right?  
14 A. I don't recall any decision about using this  
15 letterhead or who instructed the use of the letterhead.  
16 Q. No one decided. It just happened. Right?  
17 A. Like I said, I don't recall any decision about  
18 it. I'm -- the agency has different letterhead that  
19 exists today.  
20 Q. You're familiar with the Mitte Foundation now,  
21 right?  
22 A. I've heard of it, yes, but I'm --  
23 Q. You've been an attorney how long?  
24 A. I was licensed in 2012, so 11 years.  
25 Q. You said your family goes to a Baptist church,

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1 right?  
 2 A. Yes, sir.  
 3 Q. Okay. That Baptist church is organized as a  
 4 nonprofit, right?  
 5 A. Yes, sir.  
 6 Q. And at some point in time, I'm sure you've  
 7 given money to a charity, correct?  
 8 A. Yes, sir.  
 9 Q. I got to ask you something that's just been  
 10 really bothering me. And I know I am not the only one.  
 11 What in the heck is a charity doing making a  
 12 multimillion-dollar private equity investment with Nate  
 13 Paul with charitable funds? Any thoughts on that?  
 14 A. I'm not sure. I don't know.  
 15 Q. Did you ever ask anybody?  
 16 A. No. I -- I was not involved in the Mitte  
 17 case, was never consulted on it, or provided any advice  
 18 for it.  
 19 Q. Do you know -- maybe you do. Do you know of  
 20 any charities that make multimillion-dollar private  
 21 equity real estate deals with charitable funds?  
 22 A. I have no personal knowledge.  
 23 Q. Okay. Do you recall giving testimony to the  
 24 House Board of Managers and being questioned on video by  
 25 Erin Epley, Brian Benken, and Terese Buess?

1 A. Yes, sir, I remember.  
 2 Q. But they never put you under oath, did they?  
 3 A. Not that I recall.  
 4 Q. Did that kind of surprise you?  
 5 A. I didn't think anything of it.  
 6 Q. Did you ask why not?  
 7 A. I don't know. I don't think I did.  
 8 Q. Well, just because you weren't -- well, you  
 9 are an attorney obviously. Just because you weren't  
 10 under oath doesn't mean that you didn't tell them the  
 11 truth, the whole truth, and nothing but the truth, so  
 12 help you God. True?  
 13 A. That's right.  
 14 Q. Did you review your statement in preparation  
 15 for this historic trial?  
 16 A. No. I consulted with my attorneys and that  
 17 was it.  
 18 Q. Did anyone give you a copy of it?  
 19 A. A copy of my statement?  
 20 Q. Your statement, yes.  
 21 A. No, sir.  
 22 Q. So anything that you said in that testimony --  
 23 I guess we can call it testimony. Anything you said in  
 24 that testimony that is recorded, we can take as the  
 25 gospel truth, right? Yes?

1 A. Just based on my telling the truth, is that  
 2 what you're asking?  
 3 Q. Yes.  
 4 A. Yes, sir.  
 5 Q. We can -- we can take it as being true, yes?  
 6 A. Yes, sir.  
 7 Q. Okay. Have you ever -- before today, have you  
 8 ever in your life been asked to give testimony as a  
 9 witness without being sworn?  
 10 A. I don't recall. I -- I've -- I've been a  
 11 resource witness to many Senate and committee hearings,  
 12 but I don't recall if there's an oath administered to a  
 13 resource witness. So I apologize.  
 14 Q. Have you ever given sworn testimony anywhere  
 15 before today?  
 16 A. No, I don't think so.  
 17 Q. It's a tough first outing, isn't it?  
 18 MR. LITTLE: Mr. Arroyo, if you would,  
 19 Article I of Impeachment, please.  
 20 Q. (BY MR. LITTLE) You see Article I on your  
 21 screen, sir?  
 22 A. Yes, sir.  
 23 Q. You don't know anything about this, do you?  
 24 A. No. This would be the Mitte Foundation  
 25 matter.

1 Q. And just to be clear, have you looked at  
 2 Chapter 123 of the Property Code to determine what the  
 3 Office of the Attorney General's obligations are with  
 4 regard to charities in this state?  
 5 A. No, sir.  
 6 Q. Don't know anything about that, do you?  
 7 A. No, sir.  
 8 Q. All right.  
 9 MR. LITTLE: Mr. Arroyo, Article II if  
 10 you would.  
 11 Q. (BY MR. LITTLE) Now, Mr. Vassar, you've given  
 12 some testimony about what we'll call the foreclosure  
 13 opinion, right, that was issued August 1?  
 14 A. Yes, sir.  
 15 Q. Issued August 1 of 2020? Yes?  
 16 A. Yes. I -- I believe that's right. It was a  
 17 Sunday.  
 18 Q. That opinion was not a legal opinion under  
 19 subchapter C, Chapter 402 of the Government Code, was  
 20 it?  
 21 A. Yes. It was a legal opinion under subchapter  
 22 402.  
 23 Q. It was?  
 24 A. Yes, sir.  
 25 Q. That's not what you told the House Board of

1 Managers. What did you tell them?  
 2 A. I don't recall.  
 3 Q. We'll get to that later. But that's not what  
 4 you told them, is it?  
 5 A. I -- I don't recall. I may have misstated.  
 6 Q. You may have misstated?  
 7 A. If you're saying that's not what I said, and  
 8 my testimony today is that there is no other statutory  
 9 authority except for Chapter 418 of the Disaster Act to  
 10 issue a legal authority -- to issue a legal opinion by  
 11 the Office of the Attorney General, so it either has to  
 12 be Chapter 402 or it has to be Chapter 418.  
 13 Q. But we know this is not 402 because it says on  
 14 the face of the foreclosure opinion that it is not under  
 15 402, correct?  
 16 A. It does say that it's not, but that doesn't  
 17 mean it doesn't fall under the authority of that  
 18 chapter. It just means it didn't -- it wasn't written  
 19 in accordance with the typical legal opinion process.  
 20 Q. I was hoping that we would be able to have a  
 21 chance to discuss this.  
 22 MR. LITTLE: Mr. Arroyo, please bring up  
 23 Section 402.042 of the Texas Government Code.  
 24 Now we're looking for 042. That's .212.  
 25 We'll get to that later. Thank you.

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1 Q. (BY MR. LITTLE) While Mr. Arroyo is bringing  
 2 this up, I've got a couple questions for you about that.  
 3 In order for the foreclosure opinion to  
 4 have been authorized under Chapter 402 of the Government  
 5 Code, Mr. Vassar, certain criteria need to be met; is  
 6 that correct?  
 7 A. I believe so.  
 8 Q. There first needs to be an authorized  
 9 requestor, correct?  
 10 A. That's correct.  
 11 Q. Who are the types of persons who are  
 12 authorized to make that request?  
 13 A. The governor, the lieutenant governor, the  
 14 speaker, chairman, and chair people of committees of the  
 15 House and of the Senate, executive heads of agencies,  
 16 and county and district attorneys.  
 17 Q. Did any of those people request the  
 18 foreclosure opinion?  
 19 A. Yes, sir.  
 20 Q. Okay. What is the next criteria to satisfy  
 21 for Chapter 402 of the Government Code?  
 22 A. You're going to have to refresh my  
 23 recollection.  
 24 MR. LITTLE: All right. Mr. Arroyo, if  
 25 you would, move to the second page of that PDF that you

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1 just had up.  
 2 There you go. If you could just  
 3 highlight the text at the top, that big chunk of text  
 4 there. Little bit lower. Thank you so much. And just  
 5 blow that up for us.  
 6 Q. (BY MR. LITTLE) Let's look at Item C, okay?  
 7 You're a lawyer. We can read this together, right?  
 8 Right?  
 9 A. Yes, sir.  
 10 Q. It says, A request for an opinion must be in  
 11 writing and sent by certified or registered mail, with  
 12 return receipt requested, addressed to the Office of the  
 13 Attorney General in Austin, or electronically to an  
 14 email address designated by the attorney general for the  
 15 purpose of receiving requests for opinions under this  
 16 section.  
 17 Did I read that correctly?  
 18 A. Yes, sir.  
 19 Q. That didn't happen with the foreclosure  
 20 opinion, did it?  
 21 A. I'm not advised if it did.  
 22 Q. You were in charge of the section. Is there  
 23 anybody who has more knowledge about this than you  
 24 perhaps?  
 25 A. I don't have access to the email box that it

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1 would have been received at, so I'm not aware of how it  
 2 was delivered, if it was delivered by electronic mail.  
 3 Q. Can you tell the senators whether the criteria  
 4 of Section 402.042(c) were satisfied, yes or no?  
 5 A. I -- I'm not sure. I don't recall.  
 6 Q. And you -- that you were in charge, right?  
 7 A. Yes, sir. Subsection D allows --  
 8 Q. Seems kind of -- I'm not talking about  
 9 subsection D. We're not there yet.  
 10 Seems kind of important to know whether  
 11 this satisfies the criteria for the attorney general to  
 12 provide formal legal advice. Yes?  
 13 A. Yes, sir.  
 14 Q. But you told the House Board of Managers this  
 15 was not -- this foreclosure opinion was not formal legal  
 16 advice, correct?  
 17 A. That's correct, it was not.  
 18 Q. It was not formal legal advice. It was  
 19 informal guidance, true?  
 20 A. I believe so.  
 21 Q. And during COVID, the Office of the Attorney  
 22 General was dispensing informal legal advice related to  
 23 COVID almost every day, was it not?  
 24 A. It was very frequently. I don't know if it  
 25 was every day, but --

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1 Q. Were you writing the opinions?  
 2 A. Some of them, yes.  
 3 Q. People who are working for you were writing  
 4 the opinions as well, yes?  
 5 A. Yes.  
 6 Q. And there were all kinds of COVID opinions  
 7 coming out almost every day, informal legal guidance  
 8 from the Office of the Attorney General, that did not  
 9 satisfy the criteria of Chapter 402 of the Government  
 10 Code, true?  
 11 A. I'm not sure about that. Most of -- a lot of  
 12 the things that you're referring to about the daily  
 13 stuff would have come through Chapter 418, which is the  
 14 disaster counsel legal function. Those would have come  
 15 from county mayors or city mayors, county judges, and  
 16 emergency management directors. Those were coming more  
 17 frequently than the other ones.  
 18 Q. Well, let's build two boxes. In this box, we  
 19 have Chapter 402, formal legal advice, correct? Okay.  
 20 So in this box, we place formal legal opinions from the  
 21 Office of the Attorney General that satisfy the criteria  
 22 of 402.042. Yes?  
 23 A. Sure.  
 24 Q. And it's assigned a KP number, correct?  
 25 A. That's right.

1 Q. And it's published in the formal opinions  
 2 section of the office's website, correct?  
 3 A. That's right.  
 4 Q. And to be clear for the ladies and gentlemen  
 5 of this jury, the foreclosure opinion did not satisfy  
 6 anything in that box, correct?  
 7 A. No. That's why it was flagged as not a formal  
 8 legal opinion.  
 9 Q. It's in the 418 box. Because at that point in  
 10 time, the governor of this state had decided to empower  
 11 the attorney general to give the people of Texas  
 12 guidance more freely about what's going on during COVID.  
 13 True?  
 14 A. That's not true.  
 15 Q. It's not true?  
 16 A. That's -- that's correct. It is not true.  
 17 Q. How did the attorney general get the ability  
 18 to give people informal legal advice under Chapter 418  
 19 of the Government Code?  
 20 A. Well, it wasn't from the governor. The  
 21 legislature enacted a statute that the governor signed  
 22 giving the attorney general the power to advise three  
 23 people -- three categories of people: County judges,  
 24 city mayors, and emergency management directors.  
 25 Q. I apologize for my imprecision.

1 So at this point in time, these people,  
 2 the legislature, at least in part, had empowered the  
 3 attorney general to give informal legal guidance more  
 4 freely. True?  
 5 A. To select people, yes, that's true.  
 6 Q. Yes. How select were they?  
 7 A. It's the three categories of people: County  
 8 judges, city mayors, and emergency management directors  
 9 under the disaster act.  
 10 Q. There were people in the House Board of  
 11 Managers who were requesting informal legal guidance  
 12 relative to COVID, weren't there?  
 13 A. But that wouldn't have triggered Chapter 418.  
 14 The only other expressed statutory authority for a legal  
 15 opinion is 402.  
 16 Q. But if it doesn't have a KP number and it  
 17 doesn't satisfy the criteria of 402.042, it's not formal  
 18 legal advice, correct?  
 19 A. That's correct. It's not a formal piece of  
 20 advice. It's an informal piece of advice under  
 21 Chapter 402.  
 22 Q. One of the things that had to do with your  
 23 termination, I believe, is your voluntarily sending  
 24 secret grand jury subpoenas outside of the Office of the  
 25 Attorney General to someone who is not authorized to

1 receive them. Do you understand that?  
 2 A. That's never been stated to me, but that's my  
 3 understanding, based on the OAG's whistleblower report.  
 4 Q. Well, you don't have to wait for the OAG to  
 5 tell you that. You know you did it, right?  
 6 A. I -- I only sent copies of records to my  
 7 private lawyer. I did not send them to any member of  
 8 the public or disclose them to the public outside of the  
 9 agency.  
 10 Q. Was Johnny Sutton authorized to receive secret  
 11 grand jury subpoenas from Travis County. Yes or no?  
 12 A. Well, on their face, they were valid. Brandon  
 13 Cammack had no contract. He was not a special  
 14 prosecutor. He had no authority to request them or to  
 15 obtain them.  
 16 Q. Mark Penley thought they were valid enough to  
 17 quash and to get a judge to sign an order to quash them,  
 18 didn't he?  
 19 A. Well, because they were issued.  
 20 Q. They were issued. And when they were issued,  
 21 they were secret, true? True?  
 22 A. I guess, unless they were invalidly obtained  
 23 under false pretenses.  
 24 Q. Are you aware of some type of exception that  
 25 allows you to send secret grand jury subpoenas to your

1 lawyer?  
 2 A. Well, I thought sending it to my lawyer for  
 3 purposes of legal advice would be permissible. I'm not  
 4 a --  
 5 Q. Did you check and ask Mr. Sutton whether he  
 6 represented any of the subpoena recipients before you  
 7 sent them to him?  
 8 A. Yes. In our conversation for him to represent  
 9 us, we discussed whether he was able to do so.  
 10 Q. And after you sent those grand jury subpoenas  
 11 to your lawyer, copying the rest of the so-called  
 12 whistleblowers, you deleted that email from your inbox,  
 13 true?  
 14 A. That's right.  
 15 Q. I think you'll probably recall at some point  
 16 in your five years of employment at the Office of the  
 17 Attorney General receiving some type of training in  
 18 document preservation. Yes?  
 19 A. Yes.  
 20 Q. And what types of training did you receive?  
 21 Please tell the ladies and gentlemen of this jury.  
 22 A. I believe it's an annual information security  
 23 training. There's annual sexual harassment training.  
 24 So there's a variety of required annual trainings that  
 25 employees of the office are required to complete.

1 Q. In a second I'm going to ask you -- well, let  
 2 me ask you now.  
 3 You are not allowed to delete official  
 4 records of the attorney general's office. True?  
 5 A. Official records, no. That's -- that's right,  
 6 unless --  
 7 Q. In a second I'm going to ask you whether you  
 8 deleted emails from your computer that should have been  
 9 preserved as official records. Do you want to consult  
 10 with your criminal attorney first?  
 11 A. No, sir.  
 12 Q. Did you delete official email records of the  
 13 Office of the Attorney General, sir?  
 14 A. I deleted emails to my personal attorney under  
 15 the agency's own information security policy that's  
 16 provided to every employee, that personal messages of a  
 17 de minimis nature are allowed on agency devices,  
 18 provided that those messages are deleted, to prevent  
 19 archival. Because I made a determination that I emailed  
 20 Johnny Sutton in my personal capacity with copies of  
 21 records, not records that had to be maintained on an  
 22 agency device, but copies of records that existed in the  
 23 office, I deleted the personal message to Johnny Sutton.  
 24 Q. It seems, Mr. Vassar, that one of the things  
 25 you are accusing Ken Paxton of doing is by allowing

1 people outside of the Office of the Attorney General to  
 2 see secret things they should not see. Do I have that  
 3 correct?  
 4 A. No, sir. Mr. Sutton was my personal lawyer.  
 5 Q. No. That wasn't my question. Let me try  
 6 again. Listen to my question.  
 7 One of the things that you are accusing  
 8 Ken Paxton of doing is forwarding secret information of  
 9 the Office of the Attorney General to people who should  
 10 not have it. Yes?  
 11 A. That is a suspicion.  
 12 Q. You don't even have enough to make an  
 13 accusation. You suspect that it occurred, right?  
 14 A. Yes, sir.  
 15 Q. But that's what you did, isn't it?  
 16 A. No. I forwarded it to my personal lawyer for  
 17 purposes of legal advice.  
 18 Q. And you think that protects you somehow?  
 19 A. Well, if any ordinary person gets a subpoena,  
 20 I imagine their first call is to their lawyer who  
 21 reviews the subpoena.  
 22 Q. In preparing the foreclosure opinion, Ken  
 23 Paxton didn't direct you; Ryan Bangert did. Yes?  
 24 A. Yes, sir.  
 25 Q. And Ken Paxton didn't direct Austin Kinghorn,

1 you did, correct?  
 2 A. That's right.  
 3 MR. LITTLE: If you would, Mr. Arroyo,  
 4 please bring up Article II.  
 5 Q. (BY MR. LITTLE) This allegation is not true,  
 6 is it?  
 7 A. Is there a specific part that you'd like me to  
 8 review or --  
 9 Q. Read it all.  
 10 Ken Paxton is innocent of this  
 11 allegation, isn't he?  
 12 A. So the first provision of the second sentence,  
 13 this is Article II of the Articles of Impeachment,  
 14 Paxton caused employees of his office to prepare an  
 15 opinion.  
 16 Q. Hold on a second. I don't want you to read it  
 17 out loud.  
 18 A. Okay.  
 19 Q. We don't need to waste the jury's time doing  
 20 that. They can read. Many of them are skilled  
 21 attorneys themselves.  
 22 This article is not true, is it?  
 23 A. Well, it is true that he caused employees of  
 24 his office to prepare an opinion in an attempt to avoid  
 25 the impending foreclosure of properties.

1 Q. But you don't know whether those properties  
2 belonged to Nate Paul or business entities controlled by  
3 Nate Paul, do you? You don't know that?  
4 A. Nothing other than what's been reported in the  
5 media.  
6 Q. You don't know that -- what's been reported in  
7 the media. Have you ever heard the phrase "self-licking  
8 ice cream cone" before?  
9 A. No, sir.  
10 Q. Let me explain to you what a self-licking ice  
11 cream cone is, Mr. Vassar. A self-licking ice cream  
12 cone is when a bunch of employees at the attorney  
13 general's office begin to suspect their boss. They read  
14 it in the media. They believe what the media says.  
15 They report it to the FBI. And then the media reports  
16 that you went to the FBI. That's a self-licking ice  
17 cream cone.  
18 Are you familiar with the expression now?  
19 A. Based on your description, yes, sir.  
20 Q. You don't know whether this article is true or  
21 false, do you?  
22 A. No, sir, I didn't write this.  
23 MR. LITTLE: Mr. Arroyo, Article III, if  
24 you will. Article III. Thank you.  
25 Q. (BY MR. LITTLE) You weren't directed to act

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1 in contravention or contrary to the law, were you?  
2 A. No, sir. General Paxton --  
3 MR. LITTLE: Object. Nonresponsive to  
4 anything after "no, sir," Mr. President.  
5 PRESIDING OFFICER: Sustained.  
6 Q. (BY MR. LITTLE) Do you think that your  
7 decision with regard to any open records request that  
8 was made by anyone was improper?  
9 A. No, sir.  
10 Q. It wasn't, was it?  
11 A. No. Everything that we did, we did in a way  
12 that we could find a way to make it lawful because we  
13 wouldn't have participated otherwise.  
14 Q. You did it by the book, correct?  
15 A. Yes, sir.  
16 Q. You wouldn't do it any other way, would you?  
17 A. That's right.  
18 MR. LITTLE: Mr. Arroyo, Article IV, if  
19 you will.  
20 Q. (BY MR. LITTLE) Can you see Article IV,  
21 Mr. Vassar?  
22 A. Yes, sir.  
23 Q. Ken Paxton didn't improperly access anything  
24 in his office that you're aware of, did he?  
25 A. No, not that I'm aware of.

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1 Q. And if he wanted to ask for a file, he could  
2 do that any time he pleased, couldn't he?  
3 A. Sure.  
4 Q. Because that's what 4.2 million voters elected  
5 him to do, true?  
6 A. Yes.  
7 Q. To access whatever file the heck he wants.  
8 Yes?  
9 A. True.  
10 MR. LITTLE: Article V, please.  
11 Q. (BY MR. LITTLE) We know that Ken Paxton's  
12 innocent of this article, right? Right?  
13 A. I'm not even -- I don't recall the distinction  
14 about an attorney pro tem. I used to know it, but --  
15 Q. You don't even know what an attorney pro tem  
16 is, do you?  
17 A. I know there's two categories. One is court  
18 appointed, and one is recusal based, but I don't recall  
19 the nomenclature.  
20 Q. And Brandon Cammack wasn't either one of them,  
21 was he?  
22 A. No. He said he was on the --  
23 Q. Brandon Cammack wasn't either one of them, was  
24 he?  
25 A. No. He had --

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1 Q. He wasn't an attorney pro tem, was he?  
2 MR. HARDIN: Your Honor, he keeps  
3 interrupting the witness. He should be entitled to  
4 finish his answer.  
5 MR. LITTLE: You're right, Mr. Hardin.  
6 I apologize, Mr. President. May I try  
7 again?  
8 PRESIDING OFFICER: You may try again.  
9 Q. (BY MR. LITTLE) Mr. Cammack was not an  
10 attorney pro tem ever, to your knowledge. True?  
11 A. Like I said, I don't recall the distinction  
12 between the two categories of prosecutors, but he was  
13 not hired to be a prosecutor.  
14 Q. He wasn't hired to be any type of prosecutor,  
15 true?  
16 A. Yes, sir.  
17 Q. He was hired as outside counsel because that's  
18 how you drafted the contract personally, yes?  
19 A. Yes, sir.  
20 Q. So when it says Warren Kenneth Paxton misused  
21 his official powers by violating the laws governing the  
22 appointment of prosecuting attorneys pro tem, Brandon  
23 Cammack wasn't a prosecuting attorney pro tem, was he?  
24 A. Not based on my understanding of what that --  
25 Q. I didn't think so either.

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1 MR. LITTLE: Article VI if you would,  
 2 Mr. Arroyo.  
 3 Q. (BY MR. LITTLE) You are familiar with this  
 4 allegation dealing with whistleblowing, correct?  
 5 A. Yes, sir.  
 6 Q. Don't you kind of think Ken Paxton had a right  
 7 to be upset with you reporting him to the FBI without  
 8 any evidence?  
 9 A. I suppose he's entitled to whatever feelings  
 10 he may have felt at the time.  
 11 MR. LITTLE: Article X, if you would  
 12 Mr. Arroyo.  
 13 Q. (BY MR. LITTLE) This says that the Paxtons,  
 14 and it says Ken Paxton. But you understand he's married  
 15 to Angela Paxton, right?  
 16 A. Yes, sir.  
 17 Q. So when somebody's spouse gets accused of  
 18 bribery, and the form of the bribery is improvements to  
 19 a home that are owned by both of them, really you're  
 20 accusing both of them of being corrupt. Right?  
 21 A. I'm -- I don't know.  
 22 Q. Don't you think?  
 23 A. I don't know the elements of bribery. I'm not  
 24 a criminal lawyer. So I'm not sure what the implication  
 25 could be.

1 Q. As you sit here today, you know darn well that  
 2 the Paxtons paid for the renovations and repairs to  
 3 their home, don't you?  
 4 A. No, I don't know that actually.  
 5 Q. You don't know who paid for them?  
 6 A. No.  
 7 Q. Maybe it'll come out in this trial.  
 8 Mr. Vassar, would you expect to be placed  
 9 on investigative leave for sending a set of secret grand  
 10 jury subpoenas to your outside counsel and then deleting  
 11 that email?  
 12 A. No, sir. I mean --  
 13 Q. You wouldn't expect anybody to investigate  
 14 that?  
 15 A. For sending an email to my personal lawyer  
 16 relating to my report to law enforcement?  
 17 Q. Yeah.  
 18 A. And to be retaliated against by being placed  
 19 on investigative leave; is that --  
 20 Q. No. My question is a little bit different, so  
 21 let me be clear about what the question is. Wouldn't  
 22 you expect the Office of the Attorney General to  
 23 investigate your use of your office email to send secret  
 24 grand jury subpoenas to that man, Johnny Sutton, and  
 25 then delete the email? Wouldn't you expect to be

1 investigated for that? Yes or no?  
 2 A. No, not necessarily.  
 3 Q. Okay. Wouldn't you expect to be fired for  
 4 that?  
 5 A. No.  
 6 Q. Wouldn't you expect to be fired for reporting  
 7 your boss to the FBI without any evidence?  
 8 A. No. I -- I would expect an opportunity to  
 9 answer questions based on answers that I was provided  
 10 when I asked what documents are you alleging that I  
 11 disclosed. And when no response was given, I couldn't  
 12 give any further information about who the messages may  
 13 have gone to or for what purpose.  
 14 MR. LITTLE: Mr. President, I'm conscious  
 15 of the indulgence of the hour. And I want to make sure  
 16 that I'm not running up against any type of deadline  
 17 or --  
 18 PRESIDING OFFICER: We were prepared to  
 19 go to 7:00, if needed.  
 20 MR. LITTLE: Would you like me to  
 21 continue?  
 22 PRESIDING OFFICER: You may continue.  
 23 MR. LITTLE: I will be happy to.  
 24 Q. (BY MR. LITTLE) You were the chief of the  
 25 general counsel division at the Office of the Attorney

1 General, correct?  
 2 A. At one point, yes, sir.  
 3 Q. Yeah. So for the ladies and gentlemen of jury  
 4 who are here and may not be lawyers, and for the people  
 5 of Texas who may be watching, you were really a lawyer  
 6 to lawyers, correct?  
 7 A. You could describe it like that, yes.  
 8 Q. That's how I would describe it. General  
 9 counsel is really a lawyer's lawyer. Yes?  
 10 A. Yes, sir.  
 11 Q. And so what happens in the Office of the  
 12 Attorney General, when you are in the general counsel's  
 13 office, actual lawyers come to you and ask you for legal  
 14 advice. Yes?  
 15 A. Yes, sir.  
 16 Q. And that happened regularly, true?  
 17 A. Yes.  
 18 Q. You're first chief of the general counsel  
 19 division, and then you were deputy attorney general for  
 20 legal counsel. True?  
 21 A. That's right.  
 22 Q. And your first involvement with anything  
 23 related to this impeachment was being approached in the  
 24 fall of 2019 with a question about an open records  
 25 request made to the Texas State Securities Board. True?

1 A. That's true.

2 Q. And Ryan Bangert approached you with a

3 question -- remember, you're the lawyer's lawyer. He

4 approached you with a question about whether the State

5 Securities Board's involvement in a joint task force

6 could harm the law enforcement or investigative

7 privilege. True?

8 A. That's my recollection, yes, sir.

9 Q. And you answered his question. Yes?

10 A. Yes, sir.

11 Q. And then you were not involved in anything

12 else related to this impeachment matter until

13 March 2020. True?

14 A. That's -- that's not true. I think it was May

15 of 2020, which was the DPS request.

16 Q. You're wrong about that, but --

17 A. Okay.

18 Q. -- I just want to make sure I understand what

19 your understanding of the timeline is, okay.

20 So when was the period of time when you

21 believe you first got a request -- or an open records

22 request related to this impeachment matter?

23 A. Well, to back up just a little bit, if I may,

24 I was not promoted to deputy for legal counsel until

25 April 1st of 2020. So I wouldn't have overseen the open

1 records division until after April.

2 So I don't know when the DPS request was

3 submitted to our office. That could have been the date

4 that we received it in March, but I wouldn't have been

5 tasked with anything related to it until after I was

6 promoted on April 1st, and then the conversations that I

7 had in May of 2020.

8 Q. Tell the ladies and gentlemen of the jury who

9 Joe Larsen is.

10 A. I believe he's an attorney representing Nate

11 Paul.

12 Q. And what type of work does he do, to the best

13 of your understanding?

14 A. I'm -- I'm not sure. He was -- he was a

15 requestor in two of the open records requests.

16 Q. Yes.

17 A. I don't know if that's his practice.

18 Q. In fact, Joe Larsen works at -- he's pretty

19 well known in the state of Texas for being a Public

20 Information Act lawyer. Yes?

21 A. I'm -- I'm not sure.

22 Q. Had you ever encountered him before?

23 A. No, sir.

24 Q. Okay. So I'm going to tell you my

25 understanding is on March 3 of 2020, Joe Larsen sent

1 what I call "the big request" to DPS, okay. So the one

2 that happened in 2019 was a request -- public -- for

3 public information was made to the Texas State

4 Securities Board. Yes?

5 A. Yes.

6 Q. Ken Paxton asked you about the law enforcement

7 privilege. You answered his question -- I'm sorry, Ryan

8 Bangert asked you about the law enforcement privilege.

9 You answered his question. And that went away, poof.

10 Yes?

11 A. I never heard anything else, yes, that's

12 right.

13 Q. Then March 3 of 2020, Joe Larsen made a Public

14 Information Act request to DPS, what I call "the big

15 request." He's asking for a whole lot of information

16 related to the search warrant execution on Nate Paul.

17 Yes?

18 A. I don't know about the dates. Again, I don't

19 know when he submitted it to DPS, but yes, if that's how

20 you want to categorize "the big request," then yes, that

21 is accurate.

22 Q. Well, this is probably beneath many of the

23 people on the jury who very well understand this, but

24 for people who are watching at home, when someone makes

25 a Public Information Act request of an agency in the

1 state, the agency comes to the Office of the Attorney

2 General for representation, says help us, help us

3 decide. Yes?

4 A. It's not representation, but it's a request

5 for a ruling.

6 Q. Yeah. They want a ruling.

7 A. Right.

8 Q. And so in this situation, DPS wanted a ruling.

9 Yes?

10 A. Correct. If they want to withhold anything

11 under the Public Information Act, they must request a

12 ruling.

13 Q. But Joe Larsen didn't wait for your ruling,

14 did he?

15 A. I'm -- I'm not -- I don't think I follow.

16 Q. On April 10th of 2020, Joe Larsen sent a

17 demand to DPS saying, I asked for this stuff. Give it

18 to me now.

19 Are you familiar with that request or

20 demand?

21 A. No, sir.

22 Q. On April 16 he filed a lawsuit to get it. Are

23 you aware of that, sir?

24 A. I recall the lawsuit.

25 Q. I'm going to show you what's been marked as

1 Exhibit 5. Maybe like one copy.  
 2 MR. LITTLE: Your Honor, may I approach  
 3 the witness?  
 4 PRESIDING OFFICER: Yes, you may.  
 5 MR. LITTLE: Thank you. We move for  
 6 admission of AG Exhibit 5.  
 7 PRESIDING OFFICER: Mr. Hardin?  
 8 MR. HARDIN: No objection, Your Honor.  
 9 PRESIDING OFFICER: AG Exhibit 5 should  
 10 be admitted into evidence.  
 11 (AG Exhibit 5 admitted)  
 12 MR. LITTLE: Thank you, Mr. Arroyo.  
 13 Exhibit 5, if you would. This is good.  
 14 Q. (BY MR. LITTLE) What is this, Mr. Vassar?  
 15 A. This appears to be a petition for mandamus  
 16 filed by Joe Larsen -- Joseph Larsen, as plaintiff  
 17 against the Department of Public Safety, April 16 of  
 18 2020.  
 19 Q. Who did he sue?  
 20 A. He sued the department, it appears.  
 21 Q. What did he sue to get?  
 22 A. I'm not sure.  
 23 Q. Take a moment and look through it. Maybe you  
 24 can figure it out.  
 25 A. Sure.

1 So according to Count 1, Joseph Larsen --  
 2 Q. You don't need to read it out loud.  
 3 A. I'm not. I'm not.  
 4 Q. Okay.  
 5 A. I'm summarizing.  
 6 Q. I'm sorry. Go ahead.  
 7 A. He's suing DPS because of his claimed refusal  
 8 to produce the information that he requested.  
 9 MR. LITTLE: Mr. Arroyo, can you find  
 10 Count One for the ladies and gentlemen of the jury so  
 11 that they're not listening to this blind?  
 12 A. Do you want me to continue?  
 13 MR. LITTLE: Not quite.  
 14 There you go. Thank you.  
 15 Can you just pull up Count One.  
 16 Q. (BY MR. LITTLE) Mr. Larsen is suing DPS based  
 17 on his big request for all the documents that DPS has  
 18 related to the Nate Paul search warrant, true?  
 19 A. I don't -- I don't know -- it looks like, yes,  
 20 Page 1 references the March 4th, 2020, DPS request for  
 21 all communications. So we could call that one the big  
 22 one, if that's the big request.  
 23 Q. I call it "the big request."  
 24 A. Okay.  
 25 Q. So in the big request, Mr. Larsen is suing to

1 get all the raid information. Yes?  
 2 A. Yes. I mean --  
 3 Q. Probable cause affidavit. Yes?  
 4 A. It says all communications in this document,  
 5 but I would assume it would have said all records.  
 6 Q. He wants the full Monty?  
 7 A. Right.  
 8 Q. Everything DPS has related to the Nate Paul  
 9 search warrant. Yes?  
 10 A. I presume so.  
 11 Q. And he's suing to get it. Yes?  
 12 A. Yes, it appears so.  
 13 Q. And the OAG was aware of this litigation.  
 14 True?  
 15 A. Yes. We became aware of it. I don't recall  
 16 when, but --  
 17 Q. It would be pretty stupid for Nate Paul to sue  
 18 to get something that he already had, wouldn't it?  
 19 A. Well, this predated any conversation --  
 20 this -- this lawsuit could have even predated a request  
 21 for ruling to our office, so --  
 22 Q. Let me -- let me press pause there for a  
 23 second.  
 24 To be clear, this big request is the  
 25 request to which OAG responded and said, we take no

1 position on it. True?  
 2 A. Yes, the big request.  
 3 Q. Yeah, the big request.  
 4 So this thing -- by the time OAG even  
 5 decides anything, Joe Larsen has already sued DPS to get  
 6 it, true?  
 7 A. Correct. If I'm following -- so this was  
 8 filed, it appears to be, April 16th. The OAG's  
 9 nondecision in the big request was June 2nd. So this --  
 10 this lawsuit -- and I apologize if I'm not following  
 11 you, but --  
 12 Q. You are following.  
 13 A. Okay.  
 14 Q. Mr. Vassar, you are following me.  
 15 What happened is Joe Larsen says, I'm not  
 16 going to wait to see what the OAG decides on this. I'm  
 17 suing. Right?  
 18 A. Sure. I don't know what he was thinking at  
 19 the time, but --  
 20 Q. And the OAG's no decision on the big request  
 21 did not lead to the production of any documents to Nate  
 22 Paul, did it?  
 23 A. Not -- not under the Public Information Act,  
 24 no, sir.  
 25 Q. No. But Joe Larsen didn't stop there, did he?

1 A. If you're talking about the public information  
2 request to the Office of the Attorney General for the  
3 FBI brief, then you are correct, he did not stop there.  
4 Q. All right. Press pause there.  
5 This third request from Joe Larsen was  
6 for an unredacted copy of the FBI's brief. Let's go  
7 back a step.  
8 This is very confusing and arcane, so I  
9 want to go slowly. All right?  
10 When Joe Larsen made the original big  
11 request of DPS for the search warrant, et cetera, DPS  
12 had to give notice to the FBI. Yes?  
13 A. Yes, sir.  
14 Q. Because they were holding the FBI's own  
15 documents. Yes?  
16 A. That's right.  
17 Q. Said, hey, we're holding some stuff that  
18 probably by right belongs to you. Do you want to  
19 object?  
20 And the FBI has a period of time to  
21 object. Yes?  
22 A. That's right.  
23 Q. And what the FBI did in response to that was  
24 they sent a legal brief. Yes?  
25 A. Yes, sir.

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1 Q. And that legal brief is a bunch of legal  
2 arguments from a lawyer at the FBI. Yes?  
3 A. That's right. The brief identifies the  
4 content of the information that the agency wants to  
5 withhold.  
6 Q. And the brief that the FBI generated and gave  
7 to Mr. Larsen was almost completely redacted, like  
8 something you might get from the CIA, right?  
9 A. I don't recall exactly, but based on what I  
10 recall, it was redacted.  
11 Q. It was just basically a bunch of pieces of  
12 paper with big black blocks on them, right?  
13 A. I -- I don't recall, but it was redacted. I  
14 do remember that.  
15 Q. And Joe Larsen says, this is no good.  
16 He makes a demand for the unredacted FBI  
17 brief. He made a third request, so Request No. 3 under  
18 the Public Information Act, for an unredacted version of  
19 that brief. And he made it directly to the OAG's  
20 office. Yes?  
21 A. Yes, sir.  
22 Q. He didn't make it to DPS. He didn't make it  
23 to FBI. He made it to your office. Yes?  
24 A. Yes, sir.  
25 Q. And what happened is, the OAG sent notice to

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1 the FBI, the same notice DPS had sent earlier, and said,  
2 hey, this guy wants a copy of the unredacted brief. You  
3 guys need to show up and object if you don't want him to  
4 get it. True?  
5 A. Yes. That would have been the third-party  
6 notice.  
7 Q. And the FBI blew it, right?  
8 A. I don't recall. I was not involved in those  
9 conversations. I don't recall what happened.  
10 Q. The FBI didn't respond in time. True?  
11 A. That could --  
12 Q. True?  
13 A. I believe that could be true. I don't recall.  
14 It -- I'm happy to refresh my recollection if you  
15 have --  
16 Q. Joe Larsen got the unredacted FBI brief. Yes?  
17 A. Yes, I believe so.  
18 Q. And he -- and he got it because your office  
19 decided the FBI blew the deadline. Yes?  
20 A. That's functionally correct.  
21 Q. Functional -- what do you mean? What does  
22 that mean?  
23 A. Well, after we had advised General Paxton  
24 about the issue --  
25 Q. What did you need to advise him about? Ken

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1 Paxton -- hold on a second.  
2 Ken Paxton --  
3 MR. HARDIN: Excuse me. Excuse me. He  
4 asked him what you mean. He's in the middle of  
5 answering, and he cuts him off because he don't want the  
6 answer.  
7 PRESIDING OFFICER: Sustained.  
8 MR. HARDIN: Excuse me --  
9 PRESIDING OFFICER: Slow down.  
10 MR. LITTLE: You're very right. My  
11 apologies.  
12 Q. (BY MR. LITTLE) Did you need Ken Paxton to  
13 tell you that the FBI blew the deadline?  
14 A. I'm sorry. Did I -- did I need Ken Paxton to  
15 tell me that the FBI missed the deadline?  
16 Q. Yes.  
17 A. No, sir. No. We -- I brought it to General  
18 Paxton --  
19 MR. LITTLE: Object. Nonresponsive to  
20 everything after "no, sir."  
21 PRESIDING OFFICER: Sustained.  
22 Q. (BY MR. LITTLE) So after the FBI blew the  
23 deadline, Joe Larsen got the unredacted FBI brief fair  
24 and square. Yes? Yes?  
25 A. I assume so. I did not provide it to him, but

Lorrie A. Schnoor, CSR, RDR, CRR

1 I assume a copy was provided in response to the decision  
2 to let the brief go out.  
3 Q. Okay. Just make it -- like -- tell the ladies  
4 and gentlemen of the jury like you would a seventh  
5 grader. Did -- did Joe Larsen get the unredacted FBI  
6 brief because the FBI blew the deadline?  
7 A. It was mainly because General Paxton told us  
8 to release the FBI brief.  
9 Q. And he told you to do that because the FBI  
10 blew the deadline, right?  
11 A. I don't know if that's why he told us that.  
12 Q. But they did blow the deadline. Yes?  
13 A. I don't recall. I -- I was not involved in  
14 contacting them directly. I don't know what any  
15 responses we would have received or when.  
16 Q. This is you -- sorry.  
17 You're in charge of this. Yes?  
18 A. That's right.  
19 Q. And you can't remember, right?  
20 A. No, I don't -- I didn't have direct contact  
21 with the FBI about a brief or a notice. Those are all  
22 handled by the opinions division.  
23 Q. Are you satisfied in your own mind that the  
24 proper notice was provided to the FBI and the deadline  
25 was not satisfied?

Lorrie A. Schnoor, CSR, RDR, CRR

1 A. To -- based on my knowledge, yes. I didn't  
2 see it, but --  
3 Q. Nate Paul's lawyer got that fair and square,  
4 didn't he?  
5 A. Maybe under the Public Information Act.  
6 Q. The law, you mean?  
7 A. Correct. Just under an interpretation of  
8 whether sufficient notice was provided or whether a  
9 third party submitted briefs that it wanted to submit.  
10 Q. It's just a brief. It's just a bunch of legal  
11 arguments, isn't it?  
12 A. It is.  
13 Q. You told Rusty Hardin when he asked you on  
14 direct that this item contained all types of information  
15 that would -- that would subject law enforcement to  
16 potential retaliation, that somebody might come and  
17 shoot them at their home or something like that. That's  
18 not true.  
19 A. Well, that's not exactly what I said.  
20 Q. This unredacted FBI brief is just a bunch of  
21 legal arguments from some Fed lawyer, isn't it? Isn't  
22 it?  
23 A. The -- the act requires the brief to identify  
24 information to which exceptions might apply.  
25 Q. That's all he asked for, right, the brief?

Lorrie A. Schnoor, CSR, RDR, CRR

1 A. Correct.  
2 Q. So the insinuation that Ken Paxton somehow got  
3 the file in sneaky sneaky, delivered it to Nate Paul,  
4 you don't have any evidence to substantiate any of that,  
5 do you?  
6 A. I have no direct knowledge of what he did with  
7 the file when it was in his possession.  
8 Q. You want to make an accusation while you're  
9 here on the stand? You want to accuse the elected  
10 attorney general of the state of delivering something to  
11 Nate Paul that he shouldn't have? You want to do that  
12 now?  
13 A. I don't -- I don't know what he did.  
14 Q. So when Ken Paxton asked for the file, you  
15 gave him the file, right?  
16 A. Yes, sir.  
17 Q. He had every right to ask for that. Yes?  
18 A. Yes.  
19 Q. If he just felt like looking at it, he could  
20 ask for it. Yes?  
21 A. That's right.  
22 Q. And irregardless of his feelings about Nate  
23 Paul and whether he was unjustly being railroaded or the  
24 feds are mistreating him, he had every right to look at  
25 it, didn't he?

Lorrie A. Schnoor, CSR, RDR, CRR

1 A. Yes, sir.  
2 Q. And you don't know that Ken Paxton did  
3 anything illicit with that file, do you?  
4 A. No, sir, I don't.  
5 Q. You're not here to testify about any of that,  
6 are you?  
7 In fact, when Ken Paxton had this meeting  
8 with you about the file, he told you that he had spoken  
9 to Nate Paul. He didn't hide that, did he?  
10 A. No, sir.  
11 Q. He told you he would believe that Nate Paul  
12 was being railroaded, just like he has been. Yes?  
13 A. Yes, sir.  
14 Q. He told you he didn't trust DPS or the feds,  
15 didn't he?  
16 A. Yes, sir.  
17 Q. And he didn't hide that, did he?  
18 A. Not -- not in that meeting.  
19 Q. Do you, by the way? Do you trust the feds?  
20 Trust the FBI?  
21 A. Yes. I have no reason not to. I trust law  
22 enforcement and our peace officers.  
23 Q. You can't think of one reason in the last  
24 three or four years not to trust the FBI?  
25 A. I'm speaking mainly personally.

Lorrie A. Schnoor, CSR, RDR, CRR



1 Q. Ken Paxton told you he didn't want to use his  
 2 office to help the feds in any way, didn't he?  
 3 A. Yes, sir.  
 4 Q. He didn't hide that from you, did he?  
 5 A. No, sir.  
 6 Q. And when you were discussing the ruling, what  
 7 I'll call the no decision ruling on the big request, you  
 8 reached an impasse where each side made its case. And  
 9 he's the boss, right? Yes?  
 10 A. Yes, sir.  
 11 Q. And he didn't overwhelm you. He didn't tell  
 12 you to do anything against your conscience, did he?  
 13 A. No, sir.  
 14 Q. He told you to be a lawyer and make a  
 15 decision, right?  
 16 A. No. No, sir.  
 17 Q. Well, you made a no decision. Yeah?  
 18 A. Well, to clarify, it -- it wasn't my decision  
 19 to make. It was his decision for the ruling to be a  
 20 nondecision. There was a couple of decisions in there  
 21 that maybe confused me.  
 22 Q. Have you ever seen the probable cause  
 23 affidavit in connection with Nate Paul's search warrant?  
 24 Have you seen it personally?  
 25 A. Yes, sir.

1 Q. Earlier you said that you delivered a file  
 2 to -- you gave a file to Drew Wicker. And just show the  
 3 ladies and gentlemen of the jury with your fingers how  
 4 thick that manila envelope was. Like that?  
 5 A. I'd say less than a quarter of an inch. You  
 6 know, just -- not very thick.  
 7 Q. Probable cause search warrant affidavit is 224  
 8 pages, isn't it?  
 9 A. I don't know.  
 10 Q. You don't know. You said you saw it?  
 11 A. Well, I saw the body of the affidavit. I  
 12 don't know if there was anything else attached to it.  
 13 When DPS submitted its request to us, it was a request  
 14 based on representative samples of information. So we  
 15 would have received a representative sample of whatever  
 16 DPS provided. And I don't recall seeing a document of  
 17 that size.  
 18 PRESIDING OFFICER: Counselor, we'll go  
 19 maybe ten more minutes. You can stop anywhere you like  
 20 in between.  
 21 MR. LITTLE: You're very kind. Thank  
 22 you.  
 23 Q. (BY MR. LITTLE) I want to talk about the  
 24 foreclosure guidance for a few minutes before we retire  
 25 for the evening. The legal question from Ryan Bangert

1 was, are foreclosure sales gatherings, quote/unquote,  
 2 since the governor and the local county judges and  
 3 mayors have prevented gatherings of ten or more people,  
 4 right?  
 5 A. Yes, that's what I remember his question to  
 6 be.  
 7 Q. That's really the simple legal question. And  
 8 you, as a lawyer at the OAG's office, you do your  
 9 research and then you take a position. Yes?  
 10 A. That's right.  
 11 Q. Okay. And we agree that what you were doing  
 12 was not a formal attorney general opinion. True?  
 13 A. It was not formal, that's right.  
 14 Q. These are what you call informal letters or  
 15 announcements. Yes?  
 16 A. Yes. Informal opinions, I mean --  
 17 Q. Let me just -- let's save us a little bit of  
 18 time.  
 19 I have a transcript of what you told the  
 20 House Board of Managers. And what you told them was  
 21 this AG foreclosure guidance was an informal letter or  
 22 announcement. Yes? True?  
 23 A. If that's -- if that's what you're saying.  
 24 Q. Is that what you said?  
 25 A. I don't recall. Again, based on my

1 recollection of 402 and 418, those are the only two  
 2 statutes that give the Office of the Attorney General  
 3 express statutory authority to issue legal opinions.  
 4 Q. And after you and Austin -- after Austin  
 5 Kinghorn did the research and he explained to you his  
 6 position on it, you talked to Ryan Bangert. True?  
 7 A. Yes.  
 8 Q. And Ryan Bangert called you and said, well,  
 9 that's not the right answer. True?  
 10 A. We prepared a draft, and then provided that to  
 11 Ryan Bangert. And then, yes, he called me and said  
 12 that's not the right answer.  
 13 Q. And Ryan Bangert told you, General Paxton  
 14 wants to stop these foreclosure sales, right?  
 15 A. Yes. He said we reached the wrong answer.  
 16 Q. Yes. And so what you know secondhand is Ken  
 17 Paxton disagreed with the result that you and Austin  
 18 came up with, didn't he?  
 19 A. Yes. That's what --  
 20 Q. And he has the right to do that, doesn't he?  
 21 A. Yes.  
 22 Q. And he was elected to make those decisions,  
 23 wasn't he?  
 24 A. Yes.  
 25 Q. Did Ryan Bangert tell you -- you know what,

1 Ryan Vassar -- there's two Ryans -- I'll sign this so  
 2 you don't have to ruin your career, Ryan? Did he tell  
 3 you that?  
 4 A. No, sir, I don't recall.  
 5 Q. Did he intimate that?  
 6 A. No.  
 7 Q. Did he imply it?  
 8 A. No. It was basically a timing.  
 9 Q. What do you mean it was basically a timing?  
 10 Tell me what you mean.  
 11 A. We prepared the first draft. By the time Ryan  
 12 had finalized the second draft, it was 11:00 or  
 13 midnight, 11:00 o'clock at night or midnight. And he  
 14 was talking with General Paxton, is my understanding.  
 15 So I had gone to bed, and Bart wasn't available to sign  
 16 it.  
 17 Q. Were you happy to sign it?  
 18 A. I would have signed it.  
 19 Q. You didn't avoid signing it, right?  
 20 A. No.  
 21 Q. You didn't say, Ryan, I don't feel  
 22 comfortable. Would you sign this instead of me?  
 23 A. No, sir. I didn't say that.  
 24 Q. So Ryan Bangert didn't jump on the grenade, so  
 25 to speak, and say, you know what, this is really

1 dangerous, Ryan Vassar. I'm going to sign it, did he?  
 2 A. Not that I remember.  
 3 Q. Did Ryan Bangert tell you, Ryan, I totally  
 4 disagree with what we're doing here, but I'm going to do  
 5 it over my own strenuous objections?  
 6 A. I don't remember him saying that.  
 7 Q. You worked on this opinion on Saturday night,  
 8 right?  
 9 A. It was all day Saturday, yes, sir.  
 10 Q. But that wasn't even the only COVID opinion  
 11 that went out that day, that Saturday, was it?  
 12 A. I'm not sure. I would have to go back and  
 13 look.  
 14 Q. Well, I'll put it in front of you here in a  
 15 little bit.  
 16 You do not have the first clue whether  
 17 this informal foreclosure guidance stopped a single  
 18 property foreclosure, do you?  
 19 A. I have no direct knowledge.  
 20 Q. And you heard it secondhand from some Austin  
 21 business journal article, right?  
 22 A. That's right.  
 23 Q. Did you believe it? Did you believe it?  
 24 A. I had -- I had no reason to disbelieve it,  
 25 just based on the timing.

1 Q. Did you do any research yourself?  
 2 A. No, sir.  
 3 Q. Any investigation at all?  
 4 A. No, sir.  
 5 Q. Just one problem, it's 100 percent false.  
 6 Never happened. It's not true. It's pure fiction. Did  
 7 you know that?  
 8 A. No. I wouldn't have had any reason to know  
 9 that.  
 10 MR. LITTLE: Your Honor, I believe this  
 11 is a good time to stop for tomorrow, if Your Honor is  
 12 willing to conclude for the day.  
 13 PRESIDING OFFICER: Yes. Court will  
 14 adjourn for the day. 9:00 a.m. tomorrow morning.  
 15 (Proceedings recessed 6:48 p.m.)  
 16  
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 20  
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 23  
 24  
 25

1 CERTIFICATE  
 2 STATE OF TEXAS )  
 3 COUNTY OF TRAVIS )  
 4 I, Lorrie A. Schnoor, Certified Shorthand  
 5 Reporter in and for the State of Texas, Registered  
 6 Diplomat Reporter and Certified Realtime Reporter, do  
 7 hereby certify that the above-mentioned matter occurred  
 8 as hereinbefore set out.  
 9 I further certify that I am neither counsel  
 10 for, related to, nor employed by any of the parties or  
 11 attorneys in the action in which this proceeding was  
 12 taken, and further that I am not financially or  
 13 otherwise interested in the outcome of the action.  
 14 Certified to by me this 7th day of September,  
 15 2023.  
 16  
 17 /s/ **Lorrie A. Schnoor**  
 18 \_\_\_\_\_  
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 22 email: laschnoor@prodigy.net  
 23  
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 25

1 THE SENATE OF THE STATE OF TEXAS  
 2 SITTING AS A HIGH COURT OF IMPEACHMENT  
 3  
 4 IN THE MATTER OF §  
 5 WARREN KENNETH §  
 6 PAXTON, JR. §  
 7  
 8  
 9  
 10 TRIAL  
 11 VOLUME 4 - AM SESSION  
 12 SEPTEMBER 8, 2023  
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1 VOLUME 4

2 SENATE IMPEACHMENT TRIAL

3 September 8, 2023 PAGE VOL.

4

5 HBOM WITNESSES: Direct Cross Voir Dire Vol.

6 RYAN VASSAR

7 BY MR. HARDIN 89

8 BY MR. LITTLE 7,109 4

9 LUNCH BREAK..... 111 4

10 REPORTER'S CERTIFICATION..... 112 4

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1 PRESIDING OFFICER: Amen.

2 Thank you, Senator Sparks.

3 You may be seated, everyone. Welcome to those

4 here in the gallery.

5 Bailiff, would you bring in the witness.

6 The witness may come forward.

7 Mr. Vassar, you are still under oath.

8 THE WITNESS: Yes, sir.

9 PRESIDING OFFICER: Please be seated.

10 Mr. Little, you may begin.

11 MR. LITTLE: May it please the court. Thank

12 you, Mr. President.

13 RYAN VASSAR,

14 having been previously duly sworn, testified as follows:

15 CROSS-EXAMINATION (CONTINUED)

16 BY MR. LITTLE:

17 Q. Mr. Vassar, when we were visiting yesterday, I

18 believe it was somewhat of an emotional day.

19 PRESIDING OFFICER: Can you speak up a little

20 bit?

21 MR. LITTLE: I'm sorry. Thank you.

22 Q. (BY MR. LITTLE) It was somewhat of an emotional

23 day yesterday. You were talking about being called a rogue

24 employee and the effect that that had on you. Do you

25 remember?

7

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

2 SEPTEMBER 8, 2023

3 (9:00 a.m.)

4 THE BAILIFF: All rise. Court of Impeachment

5 of the Texas Senate is now in session. The Honorable

6 Lieutenant Governor and President of the Senate Dan Patrick

7 now presiding.

8 PRESIDING OFFICER: Bailiff will bring in the

9 jury.

10 (Senate members enter the Senate chamber)

11 PRESIDING OFFICER: Mr. Little, if you want to

12 stand over there until we do the prayer.

13 Good morning, members of the jury. As always,

14 we'll open with a prayer.

15 Senator Sparks?

16 SENATOR SPARKS: Please pray with me.

17 Almighty God, we pray Psalms 139 this morning. Search me,

18 oh, God, and know my heart; test me and know my anxious

19 thoughts. See if there is any offensive way in me and lead

20 me in the way everlasting.

21 Please give us wisdom and discernment beyond

22 our own abilities. Give us the courage to stand when we must

23 and kneel when we should. May all of our thoughts and

24 actions today and every day bring glory and honor to our

25 Savior Jesus Christ in whose name we pray. Amen

6

1 A. Yes, sir.

2 Q. And that -- I mean, being called a rogue employee

3 by someone you worked with was painful, yes?

4 A. Yes, sir.

5 Q. Okay.

6 MR. LITTLE: Your Honor, may I approach the

7 witness?

8 PRESIDING OFFICER: Yes, you may.

9 Q. (BY MR. LITTLE) I'm going to show you --

10 PRESIDING OFFICER: Don't talk to him on the

11 way up, though.

12 MR. LITTLE: Of course.

13 Q. (BY MR. LITTLE) I'm going to show you what's

14 already been marked and admitted as Exhibit AG 170.

15 MR. LITTLE: And, Mr. Arroyo, if you could

16 bring up Exhibit AG 170 to page Brickman 190, please.

17 Q. (BY MR. LITTLE) Mr. Vassar, are you at page

18 Brickman 190?

19 A. Yes, I am.

20 Q. Mr. Arroyo was getting there so the jury can follow

21 along with us.

22 While this document is moving, Mr. Vassar, I

23 understand you were served with a series of subpoenas by the

24 House Board of Managers and by the Senate and by the Attorney

25 General Ken Paxton in connection with this impeachment, true?

8

1 A. Yes.  
 2 Q. And in the course of responding to that  
 3 impeachment, you performed a diligent search for all the  
 4 materials, of course, that were responsive to the subpoena,  
 5 true?  
 6 A. Yes, sir.  
 7 Q. And you didn't produce this text thread that we are  
 8 looking at here at page Brickman 190, true?  
 9 A. I didn't have it. That's -- that's correct. It  
 10 was not produced.  
 11 Q. And you did not have it, sir, because you deleted  
 12 it, correct?  
 13 A. No, that's not correct.  
 14 Q. Why did you not have it?  
 15 A. My phone -- my personal phone, through which these  
 16 messages were sent, had a retention policy of 30 days to  
 17 align with the Office of the Attorney General's retention  
 18 policy. And so those records were automatically expunged  
 19 under that retention policy.  
 20 Q. And tell the ladies and gentlemen of the jury  
 21 whether you signed what is called a litigation hold in  
 22 connection with the Nate Paul investigation at the Office of  
 23 the Attorney General on October 15th of 2020.  
 24 A. Yes.  
 25 Q. But you did not hold this text thread that related

1 Q. Yes. And yesterday I believe you said that after  
 2 you left the Attorney General's Office, you had trouble  
 3 finding work for six months; is that right?  
 4 A. Yes, sir.  
 5 Q. Do you know who Amanda Crawford is?  
 6 A. Yes.  
 7 Q. Who is Amanda Crawford?  
 8 A. She is the current director of the Department of  
 9 Information Resources.  
 10 Q. And upon your leaving the Attorney General's  
 11 Office, Amanda Crawford offered you the position of general  
 12 counsel at the Texas Department of Information Resources,  
 13 true?  
 14 A. I don't believe she offered me the job. I think  
 15 she mentioned that there was a posting for the position.  
 16 Q. And why did she mention it to you? So that you  
 17 could apply?  
 18 A. I -- I presume so. You would have to ask her why  
 19 she mentioned it to me.  
 20 Q. But you did -- well, isn't it true that she  
 21 mentioned it to you because she wanted you to apply and  
 22 thought that you would get it?  
 23 A. I believe that could be a reasonable conclusion.  
 24 Q. But you did not apply, correct?  
 25 A. I don't recall if I did or not. I -- I don't

1 to that investigation, true?  
 2 A. It did not occur to me to change the setting on my  
 3 personal device. But I delivered my agency phone and laptop  
 4 to Brent Webster before I was placed on investigative leave.  
 5 So I presumed that any information on those devices were  
 6 maintained.  
 7 Q. So this text thread -- your testimony here today is  
 8 this was on your work phone, true?  
 9 A. No, sir. This was on my personal phone. And I  
 10 didn't consider changing the settings on my phone -- my  
 11 personal phone, which were matching the OAG's retention  
 12 policy on the work devices.  
 13 Q. And you would agree with me, of course, that these  
 14 documents would be responsive to the litigation hold?  
 15 A. I would have to look at the litigation hold to  
 16 recall what it said exactly. I remember signing it on  
 17 October 15th, but I don't remember the exact categories or  
 18 nature of the documents that it had mentioned.  
 19 Q. Well, it was anything related to Nate Paul, true?  
 20 A. Like I said, I -- I'm happy to take a look at the  
 21 document. I don't recall offhand if it was anything related  
 22 to Nate Paul.  
 23 Q. That's fine. Let's take a look at this text  
 24 thread. It begins on October 20, correct?  
 25 A. That's right.

1 believe I did.  
 2 Q. You did not want that job, did you?  
 3 A. I -- I don't remember at the time what my thinking  
 4 was about whether I wanted the job or not.  
 5 Q. And isn't it true that Lacey Mase also offered you  
 6 a job to come with her to the State of Tennessee and work for  
 7 the Attorney General's Office?  
 8 A. I don't recall that -- of any official job or  
 9 anything like that.  
 10 Q. You don't recall any discussions with her about it?  
 11 A. No, sir.  
 12 Q. All right. Let's take a look at this text thread  
 13 here at Exhibit AG 170. It begins with a couple of -- and  
 14 you have to understand, these documents were produced by  
 15 Blake Brickman, and it begins -- and so everything in blue is  
 16 Blake Brickman. Do you understand that on an iPhone?  
 17 A. Yes, sir.  
 18 Q. He's the producer, and so his phone shows up blue,  
 19 yes?  
 20 A. Yes.  
 21 Q. There are a couple of news articles at the top.  
 22 There's a quote from one of the news articles, the third  
 23 text. David Maxwell below that says, "How true." And you --  
 24 you liked the statement from the news article about the  
 25 whistleblowers in the Houston Chronicle, correct?

1 A. Yes, sir.  
 2 Q. And moving down through it, Blake Brickman posts  
 3 another article from the Texas Tribune, and Lacey Mase says,  
 4 "Cute picture, Blake." And you post, it looks like, a Batman  
 5 meme; is that right?  
 6 A. That's right.  
 7 Q. This is a very somber time, yes?  
 8 A. That was a lighthearted effort to resemble the  
 9 picture of Mr. Brickman.  
 10 Q. Oh, that he looks like Batman?  
 11 Okay. Mr. -- I guess we'll see.  
 12 Mr. Vassar, after that Mr. Brickman says,  
 13 "From 2014, pre-lasik." Lacey Mase laughs. Ryan Bangert  
 14 says, "handsome man," and you post a link to Twitter and a  
 15 tweet that was posted by Scott Braddock, true?  
 16 A. Yes.  
 17 Q. All right. We're going to jump ahead a little bit.  
 18 I want you to --  
 19 MR. LITTLE: Mr. Arroyo, could you move us to  
 20 page Brickman 198.  
 21 Q. (BY MR. LITTLE) And if you could join me there,  
 22 Mr. Vassar.  
 23 All right. And do you see that you made a  
 24 text at 6:59 p.m. that evening?  
 25 A. Oh, I see the one --

1 Q. It's Amplified Credit Union?  
 2 A. Oh, yes. Yes.  
 3 MR. LITTLE: Okay. Mr. Arroyo, could you  
 4 highlight that text for me or bring it up in zoom?  
 5 Q. (BY MR. LITTLE) It reads, "Amplified Credit Union,  
 6 which held notes on three Paul-controlled properties and had  
 7 planned to put them up for auction on Tuesday, August 4,  
 8 halted its proceedings because of Paxton's opinion, Amplified  
 9 CEO Kendall Garrison told the Statesman. The opinion was  
 10 provided to us by an attorney for World Class that Monday,  
 11 Garrison said."  
 12 You -- you posted that, correct?  
 13 A. Yes, sir.  
 14 Q. But you didn't know if it was true or not, did you?  
 15 A. No. I quoted it. That's a quote from the article  
 16 that was circulating in the text.  
 17 Q. Yes, I understand. But you didn't know whether  
 18 that was true, correct?  
 19 A. No.  
 20 Q. Okay.  
 21 A. Not at the time.  
 22 Q. I'm going to show you a document here.  
 23 Do you have any experience with bankruptcy law  
 24 at all?  
 25 A. No, sir.

1 Q. Do you know what the automatic stay is?  
 2 A. No, sir.  
 3 Q. Throughout your practice, you've not encountered it  
 4 in the least, no?  
 5 A. I've heard of an automatic stay, but I couldn't  
 6 explain the consequences of it for you.  
 7 Q. You don't know what it means?  
 8 A. I -- I understand it to mean that if a petition for  
 9 bankruptcy is filed, it creates an automatic stay of any  
 10 proceedings potentially relating to a debt or a claim. Is  
 11 that a sufficient description?  
 12 Q. That's actually really good. It would also stop a  
 13 foreclosure, right?  
 14 A. Again, I -- I'm not sure. I'm not a bankruptcy  
 15 lawyer, so I wouldn't be able to say if it would stop it.  
 16 Q. Do you know what times of day on the first Tuesday  
 17 of the month foreclosures are required to occur under the  
 18 Property Code?  
 19 A. Noon sounds right, but I don't know for sure.  
 20 MR. LITTLE: Your Honor, may I approach the  
 21 witness?  
 22 PRESIDING OFFICER: Yes.  
 23 Q. (BY MR. LITTLE) I'm going to show you what's been  
 24 marked as Exhibit AG 292.  
 25 Mr. Vassar, have you ever seen Exhibit AG 292

1 before?  
 2 A. No, sir.  
 3 Q. Can you tell at the top what time this document was  
 4 filed?  
 5 A. It says it was filed August 4th, 2020, entered the  
 6 same date at 10:48. I assume that's a.m. time. It doesn't  
 7 have an indication.  
 8 Q. Yeah. If I told you that August 4th, 2020, was the  
 9 first Tuesday of the month, would you believe me?  
 10 A. That sounds right.  
 11 Q. Let's go back to Exhibit AG 170, which is this text  
 12 thread here, if you would. Let's continue on.  
 13 Blake Brickman responds to you --  
 14 MR. LITTLE: Mr. Arroyo, can you bring that  
 15 back up for me? We're at page Brickman 198 for the ladies  
 16 and gentlemen of the jury.  
 17 And if you look -- Mr. Arroyo, if you can zoom  
 18 in on the blue text at the very bottom.  
 19 Q. (BY MR. LITTLE) Blake Brickman responds,  
 20 "Obviously, just a coincidence, right? LOL. And then he had  
 21 the audacity to thank the office publicly at deputies meeting  
 22 later that week for stopping foreclosure on individual homes.  
 23 The man is a pathological liar."  
 24 Do you see that?  
 25 A. Yes, sir, I see that.

1 Q. Next page.  
 2 Mr. McCarty responds, "All about the people."  
 3 And David Maxwell responds, "All about himself." Then there  
 4 are a series of additional articles that are being posted to  
 5 this group chat.  
 6 Why are you on a group chat in October of 2020  
 7 anyway?  
 8 A. We were all friends. We were all colleagues. We  
 9 all enjoyed working together, so this was just a group thread  
 10 where we talked.  
 11 MR. LITTLE: If you would, Mr. Arroyo, would  
 12 you bring it forward to page Brickman 200.  
 13 Q. (BY MR. LITTLE) In the middle of the page --  
 14 PRESIDING OFFICER: Counselor, hold on one  
 15 second. You're a little ahead of the --  
 16 MR. LITTLE: Oh, I am. Sorry.  
 17 PRESIDING OFFICER: It's up now. I want to be  
 18 sure it's up for the jurors to read when you're quoting it.  
 19 MR. LITTLE: Thank you, Mr. President.  
 20 Mr. Arroyo, if you could zoom in on Ryan  
 21 Vassar's text at the middle of that page.  
 22 Yes. Mr. Vassar, thank you. Not quite so  
 23 close, Erick. If you would, just capture those two texts  
 24 from Ryan Vassar in the middle of the page. The one above  
 25 that, too.

1 Thank you, Mr. Arroyo.  
 2 Q. (BY MR. LITTLE) Now, Mr. Vassar, you linked to a  
 3 tweet from Lauren McGaughy on, it looks like, October 25; is  
 4 that right?  
 5 A. I don't -- yes. It's a link to a tweet. I don't  
 6 see anything about an October date, but -- oh, you're talking  
 7 about the date that it was sent.  
 8 Q. Yeah. It may be October 26th because --  
 9 A. Yeah.  
 10 Q. We're on that same thread.  
 11 A. Yeah. If it's -- if it's chronologically just with  
 12 the pages, the page before, Brickman 199, ends on 10-26. So  
 13 it could have been 10-26 earlier in the day.  
 14 Q. And you write "#sole survivor." What does that  
 15 mean?  
 16 A. I'm not sure if it was referring to the tweet that  
 17 I was referencing. It -- it could have been an indication  
 18 that I was the last remaining whistleblower who was still  
 19 employed by the office.  
 20 Q. I see. And if we can continue on in that thread.  
 21 MR. LITTLE: Mr. Arroyo, zoom in on the next  
 22 three texts in that thread, please. Mr. Arroyo, just right  
 23 under the date stamp, if you would, please. Good man. Thank  
 24 you.  
 25 Q. (BY MR. LITTLE) All right. On October 26th at

1 about 5:55 p.m. Ryan Bangert writes, "Yep," and Ryan Bangert  
 2 writes, "BW." That's Brent Webster, right?  
 3 A. Yes, sir.  
 4 Q. "BW just dropped by my" -- and just to be clear for  
 5 the ladies and gentlemen of the jury, hopefully everyone  
 6 knows, but Brent Webster is the then current First Assistant  
 7 Attorney General, true?  
 8 A. Yes, sir.  
 9 Q. It says, "Brent Webster just dropped by my office  
 10 to inform me of an org chart change. I will no longer be  
 11 overseeing special litigation because he will now report  
 12 directly to him." And you respond, "What a joke." Right?  
 13 A. Yes, sir.  
 14 Q. And David Maxwell responds, "That's a train wreck  
 15 waiting to happen." Ryan Bangert says, "Let him have it."  
 16 And Blake Brickman writes, "He is a joke." Yes?  
 17 A. Yes, sir.  
 18 Q. Let's continue to the next page.  
 19 MR. LITTLE: If you can give me, Mr. Arroyo,  
 20 maybe the top -- the gray text at the top, we'll go piece by  
 21 piece. No. Maybe the first six gray texts so we can just  
 22 all see them together, if you could. Thank you.  
 23 Q. (BY MR. LITTLE) Ryan Bangert says, "It will run  
 24 itself. My fear is that he will force them to do crazy" --  
 25 expletive.

1 Is that typically how Ryan Bangert would  
 2 talk?  
 3 A. No, sir.  
 4 Q. Lacey Mase says, "I find that absolutely  
 5 hilarious." And Darren McCarty says, "Perfect. I've been  
 6 trying to figure out how to get Patrick and Disher to join my  
 7 new law firm."  
 8 Is Darren McCarty one of the so-called  
 9 whistleblowers?  
 10 A. Yes, sir.  
 11 Q. Has he filed a lawsuit with you?  
 12 A. No, sir.  
 13 Q. Has he just got out of the OAG's office and hung  
 14 out a shingle, it sounds like, right?  
 15 A. That's my understanding.  
 16 Q. Okay. And Ryan Bangert says, "Maybe Aaron can  
 17 help. I'm sure Patrick and Dish will loved being managed by  
 18 a failed prosecutor and a third-year lawyer."  
 19 That's what Ryan Bangert wrote about his  
 20 coworkers, yes?  
 21 A. I'm sorry, say that again. Ryan Bangert?  
 22 Q. That's what Ryan Bangert wrote about his coworkers,  
 23 yes? His colleagues, yes?  
 24 A. Yes.  
 25 Q. Then there's a like from Ryan Bangert, and you

1 write, "Patrick and Dish will need to start using smaller  
 2 words in their pleadings."  
 3 That's what you wrote, right?  
 4 A. Yes, sir.  
 5 Q. You're insulting your colleagues on this familiar  
 6 group chat, yes? Among friends, yes?  
 7 A. It was a very --  
 8 MR. LITTLE: Object, nonresponsive.  
 9 PRESIDING OFFICER: The witness shall answer  
 10 yes or no.  
 11 Q. (BY MR. LITTLE) You are -- I'm sorry, I'll ask it  
 12 again. You are insulting your colleagues on this group chat  
 13 among friends, true?  
 14 A. I wouldn't describe it as insulting.  
 15 PRESIDING OFFICER: The witness will answer  
 16 "yes" or "no."  
 17 A. The way that you phrased it, no, sir.  
 18 Q. (BY MR. LITTLE) What did you mean? Well, first of  
 19 all, just tell the ladies and gentlemen of the jury, who are  
 20 Patrick and Dish?  
 21 A. Patrick Sweeten was in the special litigation  
 22 division, and Todd Disher was also in the special litigation  
 23 division.  
 24 Q. And so I want to make sure the jury understands the  
 25 implication of what you're saying. The implication is that  
 21

1 Patrick and -- is it Todd?  
 2 A. Yes, sir.  
 3 Q. Patrick and Todd are going to need to use smaller  
 4 words because their new colleagues at the Attorney General's  
 5 Office wouldn't understand it if they used big words, right?  
 6 A. That's the implication.  
 7 Q. That is, as they say, the joke, right?  
 8 A. Yes, sir.  
 9 Q. You were being funny, right?  
 10 A. Yes, sir.  
 11 MR. LITTLE: If we could move down to the  
 12 remainder of the page, Mr. Arroyo.  
 13 Q. (BY MR. LITTLE) Blake Brickman says, "The agency  
 14 is going to fall apart and that is one person's fault and one  
 15 person only, KP." Right?  
 16 A. Yes, I see that.  
 17 Q. In point of fact, the agency did not fall apart,  
 18 did it?  
 19 A. I haven't followed it. I -- I wouldn't know.  
 20 Q. Lacey Mase laughs and says -- or she laughs at your  
 21 joke and she says, "I would love to be a fly on the wall  
 22 during the special lit meetings. Can you even imagine?"  
 23 Four laughing emojis, right?  
 24 A. Yes, sir.  
 25 Q. And you deleted all of these texts, I guess, by  
 22

1 just a policy on your personal phone, true?  
 2 A. The way that you phrased it, no, sir, I did not  
 3 delete them.  
 4 Q. Well, you had a -- you had a setting on your phone  
 5 that deleted them, yes?  
 6 A. That's right.  
 7 Q. You didn't think they might be necessary or needed  
 8 later, right?  
 9 A. That's not true.  
 10 Q. You post a link to Amazon below that. And what is  
 11 that link to?  
 12 A. The title is A Coloring Book, it looks like.  
 13 Q. And the text below that says, from you, "They might  
 14 need some activities to keep the kids entertained." Right?  
 15 A. Yes, sir.  
 16 Q. You are suggesting, are you not, Mr. Vassar, that  
 17 your colleagues, professional lawyers at the Office of  
 18 Attorney General, might need -- might need a coloring book to  
 19 stay entertained? That's what you're suggesting?  
 20 A. I wouldn't describe them as colleagues. I had no  
 21 professional experience with them other than just the  
 22 knowledge that they were new lawyers.  
 23 Q. You didn't have any experience with the people that  
 24 you are saying that might need coloring books to keep  
 25 themselves entertained at the Office of Attorney General; is  
 23

1 that true?  
 2 A. That's correct. It was a joke.  
 3 Q. It was a joke.  
 4 I believe earlier your testimony was that  
 5 being called a rogue employee was very upsetting to you,  
 6 right?  
 7 A. Yes, sir.  
 8 Q. But this is how you talk about your coworkers,  
 9 true?  
 10 A. Again, it was lighthearted. It was among friends.  
 11 It was not made public to millions of people.  
 12 Q. No one was ever supposed to see it and certainly  
 13 not the people of Texas who are watching this impeachment  
 14 proceeding, right? No one was ever supposed to see this.  
 15 A. No one was hiding it.  
 16 Q. It was private.  
 17 A. I'm sorry?  
 18 Q. It was private, right?  
 19 A. Well, it was -- it was a conversation among  
 20 friends, but I wouldn't say that any of us are concerned that  
 21 it's being discussed here today.  
 22 Q. Are you proud of this?  
 23 A. No, sir. That's not what I said.  
 24 Q. No. I'm asking you now, are you proud of this?  
 25 A. No, sir.  
 24



1 Q. Let's turn the page.  
 2 MR. LITTLE: If you could give me all the gray  
 3 ones at the top, Mr. Arroyo, or just the first six texts so  
 4 we can see it in context.  
 5 Q. (BY MR. LITTLE) Lacey Mase says, "Ha-ha-ha-ha," in  
 6 response to your text, and David Maxwell posts a laughing  
 7 emoji, right? This is -- everybody is joking, having a good  
 8 time on this text thread, right?  
 9 A. Sure.  
 10 Q. Nobody's appreciating the somber moment of being  
 11 FBI whistleblowers, at least at this time on October 26th,  
 12 right?  
 13 A. Well, we had all been through a lot by that point,  
 14 and I suppose people process things in different ways.  
 15 Q. Gallows humor, perhaps, right?  
 16 A. Yes, sir.  
 17 Q. Okay. David Max- -- David Maxwell says, "My phone  
 18 conference with Margaret Moore and her team went well well  
 19 today. They are excited about pursuing this investigation  
 20 and will coordinate their efforts with the U.S. Attorney's  
 21 Office so that both pursuits complement each other."  
 22 Who is Margaret Moore?  
 23 A. She was the previous Travis County District  
 24 Attorney.  
 25 Q. So David Maxwell is calling the Travis County

25

1 District Attorney at the time and the U.S. Attorney's Office  
 2 and everybody is getting fired up. They're getting excited  
 3 about prosecuting Ken Paxton, right?  
 4 A. That appears to be what he is saying.  
 5 Q. Next sentence says, "They obviously want to move  
 6 quickly, as they have time constraints. They are not going  
 7 to wait on the feds."  
 8 What does that mean?  
 9 A. You'd have to ask Director Maxwell. I'm not sure  
 10 what that means.  
 11 Q. What do you think it means?  
 12 MR. HARDIN: Objection. Objection to him  
 13 being asked to speculate what it means, Your Honor.  
 14 MR. LITTLE: Good objection. I'll --  
 15 MR. HARDIN: He doesn't know -- he doesn't  
 16 know --  
 17 PRESIDING OFFICER: Sustained.  
 18 MR. LITTLE: Thank you. I'll withdraw it.  
 19 Q. (BY MR. LITTLE) Now, if you'll look down in the  
 20 rest of the thread, it says, "So you know" -- this is Ryan  
 21 Bangert. "So you know, I tendered my resignation today  
 22 effective November 4th." Darren McCarty says, "Thanks for  
 23 letting us know." David Maxwell says, "No, I didn't. Just  
 24 got done at FBI. Went great. I'm staying until he fires me.  
 25 Will keep y'all posted on progress." Right?

26

1 A. Yes, sir, I see that.  
 2 Q. At this time are you hoping to retain your job?  
 3 A. Yes, sir. I was still on investigative leave at  
 4 the time.  
 5 Q. Yes. And you're hoping to retain your job?  
 6 A. Yes, sir.  
 7 Q. And ultimately you came back to the office and  
 8 talked to Brent Webster, yes?  
 9 A. That's right.  
 10 Q. And you said to Brent Webster in that meeting that  
 11 you still trusted the Attorney General, correct?  
 12 A. I -- I believe so. I don't recall exactly what I  
 13 said to Mr. Webster about trusting the Attorney General. I  
 14 think what Mr. Webster asked --  
 15 PRESIDING OFFICER: Can you hold for a moment?  
 16 We'll stand at ease for 30 minutes.  
 17 MR. LITTLE: Yes, Your Honor.  
 18 (Recess from 9:28 to 10:10 a.m.)  
 19 PRESIDING OFFICER: Mr. Little, if you want to  
 20 be seated for just a moment, because he's -- I know he's in  
 21 the building.  
 22 Bailiff, will you bring in the witness,  
 23 please.  
 24 Mr. Vassar, you're still under oath. Please  
 25 be seated.

27

1 Mr. Little, you may continue.  
 2 MR. LITTLE: Thank you.  
 3 Q. (BY MR. LITTLE) Mr. Vassar, we're going to go back  
 4 to Exhibit AG 170.  
 5 MR. LITTLE: Mr. Arroyo, if you could bring up  
 6 page Brickman 201 again. We're going to go back one step.  
 7 And, Mr. Arroyo, if you could highlight or  
 8 zoom in on the two texts at the bottom again.  
 9 Q. (BY MR. LITTLE) So, Mr. Vassar, my apologies. My  
 10 colleague, Amy Hilton, informs me that I did not, in fact,  
 11 get the joke.  
 12 The joke here is this is a coloring book. It  
 13 says -- and I encourage anyone to look it up. It's the  
 14 "Going Rouge: Sarah Palin Rogue Coloring & Activity Book,"  
 15 right?  
 16 A. That sounds right.  
 17 Q. Does that look like it?  
 18 A. I don't recall exactly. That could be accurate.  
 19 Q. And the joke is that Sarah Palin is so dumb that  
 20 she can't spell "rogue," right?  
 21 A. That wasn't my understanding of the joke. I -- I  
 22 believe -- my recollection is that when I found a coloring  
 23 book about going rogue, that was why I sent it to this group  
 24 chat. I don't recall any specific reference to Sarah Palin.  
 25 Q. That's the context of the joke, but the joke of the

28

1 coloring book here is it's supposed to say "going rogue," and  
2 it says "going rouge" and it's Sarah Palin can't spell  
3 "rogue," LOL, right?

4 A. I -- I can't really see your phone, but I'll take  
5 your point.

6 Q. Would you like me to approach so you can see it?

7 MR. LITTLE: May I, Your Honor?

8 A. That's up to the president.

9 I see it.

10 Q. (BY MR. LITTLE) That's the one, right?

11 A. I can't recall specifically if that is the one  
12 that's linked in this text message.

13 Q. But the context of the joke within the text chain  
14 is it's about you going rogue. And the reference is an  
15 oblique reference to Ken Paxton calling you rogue employees,  
16 right?

17 A. Yes, sir.

18 Q. And so the same information that got you very upset  
19 yesterday about being called a rogue employee, looks like  
20 three weeks or so after it happened, you're joking on a text  
21 chat with your friends about it and showing them the Going  
22 Rouge coloring book, right?

23 A. That's --

24 Q. Do I have it?

25 A. -- what happened. Yes, sir.

29

1 Ryan Bangert said, "He also asked me how soon it was after RV  
2 received the signed Cammack contract that Jeff and I learned  
3 about it."

4 Do you see that?

5 A. Yes, sir.

6 Q. You are RV, right?

7 A. Yes.

8 Q. And what Brent Webster was trying to investigate at  
9 the time is what we discussed yesterday, right, Mr. Vassar?  
10 That apparently at some point you received the signed  
11 contract with Ken Paxton's signature on it with Brandon  
12 Cammack, right?

13 A. Yes, I did.

14 Q. And Brent Webster was trying to discover when Jeff  
15 Mateer and Ryan Bangert learned about that contract as part  
16 of his investigation, true?

17 A. That's my understanding. He didn't ask me when  
18 they learned about it, but he asked me when I received a copy  
19 of the contract.

20 Q. Okay. And Ryan Bangert responds, "He said that was  
21 one missing piece of his, quote, investigation, closed  
22 quote." Lacey Mase says, "He's the worst."

23 Let's turn the page, if you would.

24 And Brent Webster, he's the new guy at the  
25 office, right?

31

1 Q. There's nothing less funny than someone who  
2 explains the joke, but I think I have it now, right?

3 A. I'm sorry. Say that again. There's --

4 Q. I think I have it now, right? That was the context  
5 of the joke. I explained it, true?

6 A. Yes. At the time circulating an Amazon link to a  
7 coloring book about going rogue was what had happened.

8 MR. LITTLE: All right. Mr. Arroyo, if you  
9 could advance to page Brickman 203. If you could start,  
10 Mr. Arroyo, with the blue text down and zoom in on that.

11 Q. (BY MR. LITTLE) The text from Blake Brickman says,  
12 "Being fired will make you a cool kid," right?

13 A. That's what he says.

14 Q. David Maxwell gives a thumbs up and sunglasses  
15 emoji, right?

16 A. Yes. I see that.

17 Q. Ryan Bangert responds, "Brent told me today that he  
18 was, quote, completing his investigation. He says" -- "he  
19 said it's all based on the documents he reviewed. I told him  
20 the cold documents may tell one story, but ten months of  
21 loved experience tell the rest of the story." And then Ryan  
22 corrects his typo and says "lived." It says "lived  
23 experience that tells the story," right?

24 A. Yes. I see that.

25 Q. And Darren McCarty says, "Definitely not loved."

30

1 A. Yes, sir.

2 Q. He's been working there a little over three weeks  
3 maybe, or three weeks?

4 A. I think his first day was October 4th. And if  
5 these are on the 26th, then that would be accurate.

6 Q. Okay. Turn to the next page.

7 MR. LITTLE: If you could give me -- just zoom  
8 in on the text, if you can, Mr. Arroyo. Just all of the  
9 texts together if you can. Give me the first one at the top  
10 too. Very kind.

11 Q. (BY MR. LITTLE) Ryan Bangert posts what looks  
12 like -- I believe that is the "hmm" emoji. I don't know how  
13 else to refer to it. And then David Maxwell says, "I never  
14 created any documents. He wanted me to conduct an illegal  
15 investigation." Right?

16 A. That's right.

17 Q. Do you know what he meant?

18 A. No, sir.

19 Q. And you posted a meme. And why don't you tell the  
20 jury what your meme says.

21 A. It says, "Never interrupt your enemy when he is  
22 making a mistake."

23 Q. Who is your enemy?

24 A. I didn't have an enemy at the time. It was a  
25 meme just sent in the conversation.

32

1 Q. Sure. But there's a context, right?  
 2 A. Well, the context is Brent Webster was  
 3 investigating us when it was General Paxton who was abusing  
 4 the powers of the office to benefit Nate Paul.  
 5 Q. And so here the context is Brent Webster is the  
 6 enemy, yes?  
 7 A. No, sir. It's Brent Webster is investigating the  
 8 wrong person or the wrong people.  
 9 Q. Okay. Well, what's the mistake that's being made  
 10 that's being referenced in your meme here?  
 11 A. Oh, that would be the fact that he is investigating  
 12 us, not General Paxton.  
 13 Q. Brent Webster is making the mistake?  
 14 A. Yes, sir.  
 15 Q. And you don't want to interrupt Brent Webster,  
 16 right?  
 17 A. That was -- that was the joke. I was not in the  
 18 office, so I couldn't have interrupted him if I wanted to.  
 19 Q. You hadn't been in the office in a very long time.  
 20 You were working from home, right?  
 21 A. No, sir. I was placed on investigative leave  
 22 during this period and surrendered my official agency phone  
 23 and laptop and was not permitted to access the building or  
 24 work.  
 25 Q. It seems to suggest -- this meme seems to suggest

33

1 to me in context that you think Brent Webster is the enemy  
 2 who is making a mistake. Is that true or untrue?  
 3 A. I -- I don't know what it seems to you, but I  
 4 explained I didn't have an enemy at the time. I was not  
 5 fighting Brent Webster.  
 6 Q. Okay. David Maxwell posts a thumbs up and a  
 7 laughing emoji. Lacey Mase says, "So another candidate in  
 8 Wilco came up" -- Wilco is Williamson County, right?  
 9 A. Yes.  
 10 Q. And at this time Lacey Mase is running for office,  
 11 true?  
 12 A. I believe so.  
 13 Q. What's she running for?  
 14 A. I don't recall.  
 15 Q. "So another candidate at Wilco came up to me  
 16 yesterday and said, 'So I understand you're acquainted with  
 17 Brent Webster. Let me tell you about Mr. Webster. He's lazy  
 18 and he's a liar. I'm glad you don't have to work for him.'  
 19 And then she walked away." And you said, "That's awesome."  
 20 Right?  
 21 A. Yes, sir.  
 22 Q. Why was that awesome?  
 23 A. Because I had never heard anything about Brent  
 24 Webster, and to have someone approach Lacey and give their  
 25 personal experience of interacting with Brent Webster I

34

1 thought was informative.  
 2 Q. Mr. Vassar, I'm going to show you another text  
 3 thread that you didn't produce, okay, but you're part of.  
 4 MR. LITTLE: Your Honor, may I approach the  
 5 witness?  
 6 PRESIDING OFFICER: Yes, you may.  
 7 MR. LITTLE: I'm marking this Exhibit 1006.  
 8 Okay.  
 9 Q. (BY MR. LITTLE) Are you part of this text thread?  
 10 A. Yes, sir.  
 11 Q. Have you seen it before?  
 12 A. Yes. I have seen it before as a participant on the  
 13 thread. I've not seen these documents or this exhibit  
 14 before.  
 15 MR. LITTLE: Mr. President, we move for  
 16 admission of AG Exhibit 1006.  
 17 PRESIDING OFFICER: Any objection?  
 18 MR. HARDIN: Excuse me. I have not seen it.  
 19 MR. LITTLE: And to be clear --  
 20 MR. HARDIN: I'm sorry. Can I just have just  
 21 a moment?  
 22 I don't believe this is one previously that's  
 23 been marked, so if I could have just a moment to look at it.  
 24 PRESIDING OFFICER: Yes, take a moment.  
 25 MR. HARDIN: Your Honor, may I inquire of

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1 counsel?  
 2 Is it a series of communications with the  
 3 different deputy chiefs? It's just so long that I'm trying  
 4 to save time if I could.  
 5 MR. LITTLE: Mr. Hardin, yes. This is a text  
 6 thread that was produced by Mark Penley in response to your  
 7 subpoena.  
 8 MR. HARDIN: I have no objection.  
 9 PRESIDING OFFICER: Admit Exhibit 1006 -- is  
 10 that the correct number, Mr. Little, 1006 --  
 11 MR. LITTLE: It is.  
 12 PRESIDING OFFICER: -- into evidence.  
 13 (AG Exhibit No. 1006 was admitted)  
 14 MR. LITTLE: May I proceed?  
 15 PRESIDING OFFICER: Yes.  
 16 MR. LITTLE: Thank you.  
 17 Q. (BY MR. LITTLE) Mr. Vassar, take a look --  
 18 MR. LITTLE: And, Mr. Arroyo, would you please  
 19 bring up Exhibit 1006 so the jury can see it with us. Go to  
 20 the first page of that, if you would. There you go. All  
 21 right. Thank you.  
 22 Q. (BY MR. LITTLE) Mr. Vassar, you post a picture  
 23 into this text thread, right?  
 24 A. Yes, sir.  
 25 Q. And you're posting a picture of an email from Ken

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1 Paxton to a group chat, yes?  
 2 A. Yes, sir.  
 3 Q. And -- and Ken Paxton is telling you, "I did sign  
 4 the outside counsel contract with Cammack Law Firm PLLC."  
 5 Yes?  
 6 A. That's right.  
 7 Q. And who is -- if you can tell the ladies and  
 8 gentlemen of the jury, who is on this text thread?  
 9 A. It's myself, David Maxwell, Ryan Bangert, Blake  
 10 Brickman, and Lacey Mase, just going by their --  
 11 Q. And this is hard to tell with iPhones, but this  
 12 document was produced by Mark Penley, so these are  
 13 screenshots of Mark Penley's phone. Do you understand he's  
 14 on the thread too?  
 15 A. Okay. I don't see him -- I understand that now.  
 16 He wasn't listed in the little bubbles at the top, but I  
 17 understand.  
 18 Q. Well, my experience with this -- obviously, I'm not  
 19 testifying. But you know how on iPhones when you're on a  
 20 group chat, it doesn't necessarily put you in the little  
 21 circle --  
 22 A. Right.  
 23 Q. -- if it's your phone, right?  
 24 A. Okay.  
 25 Q. So Mark is on this thread?

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1 A. It appears so.  
 2 Q. Okay. So Lacey Mase's second text, "New group."  
 3 Do you see that?  
 4 A. Yes, sir.  
 5 Q. And the date of this, just to be clear, it begins  
 6 on October 2 of 2020, right, right after you went to the FBI?  
 7 A. That's right.  
 8 Q. All right. Let's see what you're talking about.  
 9 Turn to the next page, if you would.  
 10 The next page is a picture from Ryan Vassar.  
 11 It says, "Silence unknown callers." And he says y'all -- and  
 12 you say -- I'm sorry, it's a text from you. You say -- you  
 13 show them a picture of the silence unknown callers feature on  
 14 your phone and you say, "Y'all should probably should turn  
 15 this feature on." Right?  
 16 A. That's right.  
 17 Q. And you're -- and why do you say that?  
 18 A. To avoid receiving a phone call from a blocked  
 19 number or an unknown number that was unanticipated or  
 20 unexpected.  
 21 Q. And you're worried about media calls at this point,  
 22 right?  
 23 A. It could have been any calls, any unknown or  
 24 unidentified calls.  
 25 Q. And Ryan Bangert says, "How did I not know about

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1 that until now?" And Lacey Mase says, "Excellent."  
 2 The next --  
 3 MR. LITTLE: And let's turn the page, if you  
 4 would, Mr. Arroyo, to page Penley 9.  
 5 Q. (BY MR. LITTLE) You say, "We should consider  
 6 notifying other depts before Monday." Notifying them of what?  
 7 A. The fact that we had gone to report General Paxton  
 8 to law enforcement about the facts that we had determined.  
 9 Q. That's not what you say.  
 10 A. To -- to whom --  
 11 MR. HARDIN: Excuse me. I object to the  
 12 sidebar and testifying, Your Honor. He can ask questions,  
 13 but not -- not state --  
 14 PRESIDING OFFICER: Sustained.  
 15 MR. HARDIN: -- testimony. Thank you.  
 16 Q. (BY MR. LITTLE) Lacey Mase responds to you, "About  
 17 the new FA." And she means first assistant, right?  
 18 A. Yes, I believe so.  
 19 Q. And then she says, "I don't feel like that's our  
 20 announcement to make." And you say, "Resigning." Resigning?  
 21 A. Right.  
 22 Q. So what you said, "We should consider notifying  
 23 other depts before Monday," it's about resigning, yes?  
 24 A. That was -- that was an element of it. But most of  
 25 it was about going to law enforcement to report General

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1 Paxton's activities that we had determined.  
 2 Q. That's not what you say in this text thread, is it?  
 3 A. No. What I -- what I just explained is that is  
 4 part of the conversation that we're having at the time.  
 5 Q. As of October 2, you were planning to resign as a  
 6 group, yes?  
 7 A. No, sir. We were discussing what we should do.  
 8 Q. And you were saying we should consider notifying  
 9 the other deputies before Monday about resigning, true?  
 10 A. That's -- that's right. In addition to disclosing  
 11 to them that we had gone to law enforcement to report General  
 12 Paxton's activities.  
 13 Q. Ryan Bangert responds, "I don't think we tell them  
 14 until we have a fully vetted plan of action."  
 15 Next page.  
 16 Blake Brickman says, "Has anybody updated  
 17 Johnny?" Who is Johnny?  
 18 A. You'd have to ask Blake, but I interpreted that as  
 19 Johnny Sutton.  
 20 Q. Is he representing all of you at this point?  
 21 A. Yes, sir.  
 22 Q. Who is paying for all of that, by the way?  
 23 A. Well, we are.  
 24 Q. You pay for it out of your savings?  
 25 A. I have not paid Mr. Sutton.

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1 Q. Oh. Who has?  
 2 A. Nobody has. He's agreed to bill us at a future  
 3 date.  
 4 Q. What future date?  
 5 A. You'd have to ask him.  
 6 Q. You're telling me that an attorney, a very  
 7 experienced, prominent criminal defense attorney decided to  
 8 do this for free for you for three years; is that right?  
 9 A. No, sir. It's not for free.  
 10 Q. What's the arrangement?  
 11 A. We will pay him for the services that he's rendered  
 12 to us.  
 13 Q. Is he billing you hourly?  
 14 A. He's recording his hours is my understanding. I  
 15 have not received a bill from him.  
 16 Q. And he hasn't been paid by any of you yet; is that  
 17 right?  
 18 A. I have not paid him. I'm not aware of whether any  
 19 other individuals have paid him.  
 20 Q. And so is the plan for you to achieve this  
 21 settlement through the adoption of the Texas Legislature and  
 22 then pay off your criminal attorney who is trying to help you  
 23 not be labeled coconspirators? Is that the plan?  
 24 A. No. That's never been discussed.  
 25 Q. When are you going to have the money?

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1 A. Ideally, when I have enough money, I can pay him.  
 2 Q. But you've never been sent a bill. You don't even  
 3 know what to pay him.  
 4 A. That's right.  
 5 Q. You -- is everybody paying equally? Is it pro  
 6 rata?  
 7 A. Again, I'm not sure what other people's  
 8 arrangements have been, but I've not received a bill from  
 9 Mr. Sutton and I have not paid him yet.  
 10 Q. How did you find this fellow, by the way?  
 11 A. Mr. Sutton?  
 12 Q. Yes.  
 13 A. His name had been discussed with Mr. Mateer,  
 14 Mr. Bangert, and Mr. McCarty about the best person to call  
 15 before we had met with law enforcement.  
 16 Q. Who suggested him first?  
 17 A. I don't recall exactly.  
 18 Q. Did you understand Mr. Sutton to be a former U.S.  
 19 Attorney?  
 20 A. Yes, sir.  
 21 Q. In whose administration, if you would tell the  
 22 ladies and gentlemen of the jury?  
 23 A. I believe it was George W. Bush's administration.  
 24 Q. Have you ever heard the expression, "There are no  
 25 coincidences in Austin"?

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1 A. I may have. I don't recall it right now.  
 2 Q. Next text you write -- or in response to Blake  
 3 Brickman you say, "Not me," meaning you haven't updated  
 4 Johnny Sutton yet, right?  
 5 A. That's right.  
 6 Q. Ryan Bangert says, "Not with the latest. He is  
 7 aware that Jeff resigned, but not the new FAAH or FAAG.  
 8 Is that supposed to be First Assistant  
 9 Attorney General?  
 10 A. That's right.  
 11 Q. Okay. Next page, if you would.  
 12 You write, "To-do list. 1, update Johnny."  
 13 That's Johnny Sutton, right?  
 14 A. That's right.  
 15 Q. And number 2 is, "Have someone call the new meat."  
 16 Right?  
 17 A. That's right.  
 18 Q. Who's the new meat?  
 19 A. I have no idea. I don't recall who I was referring  
 20 to at that time.  
 21 Q. You're talking about new employees at the Attorney  
 22 General's Office, right?  
 23 A. I'm not sure.  
 24 Q. You can't --  
 25 A. I -- I presume that would have been the people that

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1 I was referring to just based on being in the office and  
 2 working in the office.  
 3 Q. Number 3 is "Discuss with Luis." Tell the ladies  
 4 and gentlemen of this jury who Luis is.  
 5 A. At the time Mr. Luis Saenz was the Chief of Staff  
 6 for Governor Abbott.  
 7 Q. What were you going to be discussing with Governor  
 8 Abbott's Chief of Staff?  
 9 A. It was not my discussion. It was a to-do list that  
 10 members of the group had contributed to. So I did not meet,  
 11 I did not talk to, I did not confer with Mr. Saenz.  
 12 Q. Who did?  
 13 A. I'm not -- I don't know. I believe Mr. Bangert and  
 14 Mr. Mateer met with Luis, but I don't know where or when.  
 15 Q. Well, I want to be super clear about the time line,  
 16 okay, without telling you anything that's been testified to  
 17 in this trial.  
 18 Are you aware of any type of meeting between  
 19 Mr. Mateer and Mr. Bangert and the Governor's Office on the  
 20 day of the FBI report?  
 21 A. I can't say that I recall. I don't know when or  
 22 where they may have met.  
 23 Q. But the discussion that's contemplated in your text  
 24 message with Luis Saenz, it -- that was poor syntax. Let me  
 25 try again.

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|  |  |
|--|--|
| <p>1 The discussion with Luis Saenz that's</p> <p>2 contemplated in your text message is not talking about that</p> <p>3 because this is on October 2. So this is talking about a new</p> <p>4 meeting with the Governor's Chief of Staff, right?</p> <p>5 A. Again, I don't know for sure. I don't -- I wasn't</p> <p>6 part of that meeting. I don't know when it happened or where</p> <p>7 it occurred. And I don't recall if this was referring to</p> <p>8 that specific meeting or a subsequent meeting.</p> <p>9 Q. Number 4 on your to do list, "Coordinate group</p> <p>10 office cleanout," right?</p> <p>11 A. Yes, sir.</p> <p>12 Q. You are planning as a group to clean out your</p> <p>13 offices, yes?</p> <p>14 A. Again, that was the conversation that we were</p> <p>15 having at the time.</p> <p>16 Q. But at some point in time, I'm sure you retained an</p> <p>17 employment lawyer and someone advised you that you need to</p> <p>18 stick around and make them fire you, right?</p> <p>19 A. I did hire an employment lawyer.</p> <p>20 Q. And at some point in time after meeting the</p> <p>21 employment lawyer, you decided the best thing to do was stick</p> <p>22 around and make somebody fire you, yes?</p> <p>23 A. I don't recall if that was the decision that was</p> <p>24 reached with my employment lawyer.</p> <p>25 Q. Your plan on October 2 was to coordinate a group</p> <p style="text-align: center;">45</p> | <p>1 Well, she was on top of it this day. She's</p> <p>2 got a tweet here. It says, "I heard First Attorney" --</p> <p>3 "First Assistant Attorney General Jeff Mateer announced today</p> <p>4 he's leaving the agency to return to First Liberty." And</p> <p>5 then the next text from Ryan B is, "Lauren McGaughy knows."</p> <p>6 She's a vigilant reporter, isn't she?</p> <p>7 A. I'm not advised.</p> <p>8 Q. That was not public at that point in time, right?</p> <p>9 A. I'm not sure either. I am not sure of the time</p> <p>10 line between when this was sent or when -- it looks like the</p> <p>11 tweet occurred on October 2nd at 7:15 p.m.</p> <p>12 Q. All right. Let's turn the page, if you would.</p> <p>13 You write, "What she needs now is a statement</p> <p>14 from First Liberty." Right?</p> <p>15 A. That's right.</p> <p>16 Q. What Lauren, the Dallas Morning News reporter,</p> <p>17 needs now is a statement from First Liberty is what you're</p> <p>18 saying, yes?</p> <p>19 A. That's what I would have suggested, yes, sir.</p> <p>20 Q. Yeah. And so correct me if I'm wrong, Mr. Vassar.</p> <p>21 It kind of looks like you're trying to shape the media</p> <p>22 narrative around what's going on. Is that true?</p> <p>23 A. No, sir.</p> <p>24 Q. But what you're saying here is we should give -- we</p> <p>25 should try to give her a statement from First Liberty, right?</p> <p style="text-align: center;">47</p> |
| <p>1 office cleanout, yes?</p> <p>2 A. That was the conversation we were having, again,</p> <p>3 about options, discussing continuity of the office, and</p> <p>4 whether it was an option for us to resign.</p> <p>5 Q. The next text is from -- it appears to me to be</p> <p>6 Mark Penley because this is his text thread. It says, "Ryan</p> <p>7 B, did you find the sets of subpoenas in my office?" Do you</p> <p>8 see that?</p> <p>9 A. I see that.</p> <p>10 Q. These are the grand jury subpoenas, yes?</p> <p>11 A. I would presume so. You would have to ask Mark</p> <p>12 which subpoenas he was referring to.</p> <p>13 Q. Okay. Ryan Bangert responds, "I have not been down</p> <p>14 to grab them yet. I will" -- "I likely will get them in the</p> <p>15 morning." Let's turn -- and he says, "I know Johnny has" --</p> <p>16 and let's turn to the next page -- "them so we can always get</p> <p>17 a copy from him worst comes to worst. I'm apparently not</p> <p>18 locked out yet." And then Ryan posts a tweet from Lauren</p> <p>19 McGaughy, right?</p> <p>20 A. Yes. I see that.</p> <p>21 Q. And who is Lauren McGaughy?</p> <p>22 A. She's a reporter for the Dallas Morning News.</p> <p>23 Q. Do you see her up here? Do you see her back there?</p> <p>24 A. I don't know. I've never met her, so I'm not sure.</p> <p>25 Q. You've never met her?</p> <p style="text-align: center;">46</p>                               | <p>1 A. Absolutely not.</p> <p>2 Q. That's not what you mean?</p> <p>3 A. No, sir.</p> <p>4 Q. What -- what did you mean? Just tell the ladies</p> <p>5 and gentlemen of the jury.</p> <p>6 A. That was my personal observation of another piece</p> <p>7 of information that she could obtain was a statement from</p> <p>8 First Liberty, which is where I understand Mr. Mateer was</p> <p>9 going to work.</p> <p>10 Q. And Ryan Bangert responds, "Or Alejandro can just</p> <p>11 give our statement." Who is Alejandro?</p> <p>12 A. He was the communications director at the office at</p> <p>13 the time.</p> <p>14 Q. Okay. And you say, "Unless KP is holding it or</p> <p>15 Alejandro is keeping McGaughy on the blacklist." What's the</p> <p>16 blacklist?</p> <p>17 A. It's my understanding at the office that there was</p> <p>18 a list of certain reporters that were handled differently</p> <p>19 than other reporters.</p> <p>20 Q. Next text. "On second thought, let the media</p> <p>21 feeding frenzy start." Who said that?</p> <p>22 A. That was Ryan Bangert.</p> <p>23 Q. The same Ryan Bangert who's testified in this</p> <p>24 trial, that guy?</p> <p>25 A. Yes, sir.</p> <p style="text-align: center;">48</p>  |

1 Q. So on October 2 he's saying let the media feeding  
2 frenzy start, true?  
3 A. Yes. That's what this says.  
4 Q. And this is -- how many days is this after you went  
5 to the FBI with no evidence?  
6 A. Well, to clarify, the absence of evidence that I  
7 was referring to is documents. What we went with is our --  
8 MR. LITTLE: Nonresponsive. Object,  
9 nonresponsive, Your Honor.  
10 PRESIDING OFFICER: Sustained. I'm sorry. I  
11 did not -- I did not hear you.  
12 Q. (BY MR. LITTLE) Why did Ryan Bangert want to start  
13 a media feeding frenzy on October 2?  
14 A. You'd have to ask him that. I'm not sure.  
15 Q. I would like for you --  
16 MR. LITTLE: Mr. Arroyo, if you could go to  
17 page Penley 20. At the bottom of -- it's hard to read Bates  
18 label at the bottom right. Right. Stop there. I want you  
19 to look at the -- I want you to zoom in on the last two texts  
20 on this thread if you would.  
21 Q. (BY MR. LITTLE) Lacey Mase says, "Stand down on  
22 that." We're not -- I'm going to ignore that. It says,  
23 "Missy told me he was in JM's office," blank, and there's a  
24 redacted name. Blank "was actually in the office while he  
25 was there."

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1 Mr. Penley redacted this name. Who is that?  
2 A. I'm not sure. I don't recall who that would have  
3 been. That was a message from, looks like, Lacey.  
4 MR. LITTLE: And if you could, Mr. Arroyo,  
5 advance to page Penley 25.  
6 Q. (BY MR. LITTLE) And you say, "We need a  
7 statement," right?  
8 A. That's right.  
9 Q. And you wrote a long one. Look to the bottom of  
10 that page.  
11 MR. LITTLE: Mr. Arroyo, next page.  
12 Next page after that. Next page after that.  
13 Next page after that.  
14 Q. (BY MR. LITTLE) You talk about not tiring in your  
15 pursuit for justice. Justice will be served. We refuse to  
16 resign and will not be intimidated. You say all that, right?  
17 A. Among other things, yes, sir.  
18 Q. But you wrote that, yes?  
19 A. Yes, sir.  
20 Q. Why did you want to do that? Why did you want to  
21 release a statement?  
22 A. Because it was in response to the Attorney  
23 General's allegations that we had authorized the activities  
24 that he was directing and supervising throughout the year  
25 that related to Nate Paul.

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1 Q. And no one on this thread agrees with you, right?  
2 A. Well, the statement was not issued. I don't know  
3 that anyone disagreed with the content, but no one decided to  
4 issue it.  
5 Q. Next page, if you would, please.  
6 Lacey Mase says, "It's likely that a very  
7 talented crisis COMS person is working very hard on our  
8 behalf."  
9 PRESIDING OFFICER: Counselor, hold on. It's  
10 not on the screen yet.  
11 MR. LITTLE: Oh, I'm sorry.  
12 If you would -- if you would, Mr. Arroyo, that  
13 middle text.  
14 PRESIDING OFFICER: There it is.  
15 Q. (BY MR. LITTLE) The middle text says, "It's likely  
16 that a very talented crisis COMS person is working very hard  
17 on our behalf as we speak." Right?  
18 A. Yes. I see that.  
19 Q. Who is that?  
20 A. I have no idea. You'd have to ask Lacey.  
21 Q. Were you paying for -- were you paying for a crisis  
22 COMS person?  
23 A. No, sir.  
24 Q. Did you ever ask her who she was talking about?  
25 MR. HARDIN: Pardon me, Your Honor. Can I ask

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1 the witness to speak a little closer to the microphone.  
2 Thank you.  
3 PRESIDING OFFICER: Yes. Please do.  
4 Q. (BY MR. LITTLE) Did you ever ask her who she was  
5 talking about?  
6 A. No, sir.  
7 Q. Okay. Next I want to move to the topic of what  
8 I'll call the mystery of the altered letterhead. Okay?  
9 I've got a new document for you. This is  
10 marked as Exhibit AG 1007.  
11 MR. LITTLE: May I approach, Mr. President?  
12 PRESIDING OFFICER: Yes, you may.  
13 Q. (BY MR. LITTLE) Please review this email thread,  
14 Mr. Vassar.  
15 PRESIDING OFFICER: One moment.  
16 Mr. Hardin, have you had an opportunity to  
17 look at it?  
18 MR. HARDIN: I have no objection.  
19 MR. LITTLE: We move for admission of AG 1007,  
20 Mr. President.  
21 PRESIDING OFFICER: It is admitted into  
22 evidence.  
23 (AG Exhibit No. 1007 was admitted)  
24 Q. (BY MR. LITTLE) Mr. Vassar, review this thread,  
25 please.

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1 A. I see it. It's an email that was printed by Brent  
 2 Webster. It was sent from Lacey Mase to myself on October  
 3 1st, 2020.

4 MR. LITTLE: Mr. Arroyo, if you would, please.  
 5 Exhibit AG 1007, zoom in on the text if you would, please.

6 Q. (BY MR. LITTLE) All right. I want to make sure we  
 7 have this in perfect context. All right?

8 The earlier email in the thread is from a  
 9 woman name Brittany Hornsey, yes?

10 A. Yes.

11 Q. And who is that, Mr. Vassar?

12 A. At the time she was executive assistant to Jeff  
 13 Mateer.

14 Q. Jeff Mateer only? He's got his own assistant?

15 A. I believe she also supported Ryan Bangert, but I'm  
 16 not sure exactly.

17 Q. Okay. And she writes an email on September 30th at  
 18 6:16 p.m., yes?

19 A. Yes.

20 Q. And to whom did she write it?

21 A. To Ms. Mase.

22 Q. And what is the subject?

23 A. It says "Letter."

24 Q. All right. Put this in proper time line for the  
 25 jury. At 6:16 p.m. on September 30th of 2020, you have

1 already made your report to the Federal Bureau of  
 2 Investigation, yes?

3 A. Yes.

4 Q. And Brittany Hornsey is emailing something to Lacey  
 5 Mase, yes?

6 A. That's -- that's what this indicates, yes.

7 Q. And October 1, the next day -- 30 days hath  
 8 October. Yes, the next day, 12:09 p.m., Lacey Mase forwards  
 9 that item to you, yes?

10 A. Yes.

11 Q. Let's show the ladies and gentlemen of the jury  
 12 what that item is, Mr. Vassar.

13 Next page.

14 A. Do you want me to identify it, or was there a  
 15 question?

16 Q. What is it?

17 A. It says "A draft to." It's dated September 29th,  
 18 2020. It has the Attorney General's seal on the top of it.  
 19 And it has no body, but it is a draft signature block of the  
 20 executive deputies.

21 Q. What else do you notice about it?

22 A. There are some signatures and some that are not.  
 23 There are -- I think that's it.

24 Q. Anything else that you notice about it? Anything  
 25 missing, perhaps?

1 A. Not offhand, no, sir.

2 Q. The Attorney General's name has been removed from  
 3 the letterhead, hasn't it?

4 A. No, sir. As I explained yesterday, the agency has  
 5 different letterhead. This is a different letterhead.

6 Q. Do you understand that Brittany Hornsey was  
 7 interviewed by Brent Webster as part of this case?

8 A. I'm not advised, but --

9 Q. Have you heard that Brittany Hornsey was  
 10 intentionally told by Lacey Mase --

11 A. I have not heard that.

12 Q. Stop. I didn't finish my question.

13 A. Sorry.

14 Q. Hold on a second. Have you heard that Brittany  
 15 Hornsey was intentionally told by Lacey Mase to bring her the  
 16 letterhead without Ken Paxton's name on it?

17 A. I'm not sure that I have ever heard that, that  
 18 Lacey had instructed Brittany to send the letterhead.

19 Q. Had you ever before written a letter on agency  
 20 letterhead -- well, skip it.

21 This, of course, letterhead was being used in  
 22 the letter by the so-called whistleblowers to notify certain  
 23 parties of certain things, yes?

24 A. That's right.

25 Q. I want to go back in time a little bit. We've been

1 talking a lot about September -- or October, but I want to go  
 2 back to the hiring of Brandon Cammack, okay, and ask you a  
 3 series of questions that I think are going to call for a  
 4 yes/no answer. Just do your best. Okay?

5 You were responsible for overseeing outside  
 6 counsel contracts, correct?

7 A. For the Office of the Attorney General, that was  
 8 one of the areas, yes, sir.

9 Q. Yes. And the agency reviews and approves around  
 10 900 of them every two years, true?

11 A. Yes, across the state.

12 Q. Okay.

13 A. Not for the office.

14 Q. Okay. I want to put things in proper context.  
 15 Brandon Cammack would have been one outside counsel out of  
 16 about 900 between 2019 and 2020, true?

17 A. Yes. On average, yes. There's about 900  
 18 outside -- counsel contracts that the agency processes on  
 19 behalf of other state agencies. The office itself might have  
 20 two to five outside-counsel contracts at a time is my  
 21 recollection.

22 Q. So if the suggestion is that Nate Paul had such a  
 23 chokehold on the Attorney General's Office, that he had  
 24 consumed so many resources that the office wasn't really  
 25 doing much else, that wouldn't be true, would it?



1 A. The focus of Nate Paul's related activities were  
2 becoming increasingly --  
3 MR. LITTLE: Object, nonresponsive,  
4 Mr. President.  
5 PRESIDING OFFICER: Sustained.  
6 Q. (BY MR. LITTLE) It is not true, Mr. Vassar, that  
7 Nate Paul had such a stranglehold on the Office of Attorney  
8 General that nothing else was getting done, right?  
9 A. I wouldn't characterize it that way.  
10 Q. All right. Let me ask a better question then.  
11 Yes or no, did Nate Paul have such a  
12 stranglehold on the Office of the Attorney General that other  
13 things weren't getting done?  
14 A. I don't think I can answer yes or no to that  
15 question.  
16 Q. Are you sure?  
17 A. I am sure.  
18 Q. You can't say "yes," right? It's not true.  
19 A. It --  
20 Q. You can't say "yes," right?  
21 A. I -- the degree to which Nate Paul's relationship  
22 with General Paxton and the activities that --  
23 MR. LITTLE: Object to nonresponsive.  
24 A. -- we were asking --  
25 MR. HARDIN: Objection, Your Honor. He

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1 to Nate Paul? How many of the 800 ever touched anything  
2 related to Nate Paul?  
3 A. I could speculate there may have been 15 lawyers,  
4 maybe 15 to 20.  
5 Q. How many cases does the Attorney General's Office  
6 have going on at any time?  
7 A. Generally, I think it's around 900,000 or maybe  
8 50,000 cases.  
9 Q. 900,000 or 50,000?  
10 A. Well --  
11 Q. Help me out here.  
12 A. -- I was -- I was going back to the outside counsel  
13 numbers of 900 every two years, so I apologize. I was not in  
14 the civil litigation division, so I'm not sure how many  
15 litigation cases are active at any general moment.  
16 Q. What's your best understanding of how many civil  
17 litigation matters are going at the Office of the Attorney  
18 General at any given time?  
19 A. Possibly it could be 20,000 active cases at a time.  
20 Q. 20,000, right? And how many of those 20,000 cases  
21 involve Nate Paul?  
22 A. I would have no direct knowledge of how many of  
23 those cases would.  
24 Q. So I think we've been over this a lot. I don't  
25 want to burden us with it too much longer. There's a

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1 can't -- I object to him being forced to answer yes or no.  
2 The rules don't require that from a witness if they can't,  
3 and he's trying to testify to these questions. When he  
4 doesn't get what he wants, he asks him just to give yes or  
5 no.  
6 That question, if you look at it, we have no  
7 idea what he means by stranglehold, as an example. He should  
8 not be required to answer yes or no before he knows what this  
9 man means. That's my objection.  
10 PRESIDING OFFICER: First -- I think you had  
11 an objection first and then you had an objection.  
12 MR. HARDIN: Yes, sir.  
13 PRESIDING OFFICER: I believe so. Okay. The  
14 court reporter, I hope you were able to get that. We had  
15 objections over each other.  
16 So, first of all, we will -- overrule your  
17 objection. We will sustain your objection.  
18 To the best of your ability, Mr. Vassar, if  
19 you can, answer yes or no.  
20 Continue.  
21 Q. (BY MR. LITTLE) I'll ask a better question. How  
22 many lawyers are there, roughly, at the Office of the  
23 Attorney General?  
24 A. Roughly 800 lawyers.  
25 Q. How many of them have ever touched anything related

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1 layering of signatures and approvals as part of the policy  
2 for hiring outside counsel, yes?  
3 A. Yes, sir.  
4 Q. But, of course, you know that the law says that the  
5 elected Attorney General appoints outside counsel, right?  
6 Just him, right?  
7 A. No, sir.  
8 Q. All right.  
9 MR. LITTLE: Mr. Arroyo, this may be  
10 challenging for you to find, but please bring up Section  
11 402.0212 of the Texas Government Code.  
12 Erick on-the-spot.  
13 All right. Give me the title and Section (a),  
14 please.  
15 Q. (BY MR. LITTLE) Have you ever read this before?  
16 A. Yes, sir.  
17 Q. Let's read it together. It says, "Except as  
18 other" -- "authorized by other law, a contract for legal  
19 services between an attorney, other than a full-time employee  
20 of the agency, and a state agency in the executive  
21 department, other than an agency established by the Texas  
22 Constitution, must be approved by the Attorney General to be  
23 valid," right?  
24 A. Yes, sir.  
25 Q. That's pretty clear, isn't it?

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1 A. Yes, sir.  
 2 Q. It doesn't have to be approved by you. It doesn't  
 3 have to be approved by Jeff Mateer. It doesn't have to be  
 4 approved by Michele Price. It doesn't have to be approved by  
 5 Lacey Mase or Ryan Bangert or anybody else but the guy who  
 6 got 4.2 million votes, right?  
 7 A. It was the standard practice for approvals, but,  
 8 yes.  
 9 MR. LITTLE: Object, nonresponsive.  
 10 PRESIDING OFFICER: Sustained.  
 11 Q. (BY MR. LITTLE) Right?  
 12 A. If your initial question was whether the law allows  
 13 General Paxton to appoint outside --  
 14 MR. LITTLE: Object, nonresponsive,  
 15 Mr. President.  
 16 PRESIDING OFFICER: Sustained.  
 17 Q. (BY MR. LITTLE) Would you like to have the court  
 18 reporter read the question back to you?  
 19 A. The first -- your first question about whether the  
 20 law allows --  
 21 MR. LITTLE: Object, nonresponsive.  
 22 PRESIDING OFFICER: Sustained.  
 23 A. Yes. Please read the question back to me.  
 24 (Court reporter read back the question)  
 25 PRESIDING OFFICER: We could not hear that.

1 counsel in a criminal matter?" Yes?  
 2 A. That's right.  
 3 Q. He asked for your advice, right?  
 4 A. Yes.  
 5 Q. He didn't kick down your door and say, Ryan, this  
 6 is what we're doing, did he?  
 7 A. Not in that conversation.  
 8 Q. He asked you for your advice, and you gave him your  
 9 advice, true?  
 10 A. Yes.  
 11 Q. You called two candidates, Joe Brown and Brandon  
 12 Cammack, correct?  
 13 A. Yes, sir.  
 14 Q. You got each of them to run a conflict check, true?  
 15 A. Yes, sir.  
 16 Q. You drafted a contract for Joe Brown, didn't you?  
 17 A. No, sir. I sent Mr. Brown the template -- the  
 18 outside-counsel contract template with no scope. There was  
 19 no scope of work, no rate of pay; and his follow-up email to  
 20 me was, "Would you like me to draft the scope?"  
 21 Q. And you said, "Joe, the malpractice issue may be  
 22 one that we can resolve. We will draft the scope and will  
 23 send you a draft agreement with the relevant details as soon  
 24 as possible," right?  
 25 A. That's right.

1 Can you repeat that?  
 2 MR. LITTLE: I'll be happy to repeat it.  
 3 Q. (BY MR. LITTLE) Outside-counsel contracts don't  
 4 have to be approved by you, they don't have to be approved by  
 5 Jeff Mateer, they don't have to be approved by Michele Price  
 6 or Lacey Mase or Ryan Bangert or anyone but the guy who got  
 7 4.2 million votes, right?  
 8 A. That's right.  
 9 Q. Thank you. Now, with regard to criminal matters,  
 10 you had a call with General Paxton, true?  
 11 A. Specific to the outside-counsel process, yes, but  
 12 in general criminal matters, no, I never spoke to General  
 13 Paxton.  
 14 Q. Yes. Just about the outside-counsel process, yes?  
 15 A. Yes.  
 16 Q. Okay. And he said, and I quote, "Tell me about the  
 17 approval process." And you walked him through it, right?  
 18 A. Yes, sir.  
 19 Q. Remember, you're the lawyer to lawyers, right?  
 20 A. That's right.  
 21 Q. And he was asking for your advice, yes?  
 22 A. He was asking me to explain the outside-counsel  
 23 process.  
 24 Q. Now, this next question is very important. Ken  
 25 Paxton asked you, and I quote, "Can the agency retain outside

1 Q. You got each of them to run a conflict check, Brown  
 2 and Cammack, right?  
 3 A. Yes.  
 4 Q. Now, in your estimation the Nate Paul  
 5 investigative referral from the Travis County District  
 6 Attorney's Office was, and I quote, "an ordinary criminal  
 7 referral with ordinary investigative issues," true?  
 8 A. That was my perception, yes, sir.  
 9 Q. Your conversations with First Assistant Jeff --  
 10 actually, let me press pause here.  
 11 After your testimony yesterday, did you go  
 12 back and watch the video of yourself giving testimony?  
 13 A. No, sir.  
 14 Q. Okay. Your conversations with First Assistant Jeff  
 15 Mateer were that you could make a legal argument that this  
 16 outside-counsel contract with Cammack was okay because you  
 17 had a referral and you had separate authority to engage  
 18 outside counsel, true?  
 19 A. Yes, sir.  
 20 Q. And you drafted Cammack's contract, true?  
 21 A. Yes, sir.  
 22 Q. Now, tell the ladies and gentlemen of the jury --  
 23 because I think we all want to understand the executive  
 24 action memorandum -- the whole process or whole idea of using  
 25 what's called workflow in DocuSign for these outside counsel

1 contracts was your idea, wasn't it?  
 2 A. Yes, sir.  
 3 Q. Doesn't date back to John Cornyn or Greg Abbott,  
 4 does it?  
 5 A. No, sir.  
 6 Q. You're the progenitor of this idea, and we have you  
 7 to thank for it, I suppose, right?  
 8 A. I suppose so.  
 9 Q. And so what happens in workflow DocuSign is one  
 10 person has to sign and then the next person and it has to go  
 11 in order, true?  
 12 A. Yes, sir.  
 13 Q. Didn't exist before you, yes?  
 14 A. It existed in hard copy but not electronic copy.  
 15 Q. Jeff Mateer told you to sign this contract, yes?  
 16 A. Yes, sir, he did.  
 17 Q. Not Ken Paxton. Jeff Mateer told you to sign this  
 18 contract with Brandon Cammack, right?  
 19 A. In my conversations with Jeff --  
 20 Q. No one but Jeff Mateer told you to sign this  
 21 contract, right? Right?  
 22 A. Jeff Mateer was the only person that I spoke to  
 23 about signing the contract.  
 24 Q. Ken Paxton didn't cause you or compel you to sign  
 25 it, did he?

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1 A. No, sir.  
 2 Q. Your conversation with Mateer, in fact, was, and I  
 3 quote, "We need to keep this on as short of a leash as  
 4 possible because we don't want it running away," true?  
 5 A. No, sir. That's not true.  
 6 Q. Well, fortunately, we have your transcript.  
 7 MR. LITTLE: Mr. President, may I approach the  
 8 witness?  
 9 PRESIDING OFFICER: You may.  
 10 MR. LITTLE: Mr. President, I am not moving  
 11 for admission of this transcript as I do not think it will be  
 12 necessary. The purpose of this is impeachment only.  
 13 MR. HARDIN: May I inquire -- excuse me. Go  
 14 ahead. Go ahead.  
 15 May I inquire if you intend to introduce the  
 16 entire document?  
 17 MR. LITTLE: I do not. I just said that. I  
 18 don't intend to introduce it as an exhibit. I intend to use  
 19 it for impeachment purposes only.  
 20 MR. HARDIN: All right. Thank you, Judge.  
 21 PRESIDING OFFICER: Continue.  
 22 Q. (BY MR. LITTLE) If you would, turn to page 105 of  
 23 your transcript. I'm going to bring it up as well. We're  
 24 not going to put it on the screen because I don't think we'll  
 25 need to do that.

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1 Can you find page 105?  
 2 A. I am on the transcript page of 105, yes, sir.  
 3 Q. Read for the ladies and gentlemen of the jury what  
 4 you testified to the House Board of --  
 5 PRESIDING OFFICER: Counselor, hold on one  
 6 second. My transcript is down. I'm just trying to get it  
 7 back up. Hold on.  
 8 Go ahead.  
 9 MR. LITTLE: Thank you, Mr. President.  
 10 Q. (BY MR. LITTLE) Read, if you would, Mr. Vassar, to  
 11 the ladies and gentlemen of this jury the testimony that you  
 12 gave to the House Board of Managers beginning at page 105,  
 13 line 24, and read until page 106, line 4.  
 14 A. So it says, "In my conversations with Mateer,  
 15 similar to the qualifications, the expertise, the experience  
 16 between the two potential people, along those same lines was,  
 17 quote, 'We need to keep this on as short of a leash as  
 18 possible because we don't want it running away,' closed  
 19 quote."  
 20 Q. And you had that conversation with Jeff Mateer,  
 21 didn't you?  
 22 A. I had several conversations with Mr. Mateer.  
 23 MR. LITTLE: Object, nonresponsive.  
 24 PRESIDING OFFICER: Sustained.  
 25 Q. (BY MR. LITTLE) You had that conversation with

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1 Mr. Mateer, didn't you?  
 2 A. Yes. I had a conversation with Mr. Mateer, but at  
 3 no point did I say --  
 4 MR. LITTLE: Object, nonresponsive.  
 5 MR. HARDIN: Excuse me. May he please be  
 6 allowed to -- may he please respond to his --  
 7 PRESIDING OFFICER: Overruled.  
 8 A. Can you repeat the question to me?  
 9 Q. (BY MR. LITTLE) You had the conversation that you  
 10 described here in your testimony to the House Board of  
 11 Managers with Mr. Mateer, yes?  
 12 A. Yes, sir, I had a conversation.  
 13 Q. Thank you. And you made an intentional decision to  
 14 bring Brandon Cammack on, as I believe you put it, a third  
 15 set of eyes, yes?  
 16 A. No, sir. I -- I didn't make the decision. I  
 17 provided a recommendation and a legal justification to do so.  
 18 Q. If you'll look at page 106, lines 5 through 11,  
 19 what you say is, "So I drafted the scope of work for the  
 20 contract." You're talking about Cammack's contract.  
 21 MR. HARDIN: Pardon me, Your Honor. May we  
 22 approach the bench, please?  
 23 PRESIDING OFFICER: Yes, you may.  
 24 (Conference at the bench off the record)  
 25 PRESIDING OFFICER: I think the two of you

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1 have come to an agreement of moving forward --  
 2 MR. LITTLE: We have.  
 3 PRESIDING OFFICER: -- in a proper way.  
 4 MR. LITTLE: Mr. Hardin will let me know if I  
 5 mess up.  
 6 PRESIDING OFFICER: Members of the jury, come  
 7 to order.  
 8 Q. (BY MR. LITTLE) So, Mr. Vassar, the plan was to  
 9 bring on Mr. Cammack, as I believe you put it, a third set of  
 10 eyes, true?  
 11 A. That was my understanding.  
 12 Q. Tell the ladies and gentlemen of the jury, who were  
 13 the other two sets of eyes?  
 14 A. I didn't have any specifically other than Director  
 15 Maxwell and Mark Penley, I presume, is the two individuals.  
 16 Q. And --  
 17 A. I'm sorry. You were speaking.  
 18 Q. Did I cut you off?  
 19 A. No, sir.  
 20 Q. Okay. You anticipated Brandon Cammack providing a  
 21 report to your office, true?  
 22 A. I did.  
 23 Q. And you testified that the Brandon Cammack contract  
 24 never got to the Controller Michele Price, true?  
 25 A. That's right. At the time I don't believe it had.

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1 Q. So just to be clear, you testified before the House  
 2 Board of Managers that Brandon Cammack's contract never got  
 3 to the Controller Michele Price, true?  
 4 A. That was my recollection.  
 5 Q. But you were wrong about that, weren't you?  
 6 A. I don't know for -- I don't know.  
 7 MR. LITTLE: Let's bring up Exhibit AG 130. I  
 8 believe it's already in evidence. If you can find that for  
 9 me, Mr. Arroyo. Right there.  
 10 Okay. Would you just highlight the signature  
 11 blocks for me or zoom in on the signature blocks?  
 12 Q. (BY MR. LITTLE) Michele Price, the Controller,  
 13 approved it, yes?  
 14 A. I see that.  
 15 Q. So this contract had the money?  
 16 A. I'm sorry. Had a what?  
 17 Q. It had the money allocated if Michele Price signed  
 18 it, true?  
 19 A. Yes. It appears she signed it after I did.  
 20 Q. But in the rushed impeachment in this case, you  
 21 told the House Board of Managers that she never signed it,  
 22 true?  
 23 A. She had not signed it before I signed it. That was  
 24 my testimony, as I recall.  
 25 Q. Yeah. And at the time you gave your testimony to

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1 the House Board of Managers, you didn't know and now you  
 2 know, right?  
 3 A. Well, yes. I see now that she has signed it.  
 4 Q. Lesley French, who's that?  
 5 A. At the time she was general counsel.  
 6 Q. She approved the choice of Brandon Cammack as  
 7 outside counsel, true?  
 8 A. Yes. She initialed this as indicating approval.  
 9 Q. I want to talk briefly about grants. Okay? Are  
 10 you familiar with applying for federal grants?  
 11 A. Yes, sir.  
 12 Q. Okay. Just explain to the ladies and gentlemen of  
 13 the jury who may not understand the inside baseball of that,  
 14 why would -- why on earth would the wonderful State of Texas  
 15 need to apply for federal grants for OAG funding?  
 16 A. Well, there are a number of programs that the  
 17 office administers such as child support, crime-victim  
 18 services, that are supplemented by state funds, state grants,  
 19 as well as federal funding.  
 20 Q. And where does the money come from?  
 21 A. Well, in each instance it comes from state  
 22 appropriations and also federal grant programs.  
 23 Q. And does your office have to apply for them with  
 24 the federal government?  
 25 A. I believe so. There might be one or two instances

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1 where they are statutory grants under the federal statutes,  
 2 but I think most of them are application based.  
 3 Q. And you were responsible for applying for those  
 4 grants, true?  
 5 A. No, sir. The grants division of the office was  
 6 responsible for applying.  
 7 Q. But you were overseeing them?  
 8 A. No, sir. That's a division that reported to Lacey  
 9 Mase.  
 10 Q. Okay. As the office -- as part of the office of  
 11 general counsel or -- by October 2020, what was your title at  
 12 the agency?  
 13 A. Deputy for Legal Counsel.  
 14 Q. Okay. And so you're giving the couns- -- isn't it  
 15 true that you gave the Office of the Attorney General legal  
 16 advice about those grants?  
 17 A. Yes.  
 18 Q. Okay. I think I'm over the target now finally.  
 19 So my understanding is, correct me if I'm  
 20 wrong, in October 2020 after you had so-called blown the  
 21 whistle with your friends, you were still providing legal  
 22 advice to the Office of Attorney General about grant  
 23 applications to the federal government, yes?  
 24 A. Yes, sir.  
 25 Q. And one of the reservations that you expressed was

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1 that the Office of the Attorney General might have some  
 2 problems applying for federal grants because Ken Paxton was  
 3 under indictment, true?  
 4 A. That was an issue that came to my mind, yes, sir.  
 5 Q. He was under indictment the whole time you worked  
 6 there, right?  
 7 A. I'm not sure when it occurred, but I believe that's  
 8 probably true.  
 9 Q. In every other year before October of 2020, you  
 10 didn't provide that advice to the Office of the Attorney  
 11 General, true?  
 12 A. That's right.  
 13 Q. And, in fact, if Ken Paxton was not allowed to sign  
 14 those grant applications, it might have cost the Attorney  
 15 General's Office between 1- and \$10 million in federal money,  
 16 true?  
 17 A. I don't know the specific numbers, but, yes, if --  
 18 if we were prohibited as an agency from participating in the  
 19 federal grant program because of an ongoing indictment or  
 20 conviction for a felony that was prohibited under those  
 21 federal programs, then it could cost the agency.  
 22 Q. So after you blew the whistle on September 30th of  
 23 2020, your advice about those grants changed, right?  
 24 A. No, sir.  
 25 Q. You were advising the Attorney General's Office

1 talked about yesterday. Okay? I want to make sure I have  
 2 this right, because I think we may have made a mistake, you  
 3 and I together -- or I may have made the mistake and elicited  
 4 testimony that wasn't correct. I want to make sure. Okay?  
 5 You remember the three requests we talked  
 6 about yesterday, right?  
 7 A. Yes.  
 8 Q. Okay.  
 9 A. The securities board, the big request, the FBI  
 10 brief.  
 11 Q. The FBI brief. So on the FBI brief, yesterday I  
 12 believe I elicited testimony from you that the FBI blew their  
 13 response deadline, but that wasn't right, was it?  
 14 A. I think is what I testified yesterday is I don't  
 15 recall exactly what the circumstances were regarding the  
 16 response deadline or any response that we had requested.  
 17 Q. What actually happened is the FBI responded when  
 18 that unredacted brief was requested, but their arguments were  
 19 so nonsensical or were nonresponsive to the issue that your  
 20 opinions division, which is under your oversight, made the  
 21 decision to release the unredacted brief, true?  
 22 A. I don't recall what the brief said, the FBI's  
 23 response to the request for the FBI brief itself. I don't  
 24 recall what the FBI's position was or what the division  
 25 issued.

1 about this all the way on from before that?  
 2 A. No. What you asked is did my advice change? The  
 3 answer is no. I didn't provide advice one way or the other  
 4 that had changed from the previous years.  
 5 Q. Okay. Did you advise the Attorney General's Office  
 6 on those grants before October of 2020?  
 7 A. On the specific grants that --  
 8 Q. The federal money, the 1- to \$10 million that's  
 9 supposed to be coming to the State of Texas to help the AG's  
 10 Office.  
 11 A. Right.  
 12 Q. Did you provide any advice about that before  
 13 October of 2020?  
 14 A. Not -- so just to clarify your question, these  
 15 grants are typically on a two-year cycle in most instances,  
 16 so each time we would consider those a separate grant. So  
 17 when you asked if I provided advice on these grants,  
 18 historically I would have advised on the legal nature of  
 19 participating in these grant programs at different years.  
 20 Q. Did you ever raise your concerns about the Attorney  
 21 General's being indicted for securities fraud over the last  
 22 eight years to anyone before October of 2020?  
 23 A. I don't recall so.  
 24 Q. Let me just circle back with you and clean  
 25 something up on the Public Information Act stuff that we

1 Just to put it in context, my youngest was  
 2 born May 30th of 2020.  
 3 Q. Okay.  
 4 A. So I was working out of the office. And at that  
 5 time, if you recall, the DPS request -- the big request was  
 6 issued June 2nd. So toward May 30th for the month of June,  
 7 most of those conversations were directly with Ryan Bangert.  
 8 Q. Okay. So is it true that you can't tell the ladies  
 9 and gentlemen of the jury why the unredacted brief was  
 10 released?  
 11 A. The unredacted FBI brief was released because  
 12 General Paxton directed us to release it.  
 13 Q. And tell me about what that process was.  
 14 A. Well, in a meeting with General Paxton at which  
 15 Ryan Bangert was attending, we identified that the agency,  
 16 the Office of the Attorney General, had received a request  
 17 for public information for the FBI brief. General Paxton  
 18 asked us to provide him a copy of the redacted brief and the  
 19 unredacted brief.  
 20 Q. Yes.  
 21 A. A few days later we met again, and General Paxton  
 22 had reviewed it, had marked up the copies and indicated to  
 23 both of us that he had seen nothing that should be withheld  
 24 from Nate Paul.  
 25 Q. Did you disagree with him?

1 A. Yes, just based on the content of the information.  
 2 Q. Was there any claim of law enforcement privilege  
 3 made by the FBI?  
 4 A. I'm not advised -- again, I don't recall what their  
 5 brief said.  
 6 Q. You don't recall any of the content of what the FBI  
 7 said in their challenge?  
 8 A. Not in the challenge, no, sir. I recall the  
 9 content of the FBI brief that was submitted as part of the  
 10 DPS file.  
 11 Q. Okay. I'm going to show you a few other documents,  
 12 okay?  
 13 We're going to go to -- let's stay on this  
 14 same topic.  
 15 MR. LITTLE: This is Exhibit AG 185, Your  
 16 Honor, if I might approach.  
 17 PRESIDING OFFICER: You may.  
 18 Q. (BY MR. LITTLE) Have you had an opportunity to  
 19 review Exhibit AG 185?  
 20 A. Yes, sir.  
 21 Q. What is it?  
 22 A. It's a letter dated April 13th, 2020, from the  
 23 Department of Public Safety to Joseph Larsen regarding a  
 24 Public Information Request referenced as 20-0983.  
 25 MR. LITTLE: And, Mr. Arroyo, if you would

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1 Q. And in the lawsuit that Joe Larsen filed, he filed  
 2 that on behalf of Nate Paul, true?  
 3 A. Well, that lawsuit that you showed me yesterday, it  
 4 identified Mr. Larsen as the plaintiff. I don't know why he  
 5 would have filed it or what reasons he had.  
 6 Q. Ultimately, the unredacted FBI brief was released  
 7 from a lawyer at the Attorney General's Office to a lawyer,  
 8 Joe Larsen, who is working for Nate Paul, true?  
 9 A. I believe so.  
 10 Q. No one at the Attorney General's Office tried to  
 11 stop it from going out, did they?  
 12 A. Except for our conversations with General Paxton, I  
 13 don't think anybody stopped it after he instructed us just to  
 14 release it.  
 15 Q. But you didn't have any good legal reason to keep  
 16 it, did you?  
 17 A. I'm not sure what you mean by "legal reason to keep  
 18 it."  
 19 Q. You're a lawyer. Did you have a good legal reason  
 20 to keep it?  
 21 A. Well, we had reasons to believe that the  
 22 information contained in the brief itself involved law  
 23 enforcement information under the Public Information Act,  
 24 because as you mentioned yesterday, the FBI redacted it.  
 25 Q. But the FBI didn't assert law enforcement privilege

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1 bring up Exhibit AG 185. Thank you so much.  
 2 PRESIDING OFFICER: Pardon me. Counselor, are  
 3 you offering this?  
 4 MR. LITTLE: I am. I thought I did. I'm  
 5 sorry. Exhibit AG 185, we move for admission, Mr. President.  
 6 PRESIDING OFFICER: Mr. Hardin?  
 7 MR. HARDIN: I have no objection, but I  
 8 request that we don't put it on the -- put it up on the easel  
 9 until we get a ruling, please. Thank you so much.  
 10 (AG Exhibit No. 185 was admitted)  
 11 PRESIDING OFFICER: Agreed.  
 12 MR. LITTLE: I agree.  
 13 Now, Mr. Arroyo, please --  
 14 PRESIDING OFFICER: Okay. Mr. Counselor --  
 15 Counselor, since we did break for a half hour earlier, that  
 16 was kind of our 10:30 break. So we'll go to 12:00, about 40  
 17 minutes, and then we'll have lunch from 12:00 to 1:00.  
 18 MR. LITTLE: Understood, Judge. Thank you.  
 19 Q. (BY MR. LITTLE) This is a response from DPS to the  
 20 big request, right?  
 21 A. It appears to be. I don't recall the exact number  
 22 of the request, but it appears to be.  
 23 Q. So Joe Larsen is the vehicle through -- that Nate  
 24 Paul is using to make these requests, yes?  
 25 A. It was my understanding, that's right.

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1 over the brief, did it?  
 2 A. Again, I don't recall what their position was in  
 3 their briefing that they submitted, just because --  
 4 Q. You don't know.  
 5 A. That's right.  
 6 Q. Okay.  
 7 MR. LITTLE: Your Honor, I've got another  
 8 exhibit. May I approach the witness?  
 9 PRESIDING OFFICER: Yes, you may.  
 10 Q. (BY MR. LITTLE) Have you seen Exhibit AG 253  
 11 before?  
 12 A. Yes, sir.  
 13 Q. What is it?  
 14 A. This is a --  
 15 PRESIDING OFFICER: Are you offering this?  
 16 MR. LITTLE: I was going to prove -- I was  
 17 going to lay the predicate first, but I will certainly offer  
 18 it.  
 19 MR. HARDIN: Excuse me, Your Honor. Thank  
 20 you. We have no objection to speed it up.  
 21 PRESIDING OFFICER: Exhibit 253, admitted into  
 22 evidence.  
 23 (AG Exhibit No. 253 was admitted)  
 24 PRESIDING OFFICER: Continue.  
 25 MR. LITTLE: Mr. Arroyo, if you would, Exhibit

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1 AG 253.  
 2 Q. (BY MR. LITTLE) Mr. Vassar, what is it?  
 3 A. This is a letter involving private schools in the  
 4 middle of COVID-19. It's dated July 17th of 2020.  
 5 Q. And Attorney General Ken Paxton issued this  
 6 guidance, correct?  
 7 A. Yes. He signed it, and we issued it from the  
 8 office.  
 9 Q. And it is not a formal legal opinion, correct?  
 10 A. No. That's -- it's not a formal opinion decided  
 11 under 402.  
 12 Q. Okay. Did you have kids in a religious school at  
 13 that time?  
 14 A. No, sir.  
 15 Q. Okay. The purpose of this guidance was what?  
 16 A. To provide guidance on how religious private  
 17 schools could operate in the face of local orders that may  
 18 contradict the Governor's executive order at the time.  
 19 Q. Pretty important stuff, isn't it?  
 20 A. Yes, sir.  
 21 Q. And orders like this were being -- orders similar  
 22 to this that were giving informal legal guidance about COVID  
 23 matters were coming out of your office almost every day,  
 24 true?  
 25 A. I'm not sure if it was daily, but we were providing

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1 advice on a regular basis.  
 2 Q. All right. Do you recall the quote, unquote,  
 3 midnight opinion -- I believe Mr. Hardin referred it --  
 4 referred to it as the midnight opinion, the foreclosure  
 5 guidance?  
 6 A. I recall it, yes, sir.  
 7 MR. LITTLE: May I approach the witness, Your  
 8 Honor?  
 9 PRESIDING OFFICER: Yes, you may.  
 10 Q. (BY MR. LITTLE) That wasn't even the only COVID  
 11 guidance issued that day, was it?  
 12 A. I don't recall that specifically either.  
 13 MR. LITTLE: Mr. President, we move for  
 14 admission of Exhibit AG 7.  
 15 PRESIDING OFFICER: Mr. Hardin?  
 16 MR. HARDIN: I'm trying to get my microphone.  
 17 I'm sorry. We have no objection, Your Honor.  
 18 PRESIDING OFFICER: Admit Exhibit No. 7 into  
 19 evidence.  
 20 (AG Exhibit No. 7 was admitted)  
 21 Q. (BY MR. LITTLE) Have you seen -- no. That's not  
 22 AG 7. This is 260.  
 23 MR. LITTLE: Would you put AG 7, please,  
 24 Mr. Arroyo? Thank you, Erick.  
 25 Erick, would you just -- would you zoom in on

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1 the letterhead here?  
 2 Q. (BY MR. LITTLE) This is the letterhead of the  
 3 Office of the Attorney General of the State of Texas, true?  
 4 A. I wouldn't state that it's the only letterhead of  
 5 the Office of the Attorney General, just based on my previous  
 6 testimony.  
 7 Q. Well, we'll see how common it is in a minute. But  
 8 this is the letterhead that went out on formal statements,  
 9 legal guidance, and formal legal opinions, true?  
 10 A. Yes, it was used in those instances.  
 11 Q. All right. This Exhibit AG 7 was sent to a man  
 12 named Brian Muecke, who is of the City of Hedwig Village. Do  
 13 you know where the City of Hedwig Village is?  
 14 A. No, sir.  
 15 Q. It's in the Houston area. But let's zoom out a  
 16 little bit.  
 17 MR. LITTLE: Get me to the text, Erick, if you  
 18 would, and capture Austin's signature too. I'm sorry, sir.  
 19 Q. (BY MR. LITTLE) What's this about?  
 20 A. It's the first time I've seen this letter that I  
 21 can recall. It is issued under Section 418 at 193, which is  
 22 the Disaster Act. It appears to be in response to a  
 23 request -- a question that the mayor had asked about a local  
 24 health authority's power to close schools.  
 25 Q. And Austin Kinghorn works for you, true?

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1 A. Yes, sir, at the time.  
 2 Q. And you knew this was going out, right?  
 3 A. No, sir.  
 4 Q. Why not?  
 5 A. Just based on the substance, this seems more like a  
 6 pro forma response that does not need to be raised to the  
 7 deputy level to make a decision. This seems to be consistent  
 8 with advice that we had already issued and it was essentially  
 9 reiterating that advice and not taking a contrary statement.  
 10 Q. Okay. So Austin -- this was a minor enough issue  
 11 that Austin could do this on his own, right?  
 12 A. No. So Austin worked in the general counsel  
 13 division. That division chief is responsible for that  
 14 division. I oversaw that division in addition to other  
 15 divisions. So I did not have a daily oversight of the  
 16 activities of that division.  
 17 Q. He's in your downline, true?  
 18 A. Yes, sir.  
 19 Q. What's the date on this?  
 20 A. August 1st of 2020.  
 21 Q. That's a Saturday, isn't it?  
 22 A. Possibly. I don't recall what day that would have  
 23 fallen on.  
 24 Q. It's the same Saturday as the foreclosure guidance,  
 25 true?

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1 A. If that was a Saturday, then, yes, it would have  
 2 been the same day.  
 3 Q. Well, you know the foreclosure guidance is dated  
 4 August 1, right?  
 5 A. I don't recall if it's dated August 1. It might be  
 6 August 2nd.  
 7 Q. Isn't it true, sir, that there were so many needs  
 8 in this big state related to guidance about COVID that your  
 9 office was working on it constantly?  
 10 A. It was a perpetual thing.  
 11 Q. Let's see how perpetual it is.  
 12 MR. LITTLE: May I approach the witness?  
 13 PRESIDING OFFICER: Yes, you may.  
 14 MR. LITTLE: I move for admission of Exhibit  
 15 AG 260.  
 16 PRESIDING OFFICER: Give Mr. Hardin a  
 17 moment.  
 18 MR. HARDIN: I have no objection.  
 19 PRESIDING OFFICER: Admit Exhibit 260 into  
 20 evidence.  
 21 (AG Exhibit No. 260 was admitted)  
 22 MR. LITTLE: Thank you.  
 23 Mr. Arroyo, if you would.  
 24 Q. (BY MR. LITTLE) Same letterhead, yes?  
 25 A. Yes, sir. It's the same as the August 1st letter.

1 Q. July 28, 2020, three days earlier, yes?  
 2 A. Yes, sir.  
 3 Q. And who is Doug Svien? I hope I'm saying that  
 4 right.  
 5 A. This letter indicates he's the mayor of  
 6 Stephenville, Texas.  
 7 Q. He's asking about closure of schools, right?  
 8 A. That's right.  
 9 MR. LITTLE: May I approach the witness, Your  
 10 Honor?  
 11 PRESIDING OFFICER: Yes, you may.  
 12 MR. LITTLE: I'm going to try to do this in  
 13 bulk and maybe move this along a little bit.  
 14 Your Honor, we move for admission of AG  
 15 Exhibits AG 259 and 6.  
 16 MR. HARDIN: We have no objection. And we  
 17 have no objection to 289 [sic], and we have no objection to  
 18 Exhibit 6.  
 19 PRESIDING OFFICER: Admit Exhibit 6 and 259  
 20 into evidence.  
 21 (AG Exhibits Nos. 6 and 259 were admitted)  
 22 MR. LITTLE: Mr. Arroyo, Exhibit 259, please.  
 23 Q. (BY MR. LITTLE) Who is Craig Morgan?  
 24 A. This letter refers to him as the mayor of Round  
 25 Rock.

1 Q. That's on a Thursday before August 1st, right?  
 2 A. Sure.  
 3 Q. What's it about?  
 4 A. This is -- appears to be the Round -- City of Round  
 5 Rock's decision to move its local election from November 3rd  
 6 of 2020 to May of 2021.  
 7 Q. Why did they want to move it?  
 8 A. I think the reason that they had stated was because  
 9 of COVID.  
 10 Q. Who issued the opinion?  
 11 A. It was signed by General Paxton.  
 12 Q. Does it have a KP number?  
 13 A. No. No, sir.  
 14 Q. Not a formal legal opinion, true?  
 15 A. No, it was not issued as a formal opinion under  
 16 402.  
 17 MR. LITTLE: Mr. Arroyo, Exhibit 6, please, AG  
 18 Exhibit 6.  
 19 Q. (BY MR. LITTLE) August 3, Monday, who is the  
 20 Honorable Vince Ryan?  
 21 A. The Harris County Attorney.  
 22 Q. This is a formal legal opinion, yes?  
 23 A. Yes. This is a formal opinion issued under Chapter  
 24 402.  
 25 Q. Tell the ladies and gentlemen of the jury how they

1 can tell by looking at this document that it's a formal legal  
 2 opinion.  
 3 A. After the mailing address, there is an opinion  
 4 number that's referenced. And then in the subject line,  
 5 there is a request number that's also referenced.  
 6 Q. And every formal legal opinion from the Office of  
 7 the Attorney General under Chapter 402 of the Government Code  
 8 has both, true?  
 9 A. Yes.  
 10 Q. And what's this letter about?  
 11 A. It's regarding the County authority to require  
 12 masks in courtrooms, courthouses, and county buildings.  
 13 Q. Okay. So correct me if I'm wrong. July 28th, July  
 14 30th, August 1, August 1, August 3, there are opinions coming  
 15 out almost every day about COVID stuff during this period of  
 16 time, true?  
 17 A. Well, again, to clarify, a lot of the questions  
 18 that we would get would follow the Governor's executive  
 19 orders which were coming out at different points. So if an  
 20 executive order was issued, the frequency of our request for  
 21 advice might increase.  
 22 I can't testify that we were releasing  
 23 information daily. I don't know if that's actually true.  
 24 But I can say it was happening regularly just with the  
 25 pattern of executive orders or mayoral or county orders.



1 Q. Isn't it true that the office was constantly  
 2 adapting to the executive orders of the Governor's Office,  
 3 the executive orders of President Donald J. Trump?  
 4 A. Absolutely.  
 5 Q. And that actually increased the amount of informal  
 6 legal advice and the need for it on a literally day-to-day  
 7 basis?  
 8 A. Again, it was very frequent just given the number  
 9 of agencies that were involved on a state level as well as  
 10 the federal level.  
 11 MR. LITTLE: Mr. President, a moment, if I  
 12 may?  
 13 PRESIDING OFFICER: Yes.  
 14 MR. HARDIN: Oh, I'm sorry. I apologize. I  
 15 thought you were passing the witness. I apologize.  
 16 MR. LITTLE: No. You ought to keep coming.  
 17 Pass the witness.  
 18 MR. HARDIN: I apologize.  
 19 PRESIDING OFFICER: Mr. Hardin, he passed the  
 20 witness. Just you standing up made it all happen.  
 21 MR. HARDIN: Thank you.  
 22 PRESIDING OFFICER: We'll go to the top of the  
 23 hour, Mr. Hardin.  
 24 REDIRECT EXAMINATION  
 25 BY MR. HARDIN:

1 Q. Good morning, Mr. Vassar.  
 2 A. Good morning.  
 3 Q. I'm going to try to, as best I can, to do this  
 4 pretty quickly. Thank you so much.  
 5 I've got several areas here. We should start  
 6 where we finished up. I thought I would never have to talk  
 7 about the different numbers of the different portions of the  
 8 Government Code that suggested what y'all should and should  
 9 not do. But I think counsel has appropriately covered back  
 10 on the issue, and so I feel compelled to a little bit just  
 11 try to clear this up just a tad.  
 12 The two sections of the Government Code that  
 13 you folks would have been working -- primarily that you have  
 14 been testifying to counsel about on cross are what numbers in  
 15 the Code?  
 16 A. Chapter 402 of the Government Code and Chapter 418.  
 17 Q. All right. Now, let me see if I can do this  
 18 briefly with you.  
 19 How do you determine which of those codes  
 20 apply to a request for an opinion, or the sections of the  
 21 Code, excuse me?  
 22 A. So Chapter 402 enables the Attorney General to  
 23 provide general legal guidance in response to a request from  
 24 an eligible requester. Chapter 418 is expressly limited to  
 25 providing advice relating to a disaster declaration, again,

1 to eligible requesters who are differ -- different from  
 2 Chapter 402.  
 3 Q. All right. For instance, does which one of those  
 4 sections apply depend on the identity of the requester that  
 5 makes the request?  
 6 A. Yes, sir.  
 7 Q. And is 418 something that, I believe, did you  
 8 testify earlier -- if 418 was amended, the National Disaster  
 9 Act before COVID, but when COVID came was frequently used as  
 10 the basis to answer a query from a public official?  
 11 A. That's correct. I believe it was admitted in 2019.  
 12 Obviously, COVID hit in 2020, so that provided an avenue for  
 13 local officials to request legal advice from our office.  
 14 Q. Now, if when General Paxton requested y'all to do  
 15 this hurry-up opinion, if he had come up with a requester  
 16 that was a mayor, what section of the Code would have applied  
 17 to the opinion that you folks wrote?  
 18 A. Just based on the fact that it was a COVID-related  
 19 question and that the mayor is an authorized requester, it  
 20 would have fallen under Chapter 418.  
 21 Q. Now, once it was decided that the requester would  
 22 be a state senator, which section of the Code did that mean  
 23 would cover what you did?  
 24 A. A state senator who was a chair of a legislative  
 25 committee --

1 Q. Thank you. Excuse me for interrupting you. That's  
 2 the caveat. It's not just a state senator, but it has to be  
 3 a chairman, does it not?  
 4 A. That's right.  
 5 Q. All right. Resume the answer, please.  
 6 A. A state senator who is a chair of a legislature  
 7 committee is an authorized requester under Chapter 402.  
 8 Q. All right. And is the significance that 402 was  
 9 applied here is that Section 402 does not distinguish between  
 10 an informal and a formal opinion, correct?  
 11 A. That's correct, does not.  
 12 Q. Now, if we move forward, that it had gone through  
 13 the -- if it hadn't been a hurry-up and went through your  
 14 normal processes you testified that would take ordinarily  
 15 about six months, is there a difference in the way the  
 16 six-month opinions which are vetted and published in six  
 17 months as opposed to overnight is what we've called this  
 18 opinion, what would be the difference in the way those two  
 19 opinions -- heavily researched, vetted opinion, overnight  
 20 opinion -- how are those reported to the public and dealt  
 21 with as far as publishing to the world?  
 22 A. So under Chapter 402, if it's an eligible request,  
 23 our agency logs it as a request, publishes that request in  
 24 the Texas Register, which enables third parties who are just  
 25 interested in submitting their own briefing and arguments to

1 our office. After a drafting period in the division, it's  
2 reviewed internally and -- including other divisions who  
3 might have subject matter expertise on the issue.

4 After all of the division feedback is  
5 received, it's circulated to the deputy level and the  
6 executive for review and approval. After it is issued, it's  
7 then, again, recorded on our website and then published in  
8 the Texas Register for public dissemination. And I believe  
9 it's also uploaded to Westlaw.

10 Q. So is one much more widely distributed and easily  
11 published to the world than the other?

12 A. Yes, sir.

13 Q. Finally, you were asked about things I think you  
14 said you did not know about in terms of the next day or a  
15 hearing that you were not involved about, correct?

16 A. The hearing --

17 Q. For -- very good point. Let me rephrase. That's a  
18 very good question.

19 Do you recall being questioned about what you  
20 knew about how the overnight opinion was used on behalf of  
21 Mr. Paul?

22 A. Yes, I recall that.

23 Q. Do you recall you said you were not aware at the  
24 time? Do you recall that?

25 A. That's right.

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1 Q. And I said hearing. I don't mean hearing. It was  
2 really an interview by investigators, many that are here  
3 today, that were retained by the House Management  
4 Committee -- or the House Committee, rather, to do an  
5 investigation.

6 Do you recall that series of events?

7 A. Yes, sir.

8 Q. And I believe you were shown some of the  
9 testimony -- again, not testimony, some of the interview  
10 statement that you gave.

11 A. Yes, sir.

12 Q. Now, did you readily agree to have it videotaped?

13 A. Yes. I believe when I sat down there was a  
14 recording that was going to be used for the interview.

15 Q. Well, yeah. But do you remember sort of a -- a  
16 sort of fumbling around that nobody had a recorder, they had  
17 to go get one?

18 A. Yes, sir.

19 Q. All right. But, at any rate, ultimately when that  
20 happened, did you have any objection to it being videotaped  
21 and audioed?

22 A. No, sir.

23 Q. Now, did anybody at all suggest placing you under  
24 oath?

25 A. No, sir.

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1 Q. All right. Have you become aware and did you see a  
2 document during your examination that showed a lawyer on  
3 behalf of Mr. Paul immediately -- within 36 hours or 24  
4 hours -- was using that in a court to try to get what he  
5 wanted?

6 A. Yes, sir. I believe in one of the exhibits that I  
7 reviewed there was a statement indicating that the  
8 foreclosure letter that we had issued was used to stop a  
9 foreclosure sale related to Nate Paul.

10 Q. Do you have any idea how one would have known as  
11 early as Monday to be prepared to use that in a hearing on  
12 Tuesday when you only issued it -- only completed it at 1:00  
13 o'clock Sunday morning and sent it to the Attorney General  
14 sometime Sunday?

15 MR. LITTLE: Objection, Mr. President.  
16 Leading and calls for speculation.

17 PRESIDING OFFICER: Sustained.

18 Q. (BY MR. HARDIN) Now, let's go to a couple of other  
19 areas.

20 Do you recall you had talked considerably --  
21 questioned considerably about whether -- about, first of all,  
22 the interview that he asked you about a little bit toward the  
23 end. And that is that you were not under oath at that  
24 hearing.

25 A. I recall that, yes, sir.

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1 Q. Do you know enough about law enforcement as to  
2 whether or not ordinarily if somebody is trying to gather  
3 information as part of a law enforcement information or  
4 investigation, where they would swear the people when they're  
5 just trying to get people to tell them what happened?

6 MR. LITTLE: Your Honor, I'd have to object as  
7 being argumentative and sidebar.

8 MR. HARDIN: I'll withdraw --

9 PRESIDING OFFICER: Sustained.

10 MR. HARDIN: Thank you, Judge. Thank you.  
11 I'll withdraw the question, but I waited too late.

12 Q. (BY MR. HARDIN) All right. So, if I may, at any  
13 rate, you gave that interview, correct?

14 A. Right.

15 Q. And told them. And that interview was totally  
16 available as evidenced by questions you got to the other  
17 side, correct?

18 A. I believe so, yes. I'm not -- yes.

19 Q. And in that one item that they came up with,  
20 there's no suggestion that you've testified any differently  
21 today than you did to these investigators, correct?

22 MR. LITTLE: Objection, leading and  
23 argumentative.

24 PRESIDING OFFICER: Sustained.

25 Q. (BY MR. HARDIN) Are you under oath today?

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1 A. Yes, sir, I am.  
 2 Q. Did you testify today the same as you did to these  
 3 House investigators?  
 4 A. Yes, sir.  
 5 Q. Can we take that as evidence of the fact nobody is  
 6 suggesting otherwise?  
 7 MR. LITTLE: Object to the argument,  
 8 Mr. President.  
 9 Q. (BY MR. HARDIN) Now --  
 10 PRESIDING OFFICER: Sustained.  
 11 Q. (BY MR. HARDIN) Now, if I can, you were asked  
 12 about evidence. Do you recall this evidence that you took to  
 13 the FBI?  
 14 A. Yes, sir, I recall.  
 15 Q. And eight -- seven of you went to the FBI, did you  
 16 not, on the 30th of September of 2020?  
 17 A. Yes, sir.  
 18 Q. And you took no documents, did you?  
 19 A. That's right, no documents.  
 20 Q. Who did you take?  
 21 A. We took ourselves.  
 22 Q. And you took yourselves to do what?  
 23 A. To provide an explanation of the sequences of  
 24 events that we had determined --  
 25 Q. Well, when you --

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1 A. -- revealed information tending to show that  
 2 General Paxton had abused his office and the powers and  
 3 responsibility and trust that millions of Texans bestowed  
 4 upon him to benefit one individual.  
 5 Q. And when you went, if you had taken things with  
 6 you, you would have had to take things that were the property  
 7 of the Attorney General's Office, wouldn't you?  
 8 MR. LITTLE: Objection, Your Honor. Calls for  
 9 speculation and a legal conclusion.  
 10 PRESIDING OFFICER: Sustained.  
 11 Q. (BY MR. HARDIN) Would you have had any documents  
 12 other than things that were circulated and created right  
 13 there in the AG's office?  
 14 MR. LITTLE: Objection, Your Honor.  
 15 Speculation and argument.  
 16 MR. HARDIN: I'm just asking -- I'm really  
 17 asking him if anything they took would have -- as evidence  
 18 would have had to be property of the Attorney General's  
 19 Office.  
 20 PRESIDING OFFICER: Overruled. You may answer  
 21 the question.  
 22 MR. HARDIN: Thank you.  
 23 Q. (BY MR. HARDIN) You can answer that.  
 24 A. All of the information would have been information  
 25 that we had obtained just by virtue of our employment at the

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1 agency.  
 2 Q. Now, when you answered the question -- do you  
 3 recall answering the question as you had no evidence that you  
 4 took to the FBI in that meeting, correct? Do you recall that  
 5 answer?  
 6 A. Yes, sir, I do.  
 7 Q. Well, tell me -- tell me what you mean by that  
 8 answer when you say you took no evidence.  
 9 A. Well, the way that I interpreted opposing counsel's  
 10 question was documents, documentary evidence of what we took  
 11 to the meeting with the FBI for law enforcement.  
 12 Q. After this position you might want to say thank  
 13 God, but you're not a trial lawyer, are you?  
 14 A. No, sir.  
 15 Q. Do you have any idea how evidence is defined in  
 16 terms of law enforcement or people wanting to find out what  
 17 happened in this situation?  
 18 MR. LITTLE: Objection, Your Honor. Calls for  
 19 speculation, legal conclusion, argument.  
 20 MR. HARDIN: No. I'm asking does he have any  
 21 idea. That's all I'm asking.  
 22 PRESIDING OFFICER: Sustained. Rephrase.  
 23 Q. (BY MR. HARDIN) All right. In this particular  
 24 situation, did you take your body?  
 25 A. Yes, sir.

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1 Q. Did you take your voice?  
 2 A. Yes, sir.  
 3 Q. Did you take your brain?  
 4 A. Yes, sir.  
 5 Q. Did you take your experience?  
 6 A. Yes, sir.  
 7 Q. Did you take your knowledge of the last nine  
 8 months?  
 9 A. Yes, sir.  
 10 Q. Did you take what things you personally knew of in  
 11 addition to going with people who may have known other  
 12 things?  
 13 A. Absolutely.  
 14 Q. Did you tell the FBI that?  
 15 A. Every bit of it.  
 16 Q. Do you realize in the legal world that is evidence?  
 17 MR. LITTLE: Objection, leading.  
 18 MR. HARDIN: No. That is -- that is simply a  
 19 fact statement. That is not leading in my --  
 20 PRESIDING OFFICER: Sustained.  
 21 MR. HARDIN: -- respect. And the Court  
 22 disagrees, which is why we're here.  
 23 Q. (BY MR. HARDIN) Let me ask you this: If you told  
 24 all of those people what you knew in your mind and what you  
 25 were concerned about, what is your opinion now, after the

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1 primer we just did, as to whether you gave the FBI evidence?

2 MR. LITTLE: Object, leading, argumentative.

3 This is closing statement, not a question for the witness.

4 MR. HARDIN: I've asked him what his  
5 opinion -- excuse me, Your Honor. I asked him what his  
6 opinion is. I didn't ask him --

7 PRESIDING OFFICER: Overruled.

8 MR. HARDIN: Thank you.

9 A. My opinion was that our experiences were evidence,  
10 but we did not conduct our own investigation to provide  
11 documentary evidence of what we had come to learn.

12 Q. (BY MR. HARDIN) Well, what did you provide him?

13 A. Just our experiences.

14 Q. What do you mean?

15 A. The -- the situations in which General Paxton asked  
16 us to act involving Nate Paul, the cumulative knowledge of  
17 the conversations that we had as a group between September  
18 29th and the morning of September 30th, once the grand jury  
19 subpoenas from Brandon Cammack started coming to the office.

20 Q. Whose job, then, in your opinion, was it then to  
21 conduct the investigation?

22 A. Federal law enforcement.

23 Q. Did you ever view yourself as an investigator in  
24 this matter?

25 A. No, sir.

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1 allowed to finish.

2 MR. HARDIN: Thank you.

3 Q. (BY MR. HARDIN) Have you?

4 A. I have not.

5 Q. All right. Let's talk about these supposed altered  
6 documents. All right?

7 You tried several times, did you not, on your  
8 cross to explain there were different types of letterhead  
9 papers in the AG's Office. Do you recall telling him that?

10 A. Yes, sir.

11 Q. Do you recall he went right by? He didn't want to  
12 deal with that, did he?

13 A. That's right.

14 Q. All right. Well, let's deal with it real quickly.

15 For instance, in the Attorney General's  
16 Office, did y'all periodically use one type of paper that did  
17 not have General Paxton's name on it and another type of  
18 papers that did?

19 A. Yes, sir.

20 Q. Do you have any idea how the circumstances were  
21 that dictated which you would use?

22 A. No, sir.

23 Q. All right. On the occasion when the letter that  
24 we've been talking about that they have been complaining was  
25 altered and the Attorney General's name was taken off, was

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1 Q. What did you think you were when you went to the  
2 FBI?

3 A. We were witnesses.

4 Q. Pardon me?

5 A. We -- I believed that I was a witness to criminal  
6 activity that had occurred by General Paxton.

7 Q. All right. Do you know of any other occasion in  
8 which the Attorney General involved himself in the drafting  
9 of an opinion such as what you did in August on the issue of  
10 foreclosures?

11 A. I can't think of any, no, sir.

12 Q. Finally, maybe from your age you don't know this.  
13 Are you familiar with a movie Cool Hand Luke?

14 A. I've heard of it. I'm not familiar with it.

15 Q. Did you ever see the scene in a very, very bad  
16 moment in the movie for -- at least a bad moment for Paul  
17 Newman, in which the bad guy stands over there as he's  
18 digging and says, "What we have here" --

19 MR. LITTLE: I'm going to object to the  
20 argument.

21 MR. HARDIN: Let me just -- let me just  
22 finish.

23 Q. (BY MR. HARDIN) -- "a failure to communicate."  
24 That's just a question.

25 PRESIDING OFFICER: Overruled. And you are

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1 that letter complaining about the Attorney General?

2 A. Yes, sir, it was.

3 Q. Well, if you're writing a letter complaining to --  
4 about the Attorney General, what is your opinion as to  
5 whether you would want to make sure his name wasn't on there  
6 for a letter complaining about him?

7 MR. LITTLE: Objection, leading.

8 PRESIDING OFFICER: Sustained.

9 Q. (BY MR. HARDIN) Let me ask you this. I'm going to  
10 show you a letter that is already in evidence, Exhibit 127.

11 MR. HARDIN: May I have it on the screen,  
12 please?

13 Q. (BY MR. HARDIN) Is that an altered letter?

14 PRESIDING OFFICER: Counselor, excuse me. I  
15 don't -- we don't show that being already entered.

16 MR. HARDIN: You do not show it's in?

17 PRESIDING OFFICER: Oh, it's in.

18 MR. HARDIN: Thank you.

19 PRESIDING OFFICER: My apology.

20 MR. HARDIN: No, no, no, not at all. I misled  
21 you by making you think which one it was. We were both  
22 inadvertent.

23 Q. (BY MR. HARDIN) But I think it is interesting to  
24 point. Would you look down to the bottom, would you circle  
25 where the -- the exhibit and whose exhibit this is?

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1 MR. HARDIN: And let's, sort of, if we can,  
 2 highlight, Stacey, both from whom the production was that  
 3 produced it to us.  
 4 Q. (BY MR. HARDIN) OAG stands for what?  
 5 A. The Office of the Attorney General.  
 6 Q. And are you familiar enough, reluctantly, about  
 7 this process to know what AG exhibit means?  
 8 A. That appears to be a reference to an exhibit that  
 9 the Attorney General's defense team has offered as evidence.  
 10 Q. Yes. Yes. We can -- would you expect them to  
 11 offer an altered document?  
 12 A. No, sir, I would not.  
 13 Q. Well, in this offer is the Attorney General's name  
 14 on it?  
 15 A. His name is not on the seal at the top of the  
 16 document.  
 17 Q. Is this seal identical to the seal that y'all used  
 18 for the letter you wrote before you went to the FBI?  
 19 A. Yes, sir, it is.  
 20 Q. Or after you came back. I can't remember what -- I  
 21 don't have -- I don't want to misstate what it was.  
 22 A. It was -- it was drafted and reported -- or sent to  
 23 HR after we returned from meeting with law enforcement.  
 24 Q. All right. So it would have been on the 20- --  
 25 when you came back on the 30th?

1 A. 30th, yes, sir.  
 2 Q. When you came back on the 30th. Thank you.  
 3 All right. Now let's go to the next-to-last  
 4 page, I believe, of this exhibit.  
 5 Do you see who it's signed by?  
 6 A. It's signed by Jeff Mateer.  
 7 MR. HARDIN: Now, Stacey, just to test your  
 8 agility, would you go back to the front page again and  
 9 isolate the date this was.  
 10 Q. (BY MR. HARDIN) What's the date?  
 11 A. The date is October 1st of 2020.  
 12 Q. All right. Now I'm going to show you some that  
 13 have not been introduced, and I will first tender --  
 14 MR. HARDIN: Do we have copies of our Exhibit  
 15 633?  
 16 I'm going to move to introduce. I was waiting  
 17 for you to review it.  
 18 MR. LITTLE: Oh, thank you.  
 19 No objection, Judge.  
 20 PRESIDING OFFICER: Admit Exhibit 633 into  
 21 evidence.  
 22 (HBOM Exhibit No. 633 was admitted)  
 23 MR. HARDIN: Can you put it up on the screen,  
 24 please. Thank you.  
 25 Q. (BY MR. HARDIN) Would you give -- publish for the

1 jury the date of this letter.  
 2 A. This letter is dated January 28th of 2020.  
 3 Q. And would this have been in connection with any  
 4 particular event? Have you ever seen this letter or do you  
 5 know anything about this?  
 6 A. I don't recall exactly if I was involved in  
 7 reviewing it. It -- again, I was appointed Deputy AG for  
 8 legal counsel April 1st of 2020. It's possible I reviewed  
 9 it -- excuse me -- in the general counsel division, but I  
 10 have not seen it since.  
 11 Q. And the letter is signed by whom?  
 12 A. It's signed by General Paxton.  
 13 Q. And we can assume, can we not, that General Paxton  
 14 didn't alter this letter?  
 15 A. I would presume so.  
 16 Q. And is it also similar to the letter y'all sent on  
 17 paper that has just the seal?  
 18 A. That's the same seal, yes, sir.  
 19 Q. So let's, once again, make sure there's no  
 20 misunderstanding. Do you understand for the last four days  
 21 you folks have been accused of altering a document --  
 22 MR. LITTLE: This is a violation of the  
 23 rule --  
 24 MR. HARDIN: Excuse me. Excuse me.  
 25 MR. LITTLE: -- Mr. President.

1 MR. HARDIN: Let me put it another way. I'll  
 2 put it another way, Your Honor.  
 3 PRESIDING OFFICER: Was there an objection?  
 4 MR. LITTLE: Objection, violates the rule.  
 5 PRESIDING OFFICER: Sustained.  
 6 Q. (BY MR. HARDIN) If anybody was to suggest that you  
 7 guys had -- when you wrote your letter that you had somehow  
 8 altered it and taken the Attorney General's name off and,  
 9 therefore, altered a government document, would that be true  
 10 or not true?  
 11 A. That's not true.  
 12 Q. Would it actually be a lie?  
 13 A. As these documents indicate, there are different  
 14 seals for different purposes. And in this situation we used  
 15 the seal without General Paxton's name on it. That's the  
 16 seal that was --  
 17 Q. You are indeed, are you not, Mr. Vassar, a kind and  
 18 gentle person, so much so that even after and during yelling  
 19 and constant interruption, you still don't like to use the  
 20 word "lie," do you?  
 21 MR. LITTLE: Objection to leading and  
 22 argumentative.  
 23 MR. HARDIN: I have no further questions.  
 24 PRESIDING OFFICER: Objection is sustained.  
 25 We will hold your -- do you intend to recross?

1 MR. LITTLE: I do, Mr. President, but I could  
 2 probably resolve it in about three minutes.  
 3 PRESIDING OFFICER: I'll give you three  
 4 minutes.  
 5 MR. LITTLE: Thank you, Judge.  
 6 PRESIDING OFFICER: Five at the most.  
 7 MR. LITTLE: I will try to yield some back,  
 8 Mr. President.  
 9 RE CROSS-EXAMINATION  
 10 BY MR. LITTLE:  
 11 Q. So it's okay to give your personal lawyer documents  
 12 from inside the Office of the Attorney General but not the  
 13 FBI, right?  
 14 A. I provided documents under a grand jury subpoena  
 15 that I received to my lawyer, so I don't know what the  
 16 implication is.  
 17 Q. You had internal OAG documents, to-wit, a series of  
 18 grand jury subpoenas that were served by Brandon Cammack that  
 19 you sent to your personal lawyer, but you didn't bring any  
 20 documents to the FBI, right?  
 21 A. That's absolutely true.  
 22 Q. You went to the FBI. David Maxwell went to Travis  
 23 County. They investigated, and they still have done nothing,  
 24 true?  
 25 A. I -- I don't know what they found. I know it's an

1 ongoing investigation.  
 2 Q. Mr. Hardin talked to you about the letter that Nate  
 3 Paul wrote to the Court about the OG -- OAG foreclosure  
 4 guidance. Do you recall that testimony, those questions?  
 5 A. Yes.  
 6 Q. All right.  
 7 MR. LITTLE: Your Honor, Mr. President, I have  
 8 one copy of AG Exhibit 286. If I may, I will tender it to  
 9 Mr. Hardin for his review and then to Your Honor and then to  
 10 Mr. Vassar.  
 11 PRESIDING OFFICER: You may.  
 12 MR. HARDIN: I have no objection.  
 13 PRESIDING OFFICER: What is the number on  
 14 that?  
 15 MR. LITTLE: Mr. President, it's AG Exhibit  
 16 286, and we move for its admission.  
 17 PRESIDING OFFICER: The Exhibit 286 will be  
 18 admitted into evidence.  
 19 (AG Exhibit No. 286 was admitted)  
 20 MR. LITTLE: Mr. Arroyo, if you could assist  
 21 us, please, very briefly.  
 22 Q. (BY MR. LITTLE) Mr. Vassar, who is Stephen Benesh?  
 23 A. I have no idea.  
 24 Q. You should know him. He's your State Bar  
 25 president-elect.

1 This is a letter from Stephen Benesh who was  
 2 opposing counsel to Nate Paul in the WC 4th and Colorado  
 3 matter, and he wrote a letter.  
 4 MR. LITTLE: Mr. Arroyo, please blow up the  
 5 text of his letter.  
 6 Q. (BY MR. LITTLE) Mr. Benesh says in response to  
 7 Nate Paul's letter, like lawyers often do, "I disagree." And  
 8 he wrote to the judge and he said, "The foreclosure sale  
 9 isn't being stopped by this OAG informal guidance," right?  
 10 A. I've never seen this before, but I see where he  
 11 says, The AG's, quote, informal guidance does not,  
 12 emphasized, state that foreclosure sales may not proceed  
 13 unless specifically authorized by the mayor in the city of  
 14 the foreclosure.  
 15 Q. And what happens in courts is one side makes an  
 16 argument and the other side makes an argument and the judge  
 17 decides, right?  
 18 A. Yes, sir.  
 19 Q. Only in this case Nate Paul put his entity in  
 20 bankruptcy to stop the foreclosure, right?  
 21 A. I'm not sure.  
 22 MR. LITTLE: That will be all, Mr. President.  
 23 PRESIDING OFFICER: Thank you, Counselor.  
 24 We will break until 1:00 p.m.  
 25 (Recessed for lunch at 12:02 p.m.)

1 C E R T I F I C A T E  
 2  
 3 THE STATE OF TEXAS )(   
 4 COUNTY OF TRAVIS )(   
 5  
 6 I, Kim Cherry, Certified Shorthand Reporter in and  
 7 for the State of Texas, do hereby certify that the  
 8 above-mentioned matter occurred as hereinbefore set out.  
 9 I further certify that I am neither counsel  
 10 for, related to, nor employed by any of the parties  
 11 or attorneys in the action in which this proceeding was  
 12 taken, and further that I am not financially or  
 13 otherwise interested in the outcome of the action.  
 14 Certified to by me this 8th day of September, 2023.  
 15  
 16 /s/Kim Cherry  
 17 KIM CHERRY, CSR, RMR  
 18 Texas Certified Shorthand Reporter  
 19 CSR No. #4650 Expires: 7/31/24  
 20 kcherry.csr@gmail.com  
 21  
 22  
 23  
 24  
 25

THE SENATE OF THE STATE OF TEXAS  
SITTING AS A HIGH COURT OF IMPEACHMENT

THE MATTER OF                                  vs  
 WARREN KENNETH                                  PAXTON, JR.

TRIAL  
VOLUME 4 - PM SESSION  
SEPTEMBER 8, 2023

Stenographically Reported by  
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VOLUME 4 -- PM SESSION  
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DAVID MAXWELL

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PROCEEDINGS  
FRIDAY, SEPTEMBER 8, 2023  
(1:00 p.m.)

THE BAILIFF: All rise. The Court of Impeachment of the Texas Senate is now in session.

PRESIDING OFFICER: You may be seated.

Thank you.

I was asked to do this this morning, so I'll update you now as we go to the afternoon session.

Time remaining, the respondents have 16 hours 2 minutes and 19 seconds. The House has 15 hours 33 minutes and 2 seconds. So by the end of today, around 6:00 o'clock, we will likely be past the halfway mark, or close to it, of time.

And I know to both parties, when we met last week and talked earlier this week, I -- I asked for both parties to conduct themselves in an appropriate manner for this historic event. And I want to thank both parties, because I believe everyone has conducted themselves in a very high level of professionalism. And hopefully we finish the second half of the trial doing the same. I have no reason not to believe that will happen.

Mr. DeGuerin.  
MR. DeGUERIN: Yes, Mr. President.

The House calls former Texas Ranger and former director of law enforcement division of the attorney general's office, David Maxwell.

PRESIDING OFFICER: Bailiff, will you bring in Ranger Maxwell.

Counsel, there are some documents up here left over. I'm not sure whose they are.

MR. COGDELL: I don't know whose they are, but I'll get them, Your Honor.

PRESIDING OFFICER: Okay. Thank you.

MR. COGDELL: Mitch, I assume these are yours. I don't know.

MR. LITTLE: I'll take them.

MR. COGDELL: Yes, sir. I'm sorry.

Thank you.

MR. DeGUERIN: Please don't ask me to control the witness.

PRESIDING OFFICER: Mr. Maxwell, did you swear in the other day? You did not.

Okay. Repeat after me.  
(The following oath was given to the witness.)

PRESIDING OFFICER: I do solemnly swear and affirm -- I do solemnly swear and affirm -- and affirm as a witness in the impeachment proceeding shall

be -- I'm sorry. I read the wrong line. Let me start from the beginning.

I do solemnly swear and affirm -- you've read that -- that the evidence I give upon this hearing -- upon this hearing the Senate the State of -- the Senate of Texas impeachment charges against Warren Kenneth Paxton, Jr. -- Jr. shall be the truth, the whole truth, and nothing but the truth, so help me God.

Please be seated.

You may -- you may begin.

DAVID MAXWELL,  
having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DeGUERIN:

Q. If you'll move that microphone pretty close, we have a little problem with --

A. Okay.

Q. -- acoustics in here.

Please tell the senators your name.

A. My name is David Maxwell.

PRESIDING OFFICER: Hit that red button on there.

A. There we go.

My name is David Maxwell.

Q. (BY MR. DeGUERIN) Mr. Maxwell, your last



1 position with the attorney general was as director of  
 2 law enforcement; is that correct?  
 3 A. That is correct.  
 4 Q. I want to ask you some questions about your  
 5 law enforcement career. Can you tell us where you  
 6 started and when?  
 7 A. I started in 1972 with the Texas Department  
 8 of Public Safety. I went through the patrol school,  
 9 graduated April 6 of 1973.  
 10 I spent eight years working highway  
 11 patrol in Harris County. I promoted to narcotics in  
 12 1981, and worked narcotics in Harris County for five  
 13 years.  
 14 I then promoted to Texas Rangers in 1986.  
 15 Q. Let me stop you there, just for a second.  
 16 Those of us who are raised in Texas know a lot about --  
 17 or think we know a lot about the Texas Rangers. What  
 18 does it take to become a Texas Ranger?  
 19 A. First of all, you have to have eight years of  
 20 experience with DPS to be able to apply for the  
 21 position. When I applied in 1986, it was a little  
 22 different than it is now, but we had to take a written  
 23 examination to qualify to go before an oral interview  
 24 board. And then they would score the oral interview  
 25 board and combine the two, and then they took the top

1 five people and put them on a list for one year. If you  
 2 didn't get promoted in that one year, you went back to  
 3 the first step and started over.  
 4 Q. How long did you serve the State of Texas as  
 5 a Texas Ranger?  
 6 A. 25 years as a Texas Ranger.  
 7 Q. And when you left the Ranger service, where  
 8 did you go?  
 9 A. I went to the Texas Attorney General's  
 10 Office.  
 11 Q. What was your first position there?  
 12 A. My first position was deputy director of law  
 13 enforcement.  
 14 Q. And did you promote to the director of law  
 15 enforcement?  
 16 A. I did.  
 17 Q. I want to pull up for -- please, the  
 18 organizational chart. It'll be in front of you. Ask  
 19 you a couple of questions about that.  
 20 A. Okay.  
 21 Q. Your name and -- or -- yes, your name has  
 22 been highlighted, and it appears to be on a level with  
 23 other deputies. So what was your rank in the attorney  
 24 general's office as it relates to the deputy attorney  
 25 generals?

1 A. I was the executive deputy over law  
 2 enforcement division.  
 3 Q. Is that an equal rank with the deputies that  
 4 were deputies over the other divisions of the attorney  
 5 general's office?  
 6 A. Yes. And I was the most senior deputy.  
 7 Q. Most senior how?  
 8 A. I had more time as an executive deputy than  
 9 the others who were working with me at that time.  
 10 Q. How many employees, law enforcement officers  
 11 and support staff as well as attorneys, did you  
 12 supervise?  
 13 A. I had about 350 employees, 205 were  
 14 commissioned officers, and 19 of them were attorneys.  
 15 Q. Were those employees spread out across the  
 16 state, or were they only in Austin?  
 17 A. We had a majority of them in Austin, but we  
 18 also had offices around the state.  
 19 Q. What is and was, when you were director, the  
 20 authority of the law enforcement division of the  
 21 attorney general's office?  
 22 A. The authority was that of other peace  
 23 officers in the state. We had jurisdiction over any  
 24 type of crime that would be committed against the State  
 25 of Texas.

1 Q. Did you have a criteria for opening a case as  
 2 an investigator to be investigated by the attorney  
 3 general's office criminal division?  
 4 A. I did.  
 5 Q. What was that criteria?  
 6 A. This is the criteria that I set up for  
 7 investigating public officials. So I had certain  
 8 requirements. First of all, I reviewed all the requests  
 9 that came in for investigations on public officials.  
 10 And we had a lot of requests, and I didn't approve but  
 11 just a few every year.  
 12 We already worked as many cases on public  
 13 corruption as the Texas Rangers who have statute  
 14 authority.  
 15 MR. COGDELL: Excuse me, Your Honor.  
 16 Excuse me. Nonresponsive. The question was what was  
 17 your criteria.  
 18 Q. (BY MR. DeGUERIN) What was your criteria  
 19 for --  
 20 PRESIDING OFFICER: Sustained.  
 21 Q. (BY MR. DeGUERIN) -- opening an  
 22 investigation?  
 23 A. The criteria was at first I had to have a  
 24 sworn signed statement from the person who was making  
 25 the allegation. The second thing was that I had to have

1 a letter from the district attorney who had jurisdiction  
 2 over the possible cases saying that they would prosecute  
 3 those cases if we were able to prove that a case was  
 4 viable.  
 5 Q. Why did you have a criteria such as that,  
 6 particularly when it comes to investigating public  
 7 officials?  
 8 A. I set up the criteria in order not to be  
 9 pulled into situations that are strictly political in  
 10 nature. I did not want us to be in a position of  
 11 investigating public officials when there was really no  
 12 crime being committed.  
 13 Q. And did this criteria particularly apply to  
 14 investigations of public integrity?  
 15 A. Yes.  
 16 Q. Do you know who was the district attorney in  
 17 Travis County in the year 2020?  
 18 A. Margaret Moore.  
 19 Q. Did you have a good relationship with  
 20 Margaret Moore?  
 21 A. I did.  
 22 Q. I want to get right to the matters here.  
 23 Were you asked in some way to meet with a  
 24 person named Nate Paul?  
 25 A. Yes.

1 Q. Who asked you to do that?  
 2 A. Jeff Mateer.  
 3 Q. Where did -- did Jeff Mateer tell you who had  
 4 asked -- who had told him to have you meet with Nate  
 5 Paul?  
 6 MR. COGDELL: Objection. Hearsay.  
 7 MR. DeGUERIN: That's not hearsay under  
 8 803 and 801(e)(2)(D), Your Honor, with respect.  
 9 MR. COGDELL: Mr. Mateer is not alleged  
 10 to have been a co-conspirator. Objection. Hearsay.  
 11 MR. DeGUERIN: It's not --  
 12 PRESIDING OFFICER: Hold on one moment.  
 13 Hold on. And we've been doing a really good job of not  
 14 using a lot of numbers. I have my whole chart here.  
 15 It's better for you just to say what -- what the answer  
 16 objection is, but let me -- this is why I have legal  
 17 counsel here.  
 18 MR. DeGUERIN: Yes. It's 801(e)(2)(D).  
 19 PRESIDING OFFICER: Overruled.  
 20 Q. (BY MR. DeGUERIN) All right. You may state  
 21 your answer. And the question is: Did Mr. Mateer tell  
 22 you who ordered him to order you to meet with Nate Paul?  
 23 A. Yes.  
 24 Q. What did he say?  
 25 A. He said General Paxton ordered me to meet

1 with this individual, that he had a story to tell.  
 2 Q. At about the same time, did you hear from an  
 3 employee of the Travis County District Attorney's Office  
 4 about Nate Paul?  
 5 A. I did.  
 6 Q. I'm going to ask you about that in a minute,  
 7 but when you first were asked to meet with Nate Paul,  
 8 did you do some research of your own?  
 9 A. I did.  
 10 Q. And what did you find?  
 11 A. I found --  
 12 MR. COGDELL: Excuse me.  
 13 A. -- on the Internet --  
 14 MR. COGDELL: Excuse me. With all due  
 15 respect to Ranger Maxwell, if he's going to recite  
 16 information that he obtained doing his research, that  
 17 would be hearsay.  
 18 MR. DeGUERIN: It goes to his state of  
 19 mind in conducting the investigation, Your Honor. And  
 20 thus is not hearsay.  
 21 MR. COGDELL: It is hearsay.  
 22 MR. DeGUERIN: Well --  
 23 PRESIDING OFFICER: Overruled.  
 24 Continue.  
 25 Q. (BY MR. DeGUERIN) Okay. So what did you

1 find when you made your initial investigation of Nate  
 2 Paul?  
 3 A. I found that Nate Paul is being investigated  
 4 by the FBI, that they had run search warrants in August  
 5 of 2019 on his business and his home and a storage  
 6 facility. I found articles of business journals that  
 7 talked about lawsuits --  
 8 MR. COGDELL: Excuse me, Your Honor.  
 9 Excuse me. Objection. Hearsay. Articles and business  
 10 journals, that's definitionally hearsay.  
 11 MR. DeGUERIN: Again, it goes to his  
 12 state of mind. And it -- it's the same -- he's answered  
 13 the same question that the Court allowed.  
 14 MR. COGDELL: With all due respect, he  
 15 can testify to what's in his mind under this exception.  
 16 He can't testify as to what the article said.  
 17 PRESIDING OFFICER: Sustained.  
 18 Q. (BY MR. DeGUERIN) Nonetheless, did you form  
 19 an opinion of your state of mind?  
 20 A. I did.  
 21 Q. And what was that?  
 22 A. My opinion that Nate Paul was a criminal and  
 23 that we should not be associated with Nate Paul.  
 24 Q. At about the same time, did you receive a  
 25 communication from the Travis County District Attorney's

1 Office?  
 2 A. I did.  
 3 MR. DeGUERIN: Your Honor, we have an  
 4 agreement on House Exhibit 615, which we move to  
 5 introduce.  
 6 MR. COGDELL: Could I see it, Dick, real  
 7 quick? I'm sure you're right.  
 8 Yes. Yes, no objection.  
 9 PRESIDING OFFICER: It's been admitted.  
 10 Both sides have agreed.  
 11 (HBOM Exhibit 615 admitted)  
 12 Q. (BY MR. DeGUERIN) If we could bring up --  
 13 closer -- yeah, I'm being told to tell you to get closer  
 14 to the mic.  
 15 PRESIDING OFFICER: Mr. Maxwell, they  
 16 just asked you to get closer to the mic when you speak.  
 17 THE WITNESS: Closer to the mic. Is that  
 18 better?  
 19 PRESIDING OFFICER: You can pull that  
 20 towards you a little bit, if you'd like.  
 21 MR. DeGUERIN: You can pull the whole  
 22 outfit closer to you.  
 23 A. Okay.  
 24 Q. (BY MR. DeGUERIN) This is the first page.  
 25 This is the email, and it references a letter. Let's go

1 to the second page, please.  
 2 A. Yes. It was from Don Clemmer.  
 3 Q. All right. Here's -- here's a letter from  
 4 Don Clemmer. It's dated June 10th, 2020. It's to you.  
 5 And let's just read it into the record.  
 6 I am forwarding to you the attached  
 7 complaint which was recently received by my office  
 8 regarding allegations of misconduct by employees of the  
 9 State Securities Board, the Federal Bureau of  
 10 Investigations, the Department of Public Safety, the  
 11 United States Attorney's Office for the Western District  
 12 of Texas, and a federal magistrate. My office would  
 13 typically forward such a complaint to the Public  
 14 Integrity Unit of the Texas Rangers for review.  
 15 However, since an employee of the Department of Public  
 16 Safety is one of the subjects of the complaint, referral  
 17 to the Rangers would appear inappropriate. I am,  
 18 therefore, requesting that your agency conduct the  
 19 review.  
 20 My first question: Is the word "review"  
 21 significant?  
 22 A. Yes.  
 23 Q. What -- what is its significant?  
 24 A. In the protocols that we have set forth, we  
 25 first review the request before we ever make a

1 determination on whether we'd actually open up an  
 2 investigation.  
 3 Q. Now, you're familiar with a district  
 4 attorney's office excusing or recusing itself from an  
 5 investigation, aren't you?  
 6 A. Yes.  
 7 Q. Is that what this was?  
 8 A. Yes. They were forwarding it to us. They  
 9 didn't feel like -- that it was up to them to do this  
 10 investigation.  
 11 Q. Now, we saw the email that Mr. Clemmer sent  
 12 about the same time, and it mentions that you should  
 13 call him if you'd like. Did you call him?  
 14 A. Yes, I did.  
 15 Q. And did you talk to him?  
 16 A. Yes, I did.  
 17 Q. What did he tell you?  
 18 MR. COGDELL: Excuse me. Objection.  
 19 MR. DeGUERIN: When it comes in -- I know  
 20 he's going to object to hearsay.  
 21 Under Rule 803.3, it's an expression by  
 22 Mr. Clemmer of his then-existing motive, intent, and  
 23 plan.  
 24 MR. COGDELL: Not only do I have to  
 25 object, I want to object. Hearsay.

1 PRESIDING OFFICER: Sustained.  
 2 MR. DeGUERIN: Well, maybe I didn't  
 3 clearly state my citation of the code or of the evidence  
 4 rules, Your Honor. 803.3.  
 5 PRESIDING OFFICER: I've ruled.  
 6 Continue.  
 7 Q. (BY MR. DeGUERIN) All right. Whatever --  
 8 and don't go into the words that Mr. Clemmer said. Was  
 9 it consistent with what you had already found or the  
 10 suspicions that you already had?  
 11 A. Yes.  
 12 Q. And what were your suspicions?  
 13 A. That the referral was being requested by  
 14 General Paxton.  
 15 Q. And what about the validity of their referral  
 16 and the complaint?  
 17 MR. COGDELL: Excuse me. Objection.  
 18 Conjecture and speculation.  
 19 MR. DeGUERIN: This is -- this would be  
 20 his evaluation, which was his job to do.  
 21 MR. COGDELL: He hasn't done anything  
 22 yet. Objection. Conjecture and speculation.  
 23 You're asking him to testify as to the  
 24 validity of a complaint, which he hasn't investigated  
 25 yet. That would be conjecture and speculation.

1 MR. DeGUERIN: Let me lay a better --  
 2 PRESIDING OFFICER: Overruled.  
 3 Overruled.  
 4 Q. (BY MR. DeGUERIN) Okay. Go ahead.  
 5 A. I can answer the question?  
 6 Q. Yes.  
 7 A. My evaluation of the allegation that was made  
 8 by Nate Paul, is that they were absolutely ludicrous  
 9 without merit, no probable cause, not even reasonable  
 10 belief that a crime had been committed.  
 11 Q. Now, let me step aside for just a moment and  
 12 say -- or ask you: What were the nature of the  
 13 allegations that Mr. Nate Paul was making?  
 14 A. The nature of the allegations that he was  
 15 making were against the FBI, an investigator with the  
 16 Texas State Security Board, two U.S. attorneys, the  
 17 federal senior federal magistrate Mark Lane, and others  
 18 who were involved in the chain of the signing and  
 19 execution of the search warrants on -- that on his  
 20 business, his place of storage, and also his home.  
 21 Q. Now, one of your areas to investigate, one of  
 22 your duties was to investigate public integrity,  
 23 correct?  
 24 A. Yes.  
 25 Q. If there had been credible allegations

1 against the State Securities Board, the DPS, the FBI,  
 2 federal magistrate, U.S. attorney, would you have any  
 3 hesitation of going forward?  
 4 A. No.  
 5 MR. COGDELL: Excuse me. Objection.  
 6 Bolstering and self-serving.  
 7 PRESIDING OFFICER: Overruled.  
 8 Continue.  
 9 Q. (BY MR. DeGUERIN) You may answer.  
 10 A. No, I would not.  
 11 Q. Did you have any hesitation even to meet with  
 12 Nate Paul?  
 13 A. I did not want to meet with Nate Paul. And I  
 14 expressed my concerns to Jeff Mateer about that.  
 15 Q. And what was the reply?  
 16 A. He said that he was getting a lot of pressure  
 17 from General Paxton for me to do this.  
 18 Q. All right. Let's go to July the 21st of  
 19 2020. Did you have a meeting with Nate Paul and his  
 20 lawyer?  
 21 A. I did.  
 22 Q. And what was the reason you had that meeting?  
 23 A. I told Jeff Mateer that I would consent to  
 24 let him tell his story, and that if he made any  
 25 statements against his interest, I would report it to

1 the FBI.  
 2 Q. So on July the 21st did you have the meeting?  
 3 A. I did.  
 4 Q. Where?  
 5 A. It was on the first floor of the Clements  
 6 building. It was in the office of our security office  
 7 where we have a conference room that has the capability  
 8 of recording video and sound.  
 9 Q. Who wanted that to be done? That is record  
 10 by video and sound the meeting with Nate Paul and his  
 11 lawyer and yourself?  
 12 A. Me.  
 13 Q. Are you familiar with a report that was later  
 14 put out by the attorney general's office claiming that  
 15 General Paxton wanted that meeting recorded?  
 16 A. That is false.  
 17 Q. So have you reviewed the transcript of that  
 18 meeting?  
 19 A. I have.  
 20 Q. Are you aware that the lawyers for General  
 21 Paxton have been supplied with both the audio and video  
 22 and transcript of that meeting?  
 23 THE REPORTER: I didn't get your answer.  
 24 A. Yes, I'm aware of that.  
 25 Q. (BY MR. DeGUERIN) Okay. What took place at

1 that meeting?  
 2 A. Say it again.  
 3 Q. What took place at that meeting?  
 4 A. Nate Paul laid out his conspiracy theory  
 5 about what happened the day of the search warrants were  
 6 executed. He had complaints about the procedural part  
 7 that the FBI took when they were securing the scene and  
 8 conducting the searches. And then he laid out a -- his  
 9 conspiracy theory that they had originally come to  
 10 search for, not records, but for drugs and guns.  
 11 And then in the middle of the search when  
 12 they didn't find any drugs and guns, they then altered  
 13 the search warrant to be the search warrant that was  
 14 executed where it was for records. And he further  
 15 stated that the people involved in that was the FBI  
 16 agent, the agent from the Texas Securities Board, Alan  
 17 Buie who was AUSA, and Mark Lane, the senior magistrate.  
 18 Q. So according to his complaint, a United  
 19 States federal magistrate was involved in this  
 20 conspiracy?  
 21 A. That's correct.  
 22 Q. As a law enforcement officer of many years,  
 23 what did you think of that?  
 24 A. It was ludicrous.  
 25 Q. Did you ask for any documentation?

1 A. Yes, I did.  
 2 Q. What is the -- are you familiar with the  
 3 crime of obstruction of justice?  
 4 A. I am.  
 5 Q. Are you familiar with the crime of  
 6 interference of a law enforcement investigation?  
 7 A. Of a federal investigation, yes, I am.  
 8 Q. What concerns did you have if you had started  
 9 an investigation based on these claims by Mr. Paul?  
 10 A. My concerns that we would be interfering with  
 11 a federal investigation, we could be charged with  
 12 obstruction of justice, and based on the complaint that  
 13 has absolutely no merit.  
 14 Q. And at this time, even at this meeting, had  
 15 your criteria for opening an investigation been  
 16 satisfied?  
 17 A. No.  
 18 Q. How so?  
 19 A. It doesn't meet any of my requirements.  
 20 Q. After that meeting with Mr. Paul -- and his  
 21 lawyer, by the way, was Michael Wynne?  
 22 A. Michael Wynne was there.  
 23 Q. Okay. After that meeting with Mr. Paul, did  
 24 you have a meeting with the attorney general, General  
 25 Paxton?

1 A. I did not after that meeting immediately, no.  
 2 Q. But no, I don't mean that same day. But did  
 3 you personally talk to Ken Paxton, the attorney general,  
 4 about what had happened in that meeting?  
 5 A. No, I did not.  
 6 Q. What did you tell him about the meeting?  
 7 MR. COGDELL: I'm sorry. I thought he  
 8 said he did not meet with Mr. Paxton, and you just asked  
 9 him what he told Paxton. One of us is confused.  
 10 PRESIDING OFFICER: Can we clarify that?  
 11 Q. (BY MR. DeGUERIN) Yeah. Could you clarify  
 12 that? Did you tell him what you thought about that  
 13 meeting?  
 14 A. I told him before the meeting ever occurred  
 15 what I thought about us being involved with Nate Paul.  
 16 That happened before the first meeting.  
 17 Q. And what did you tell him?  
 18 A. I told him that --  
 19 MR. COGDELL: I'm sorry --  
 20 A. -- he was a criminal.  
 21 MR. COGDELL: Excuse me, Ranger.  
 22 Objection. Asked and answered. He just  
 23 got through telling us what he told Paxton.  
 24 PRESIDING OFFICER: Sustain --  
 25 MR. DeGUERIN: I don't believe it was

1 asked -- I don't believe he answered fully.  
 2 What I'm driving at, what did he tell  
 3 General Paxton.  
 4 PRESIDING OFFICER: I'll sustain the  
 5 objection. And you can try one more time, again.  
 6 MR. DeGUERIN: Or maybe I'm -- maybe I'm  
 7 not clear on it.  
 8 Q. (BY MR. DeGUERIN) Did you, at some time,  
 9 tell General Paxton what you thought about this idea of  
 10 Mr. Paul that there was a vast conspiracy against him?  
 11 A. Yes.  
 12 Q. What did you tell him?  
 13 A. I told him that Nate Paul was a criminal. He  
 14 was running a Ponzi scheme that would rival Billie  
 15 Sol Estes. And that if he didn't get away from this  
 16 individual and stop doing what he was doing, he was  
 17 going to get himself indicted.  
 18 Q. Nonetheless, was there a second meeting  
 19 between you and Nate Paul and Nate Paul's lawyer and  
 20 Mark Penley?  
 21 A. There was.  
 22 Q. Why was there a second meeting if you felt  
 23 like you did after that first meeting?  
 24 A. Because he had talked to Nate Paul -- I mean,  
 25 he had talked to Mark Penley and told him he wanted him

1 to conduct another meeting with Nate Paul.  
 2 Q. When you say "he," are you referring to  
 3 General Paxton?  
 4 A. General Paxton, that's correct.  
 5 Q. So General Paxton had told Mr. Penley to get  
 6 involved in this?  
 7 MR. COGDELL: Objection.  
 8 A. That is correct.  
 9 MR. COGDELL: Excuse me, objection.  
 10 I'm sorry, Dick.  
 11 Objection. Asked and answered. Ranger  
 12 Maxwell will give his testimony, and Dick will ask him  
 13 to repeat the same thing. Asked and answered.  
 14 PRESIDING OFFICER: I'm going to overrule  
 15 that.  
 16 Continue.  
 17 Q. (BY MR. DeGUERIN) Yeah, I. Wanted to  
 18 clarify and make sure that we understand.  
 19 Mark Penley told you that General Paxton  
 20 had ordered him to now get involved?  
 21 MR. COGDELL: This is the third time.  
 22 Objection. Asked and answered. He literally just got  
 23 through testifying to that.  
 24 MR. DeGUERIN: I believe that --  
 25 PRESIDING OFFICER: Sustained.

1 MR. DeGUERIN: -- he allowed me to ask  
2 that.  
3 PRESIDING OFFICER: Sustained.  
4 Q. (BY MR. DeGUERIN) All right. So did you  
5 have a second meeting?  
6 A. We did.  
7 Q. And was Mr. Penley involved in this one?  
8 A. He was.  
9 Q. And what was Mr. Penley's role in the  
10 attorney general's office? If we could have that  
11 organizational chart again.  
12 A. Mr. Penley was the executive deputy over  
13 criminal prosecution.  
14 Q. So in this chart, he's just next to you. And  
15 it's now been highlighted for them on -- for the jurors,  
16 right?  
17 A. That's correct.  
18 Q. Was he your superior, or was he an equal of  
19 yours?  
20 A. He was an equal.  
21 Q. And what was Mr. Penley's background briefly?  
22 A. He came to us from the U.S. attorney's office  
23 out of Dallas where he had been an assistant U.S.  
24 attorney.  
25 Q. So at this second meeting, where did it

1 happen?  
2 A. In the same place as before, the Clements  
3 building ground floor, the security office conference  
4 room.  
5 Q. Was it audio-video recorded?  
6 A. It was.  
7 Q. Do you -- and is there a transcript of that?  
8 A. There is.  
9 Q. Have you reviewed that?  
10 A. I have.  
11 Q. Do you -- are you aware that that has been  
12 provided to Attorney General Paxton's lawyers?  
13 A. Yes.  
14 Q. All right. Why did you -- who wanted that  
15 meeting recorded?  
16 A. I did.  
17 Q. If there's any suggestion that General Paxton  
18 wanted that recorded, is that true or false?  
19 MR. COGDELL: Objection. Asked and  
20 answered.  
21 A. False.  
22 MR. DeGUERIN: That was the first one.  
23 That was the first one that we referred to.  
24 PRESIDING OFFICER: Overruled.  
25 Q. (BY MR. DeGUERIN) Go ahead.

1 A. It's false.  
2 Q. Was there anything new brought up in that  
3 meeting, as far as you were concerned? You were in both  
4 meetings.  
5 A. He again -- he and his lawyer again  
6 reiterated the complaints and their conspiracy theory,  
7 as they had done in the first meeting. I advised  
8 them --  
9 MR. COGDELL: Objection. Excuse me --  
10 Q. (BY MR. DeGUERIN) What did you advise?  
11 MR. COGDELL: Excuse -- excuse me, Dick.  
12 The objection is nonresponsive. The  
13 question was: Was there anything new? Now they -- now,  
14 Ranger Maxwell was going into what he told them. That's  
15 a different answer.  
16 PRESIDING OFFICER: Sustained.  
17 MR. DeGUERIN: That -- it's correct. And  
18 I was trying to meet his objection by going to the next  
19 question.  
20 Q. (BY MR. DeGUERIN) So what -- go ahead. The  
21 next question is what happened?  
22 A. What happened? So during the meeting, they  
23 continued to lay out their objections about what  
24 happened in the search warrants and the conspiracy  
25 theory about how all these different individuals came

1 together and falsified a search warrant during the  
2 middle of the search. And I told them that if that --  
3 if they believe that to be true, then why aren't they in  
4 the office of the inspector general's office for the  
5 federal government, which has the authority to look into  
6 any of these complaints. And the FBI, the U.S.  
7 attorneys office, the federal magistrate has to  
8 cooperate with them. And I asked him why aren't you in  
9 that office.  
10 Q. Did you get a satisfactory answer to that?  
11 A. They danced around the answer, but they said  
12 they felt like they were in the right place with us.  
13 Q. Did you receive any kind of documents to  
14 corroborate or to support that the search warrant had  
15 been changed mid search?  
16 A. They gave us some documents. They were  
17 supposed to give us all the documents, but when we  
18 reviewed the documents they gave us, it was not very  
19 much. And it certainly wasn't enough for us to really  
20 make a determination.  
21 Q. Even still, did you submit those documents to  
22 some experts within your office?  
23 A. I did.  
24 Q. And what -- what's the expertise of the  
25 people that you submitted these documents to?

1 A. This is by a forensic section who does all  
2 the forensics on computers and cell phones for criminal  
3 cases. And we do that work not only for ourselves but  
4 for the Texas Rangers and others.

5 Q. All right. By this time, which is -- that  
6 meeting was August the 5th. By this time, had you  
7 become aware yet that General Paxton had ordered Josh  
8 Godbey and Mr. McCarty to push a charity to settle in a  
9 lawsuit?

10 A. No.

11 MR. COGDELL: Objection. Objection.

12 Q. (BY MR. DeGUERIN) And by that time --

13 MR. COGDELL: Excuse me, Dick.  
14 Objection. Leading. And assuming facts  
15 not in evidence through this witness.

16 MR. DeGUERIN: I'm just asking if he was  
17 aware.

18 PRESIDING OFFICER: Sustained.  
19 Sustained.

20 Q. (BY MR. DeGUERIN) Were you aware that Ken  
21 Paxton had asked Ryan Bangert to change a State policy?

22 A. No.

23 Q. Were you aware that General Paxton had asked  
24 Ryan Vassar to release details of that very ongoing  
25 investigation?

1 MR. COGDELL: Objection. That's a  
2 misstatement of the record. And it's assuming facts not  
3 in evidence through this witness.

4 PRESIDING OFFICER: Overruled.

5 Q. (BY MR. DeGUERIN) You may answer.

6 A. No.

7 Q. Did you later become aware of those things?

8 A. I did.

9 Q. We'll get to that.

10 Let's talk just for a moment about the  
11 records of a search. What is the general practice in  
12 the -- at least in federal courts for the sealing, that  
13 is making private, the affidavit, the application for a  
14 search warrant?

15 A. They are sealed to protect people who are  
16 involved, may have given information about the crime  
17 that's being committed. And also for the purposes of  
18 protecting the investigation so it can be ongoing and  
19 find the truth.

20 Q. Are you familiar with orders of federal  
21 courts to seal documents such as these?

22 A. Yes.

23 Q. In this second meeting, what was Nate Paul  
24 and his lawyer's demeanor toward you and Mr. Penley?

25 A. I think that they were maybe not as gracious

1 as they were during the first meeting. I think they  
2 understood by this point --

3 MR. COGDELL: Excuse me, Ranger.  
4 Object to what he thinks they understood.  
5 That's conjecture and speculation.

6 PRESIDING OFFICER: Sustained.

7 Q. (BY MR. DeGUERIN) Well, what my answer is --  
8 my question is not what you thought they thought, but  
9 what was their demeanor. So what was their demeanor?

10 A. It was a little more animated than the  
11 first -- first meeting.

12 Q. Did it -- did anything happen at that meeting  
13 to change your initial assessment of whether this should  
14 be elevated to the level of an actual investigation?

15 A. No.

16 Q. To clear that up, when you got this, did you  
17 start an investigation as that term is understood?

18 A. Ask your question again.

19 Q. Yes. Did you start an investigation -- did  
20 you initiate an official investigation?

21 A. No.

22 Q. What do you do when you start an  
23 investigation?

24 A. When you start an investigation, you assign  
25 it to an investigative group. That is assigned an

1 investigative number and is put into the record.

2 Q. And the reason that even after this second  
3 meeting it had not risen to the level of investigation,  
4 what's that reason?

5 A. The reason was that the -- the allegations  
6 had no merit, and we weren't going to do the  
7 investigation if I had anything to say about it.

8 Q. All right. Even though -- did you make that  
9 clear to not only now Mr. Paul and his lawyer but also  
10 Mr. Penley?

11 A. Yes.

12 Q. Even though that was your position, did you  
13 agree to submit their documents to your experts within  
14 the office?

15 A. Yes.

16 Q. Okay. So was there a third meeting?

17 A. There was.

18 Q. When was that third meeting?

19 A. It was on August 12th.

20 Q. Was it clear to you by then what General  
21 Paxton wanted done?

22 MR. COGDELL: Objection. Conjecture and  
23 speculation.

24 Q. (BY MR. DeGUERIN) Was it -- let me clear  
25 that up.

1 Was it clear to you from what General  
 2 Paxton told Mr. Mateer or Mr. Penley what General Paxton  
 3 wanted done?  
 4 MR. COGDELL: That's actually worse.  
 5 That's hearsay and conjecture and speculation.  
 6 MR. DeGUERIN: Actually no, Your Honor.  
 7 It's under 801(e)(2)(D).  
 8 PRESIDING OFFICER: Counselor, you're  
 9 going to make me look at these numbers, aren't you?  
 10 MR. DeGUERIN: Yes. Yes, Your Honor.  
 11 MR. COGDELL: He's just trying to throw  
 12 you off, Judge.  
 13 MR. DeGUERIN: 801(e)(2)(E) is -- says  
 14 that a statement such as this is not hearsay,  
 15 particularly --  
 16 MR. COGDELL: With respect --  
 17 MR. DeGUERIN: When it -- excuse me.  
 18 MR. COGDELL: I'm sorry, Dick. Go ahead.  
 19 MR. DeGUERIN: -- particularly when it  
 20 was made by the party's agent or an employee on a matter  
 21 within the scope of that relationship. And here it's  
 22 what General Paxton told to either Mateer or to Penley  
 23 that was passed to the witness.  
 24 MR. COGDELL: With respect --  
 25 MR. DeGUERIN: That is not hearsay.

1 MR. COGDELL: I'm sorry, Dick.  
 2 With respect, Your Honor, there's a  
 3 difference between what General Paxton said and what  
 4 Ranger Maxwell can opine about General Paxton's state of  
 5 mind. Those are two different things.  
 6 MR. DeGUERIN: Not asking that.  
 7 MR. COGDELL: You just did.  
 8 PRESIDING OFFICER: Sustained.  
 9 MR. DeGUERIN: Let me ask it again then  
 10 if that's how it was understood.  
 11 Q. (BY MR. DeGUERIN) What message was passed to  
 12 you by either Penley or Mateer that General Paxton had  
 13 ordered done?  
 14 A. General Paxton wanted to have a third  
 15 meeting --  
 16 MR. COGDELL: I'm sorry, objection. I  
 17 don't -- objection. Conjecture and speculation.  
 18 I have no problem with Ranger Maxwell  
 19 testifying as to what General Paxton said, but there's a  
 20 difference between what he said and what he wanted. I  
 21 know it's splitting a hair, but objection,  
 22 nonresponsive.  
 23 PRESIDING OFFICER: Sustained.  
 24 Q. (BY MR. DeGUERIN) What did he say he wanted?  
 25 A. He wanted us to tell Nate Paul that we were

1 not going to be doing an investigation due to the  
 2 results of our forensics analysis.  
 3 Q. So going into that third meeting, is that  
 4 what you believed it was going to be about?  
 5 A. Yes.  
 6 Q. Was that meeting recorded like the first two?  
 7 A. No.  
 8 Q. Who was responsible for it not being  
 9 recorded?  
 10 A. General Paxton specifically told us that he  
 11 did not want that meeting recorded.  
 12 Q. Okay. So as you're going into a meeting in  
 13 which you believe it's just for you to tell Nate Paul  
 14 that you're not going to do his bidding, what happened?  
 15 A. Nate Paul was there along with his lawyer,  
 16 Michael Wynne. I had my two forensic experts, Mark  
 17 Penley, myself, and General Paxton. My forensics people  
 18 explained to Nate Paul the results of their forensics  
 19 examination.  
 20 Q. And very briefly, what was that result?  
 21 A. That the metadata that he was talking about  
 22 that had changed could have been changed by the fact  
 23 that there were documents he received had been  
 24 electronically redacted and encrypted, which would  
 25 change the metadata.

1 Q. Is that a long way of saying there was  
 2 nothing there?  
 3 A. Yes.  
 4 Q. So your understanding that General Paxton was  
 5 telling you tell him that you're not going to have an  
 6 investigation, what was General Paxton's -- what did he  
 7 say during that meeting?  
 8 A. During the meeting, he was supporting Nate  
 9 Paul's position, which was that we need to do an  
 10 investigation. And he was pretty adamant about it.  
 11 Q. Was that meeting heated?  
 12 A. It became heated.  
 13 Q. Who became heated?  
 14 A. Nate Paul.  
 15 Q. Before that meeting started, were you aware  
 16 of any public statements that Mr. Paul had made about  
 17 whether there was an investigation?  
 18 A. Yes, I was.  
 19 Q. And what were those public statements you  
 20 were aware of?  
 21 A. He had done an interview with a business  
 22 journal and told them that the Texas attorney general  
 23 was investigating the FBI and their handling of the  
 24 search warrants on his property.  
 25 Q. Was that true or not?



1 A. That is false.  
 2 Q. In fact, you had not started an  
 3 investigation, correct?  
 4 A. We had not. And I specifically told Mr. Paul  
 5 that we were not doing an investigation at this point  
 6 and our meetings were confidential.  
 7 Q. And the response?  
 8 A. Oh, yeah, he responded.  
 9 Q. What was his response?  
 10 A. He was -- he was very angry. And he said  
 11 that he still has a First Amendment right. And I told  
 12 him that all you're doing is using the power and the  
 13 prestige of this office for your own purpose, and I'm  
 14 not going to allow that.  
 15 Q. Whose side in that dispute between you and  
 16 Nate Paul did General Paxton take?  
 17 A. Nate Paul.  
 18 Q. So what was the significance of Nate Paul  
 19 making a public statement that the attorney general's  
 20 office was investigating a federal magistrate and the  
 21 federal authorities and the State authorities that the  
 22 attorney general was investigating, what's the  
 23 significance of that kind of public statement?  
 24 MR. COGDELL: Excuse me. Objection.  
 25 Conjecture and speculation.

1 PRESIDING OFFICER: Sustained.  
 2 Q. (BY MR. DeGUERIN) All right. Why did you  
 3 think, what was your state of mind, about why such a  
 4 public statement -- when it was not true about the  
 5 attorney general investigating these law enforcement  
 6 people, what was your state of mind about why that was  
 7 improper?  
 8 A. It was improper because Nate Paul was a  
 9 criminal, and he was -- Nate -- General Paxton was using  
 10 the office to try -- to his benefit.  
 11 Q. Can the very start of an investigation into a  
 12 public figure be damaging to that public figure?  
 13 A. Yes, it can.  
 14 Q. Is that --  
 15 MR. COGDELL: I'm sorry. Excuse me,  
 16 Dick.  
 17 Pardon me, Ranger.  
 18 Objection. Conjecture and speculation.  
 19 PRESIDING OFFICER: Overruled.  
 20 Q. (BY MR. DeGUERIN) You may answer.  
 21 A. Repeat the question.  
 22 Q. Yes. Can the very public start of an  
 23 investigation against a public figure be damaging,  
 24 almost like a tattoo, to that public figure?  
 25 MR. COGDELL: I got to object to leading

1 and the tattoo. I'm sorry.  
 2 Objection. Leading.  
 3 MR. DeGUERIN: Well, I'll -- I'll  
 4 reverse -- I'll take the --  
 5 PRESIDING OFFICER: Sustained.  
 6 MR. DeGUERIN: -- tattoo out of it.  
 7 PRESIDING OFFICER: Sustained.  
 8 MR. COGDELL: Take the tattoo out.  
 9 MR. DeGUERIN: If I take the tattoo out  
 10 of it, may I ask the question again?  
 11 PRESIDING OFFICER: I just sustained  
 12 that. You can try whatever you like to and see what he  
 13 objects to or not.  
 14 Q. (BY MR. DeGUERIN) Is there a danger to a  
 15 public official's reputation by publicizing an  
 16 investigation by the attorney general, and especially  
 17 when it's not true?  
 18 A. Yes, very much so.  
 19 Q. Is that the reason you're very careful about  
 20 having a criteria for starting an investigation?  
 21 MR. COGDELL: Objection. Leading.  
 22 PRESIDING OFFICER: Sustained.  
 23 Q. (BY MR. DeGUERIN) What is the reason you're  
 24 careful about that?  
 25 A. We're careful -- we're careful because we

1 don't want to put a stain on anyone's reputation. It  
 2 has to be an investigation that is viable, has probable  
 3 cause, and could move forward. This was not that.  
 4 Q. All right. So let's ask -- let's talk about  
 5 what happened after that meeting. Did you ever have any  
 6 further conversations with Attorney General Paxton?  
 7 A. No. Attorney General Paxton stopped talking  
 8 to me.  
 9 Q. And your assessment at that time of whether  
 10 General Paxton was angry with you?  
 11 MR. COGDELL: Excuse me. Conjecture and  
 12 speculation.  
 13 MR. DeGUERIN: It's his state of mind.  
 14 PRESIDING OFFICER: Sustained.  
 15 You can ask it differently if you'd like.  
 16 MR. DeGUERIN: All right.  
 17 Q. (BY MR. DeGUERIN) Your state of mind after  
 18 General Paxton and you left that meeting, was what about  
 19 General Paxton?  
 20 MR. COGDELL: Unless he said anything,  
 21 conjecture and speculation. He's got nothing to base it  
 22 on.  
 23 PRESIDING OFFICER: Overruled.  
 24 Q. (BY MR. DeGUERIN) You may answer.  
 25 A. I know his state of mind because in the

1 meeting he threatened to fire me. So I knew then what  
 2 his commitment was to Nate Paul, and he was not going to  
 3 be deterred from continuing to try and do things that  
 4 benefit Nate Paul.  
 5 Q. During this period of time with these three  
 6 meetings, had you called upon any of your subordinates,  
 7 any of your other investigators, to -- other than to  
 8 look at the -- this metadata, had you called on anyone  
 9 to assist you in this review?  
 10 A. No.  
 11 Q. Why not?  
 12 A. I told my people that this was going to get  
 13 me fired. I was going to take the stand, and I was not  
 14 going to jeopardize any of their careers by involving  
 15 them.  
 16 Q. Why did you think it was going to get you  
 17 fired?  
 18 MR. COGDELL: Excuse me.  
 19 A. He demonstrated his commitment to Nate Paul.  
 20 PRESIDING OFFICER: Witness, hold on a  
 21 moment.  
 22 MR. DeGUERIN: State of mind.  
 23 PRESIDING OFFICER: Your objection?  
 24 MR. COGDELL: Objection. Conjecture and  
 25 speculation.

1 PRESIDING OFFICER: Overruled.  
 2 MR. DeGUERIN: State of mind.  
 3 Q. (BY MR. DeGUERIN) Yes, you may answer.  
 4 A. He had already told me that if I conducted my  
 5 business as the FBI does he was going to fire me. So I  
 6 know that he was angry with me because I was not buying  
 7 in to the big conspiracy theory that Nate Paul was  
 8 having him believe.  
 9 Q. And at this time did you know that there was  
 10 some action within the attorney general's office to hire  
 11 an outside counsel to do what you refused to do? That  
 12 is conduct an investigation into Nate -- into the  
 13 federal authorities that were hounding Nate Paul?  
 14 MR. COGDELL: I'm sorry, Dick.  
 15 Q. (BY MR. DeGUERIN) Take out "hounding." That  
 16 were conducting their investigation on Nate Paul.  
 17 MR. COGDELL: Objection. Vague. When is  
 18 this time? I'm not sure where we are.  
 19 MR. DeGUERIN: Okay. I'll clarify.  
 20 PRESIDING OFFICER: Sustained.  
 21 Clarify, please.  
 22 Q. (BY MR. DeGUERIN) At this time. We're now  
 23 talking about the end, after the third meeting. Did you  
 24 know that there was some movement for General Paxton to  
 25 demand the hiring of a special counsel or an outside

1 counsel? Did you know about it at that time?  
 2 A. No.  
 3 Q. As far as you were concerned, was the  
 4 attorney general's office involvement in Nate Paul's  
 5 complaint about how he had been treated, or mistreated  
 6 in his words, by the investigation into his activities,  
 7 was the attorney general's office involvement over?  
 8 A. No. I didn't think it was because I knew  
 9 that he was probably going to fire me and hire somebody  
 10 who would --  
 11 MR. COGDELL: Excuse me. Excuse me.  
 12 Nonresponsive. And conjecture and speculation. With  
 13 all due respect to Ranger Maxwell, he's not The Amazing  
 14 Kreskin. He can't see everything in the future.  
 15 MR. DeGUERIN: I'm asking for his state  
 16 of mind.  
 17 PRESIDING OFFICER: Overruled.  
 18 Q. (BY MR. DeGUERIN) You may answer.  
 19 A. Yes, I did not believe that General Paxton  
 20 was going to stop pursuing this investigation.  
 21 Q. Did you, at that time, though, know about the  
 22 hiring, or attempted hiring, of Brandon Cammack, the  
 23 young lawyer from Houston?  
 24 A. No.  
 25 Q. Did you find out about it later?

1 A. I did.  
 2 Q. I want to jump ahead now to the very end of  
 3 September and the beginning of October. Did you go on a  
 4 vacation toward the end of September?  
 5 A. Yes.  
 6 Q. And where'd you go?  
 7 A. We went to Colorado.  
 8 Q. Did you learn -- don't tell us what was said  
 9 yet. But did you learn that there was a crisis of sorts  
 10 among the deputies, your fellow deputies, in the  
 11 attorney general's office?  
 12 A. I did.  
 13 Q. How did you learn it?  
 14 A. They contacted me.  
 15 Q. And did you -- even being in Colorado, they  
 16 have -- they have phones up there last time I checked.  
 17 Were you able to communicate with your fellow deputies?  
 18 A. I had to drive down the mountain to do it,  
 19 but, yes, I did communicate with them by phone.  
 20 Q. What did you learn?  
 21 A. I learned that all the executive deputies,  
 22 including Jeff Mateer, were going to stand shoulder to  
 23 shoulder with me and confront Nate -- confront General  
 24 Paxton with what he has been doing to the agency for the  
 25 benefit of Nate Paul.

1 Q. What about a plan to go to the Federal Bureau  
2 of Investigation to report what they believed were, and  
3 what you believed, I believe, were crimes being  
4 committed?  
5 MR. COGDELL: Objection. Leading.  
6 Q. (BY MR. DeGUERIN) What did you learn?  
7 MR. COGDELL: And, again, what time frame  
8 are we talking about? Your question was late September.  
9 MR. DeGUERIN: Time frame is the end of  
10 September.  
11 PRESIDING OFFICER: Sustained.  
12 Re-ask.  
13 Q. (BY MR. DeGUERIN) Time frame is the end of  
14 September. And your conversations with your fellow  
15 deputies, what did you learn the plans were?  
16 A. I learned that they were going to report the  
17 activities to the FBI. I learned that they had written  
18 a letter to General Paxton. I was not present so I  
19 could not sign it. And I told them that I would also  
20 contact Lieutenant Colonel Randy Prince with the Texas  
21 Department of Public Safety. And also tell him what was  
22 going on, and that we were going to request an  
23 investigation.  
24 Q. So by you -- you knew Lieutenant Colonel  
25 Prince as a fellow Ranger, didn't you?

1 A. Yes. I broke him in.  
2 Q. And so by reporting to the Department of  
3 Public Safety, Lieutenant Colonel Prince, where was he  
4 in the hierarchy of the Department of Public Safety?  
5 A. He is number two. Or he was number two in  
6 the department. He's now retired.  
7 Q. And at the time that you did that, were you  
8 making a report to law enforcement about General Paxton?  
9 A. Yes.  
10 Q. What did you think would happen to you as a  
11 result of you reporting General Paxton to authorities?  
12 MR. COGDELL: Conjecture and speculation,  
13 Judge.  
14 MR. DeGUERIN: State of mind.  
15 MR. COGDELL: Judge, everything doesn't  
16 get to come into evidence as state of mind.  
17 PRESIDING OFFICER: Overruled.  
18 Q. (BY MR. DeGUERIN) You may answer.  
19 A. I was going to be fired.  
20 Q. What happened on -- I believe it was  
21 October 2nd, two days after the report. What happened  
22 on that date regarding you?  
23 A. I received notification by text message from  
24 Greg Simpson, the division chief over human resources,  
25 notifying me that I was placed on investigative leave.

1 Q. As a result of being placed on investigative  
2 leave, what did that do to your responsibilities in the  
3 attorney general's office?  
4 A. At that time I had no responsibilities, had  
5 no access.  
6 Q. And how long did that situation last?  
7 A. For one month.  
8 Q. What happened then?  
9 A. On November 2nd, 2020, I met with Brent  
10 Webster and he terminated me.  
11 Q. Stop you. Who was Brent Webster by that  
12 time?  
13 A. Brent Webster was the new first assistant  
14 hired by General Paxton.  
15 Q. Would you describe for the Senate and the  
16 senators what happened when Brent Webster fired you  
17 on -- was it -- did you say November the 2nd?  
18 A. Yes.  
19 Q. Go ahead.  
20 A. I was told to show up at 9:00 a.m. in the  
21 conference room next to human resources, and that he --  
22 I would be meeting with Brent Webster.  
23 Q. Were you still a law enforcement officer?  
24 A. Yes.  
25 Q. Were you told anything about whether to bring

1 a weapon or not?  
2 A. My division chief over criminal investigation  
3 division had called me on the telephone when I was in  
4 route to the office. And he told me that Brent Webster  
5 said that I was not allowed to be in the building if I  
6 was armed.  
7 Q. So what happened after you went to this -- or  
8 showed up at the time you were supposed to show up?  
9 A. I got there at -- before 9:00. I was pretty  
10 much always early. And I waited till about 11:30 before  
11 Brent Webster showed up.  
12 Q. What happened then?  
13 A. Brent Webster and Anne Weiss came together,  
14 and they first asked me if I was recording this meeting,  
15 and I said no.  
16 Q. And you were not?  
17 A. I was not.  
18 Q. Did you ask them?  
19 A. I asked them if they were recording the  
20 meeting, and they said they were not.  
21 Q. Then what happened?  
22 A. Then Brent Webster told me that he was  
23 conducting an investigation.  
24 Q. Did you believe that?  
25 A. No.

1 Q. And, in fact, did his actions confirm your  
2 nonbelief?  
3 A. Yes.  
4 Q. What happened then?  
5 A. So he attempted to interview me in a very  
6 vague and an inept way. And I told him just ask the  
7 question. I'll answer it or I won't answer it. Just  
8 give me a direct question and I'll give you what you  
9 want to know.  
10 We never got to the point where he asked  
11 me really direct questions.  
12 Q. All right. How did it end?  
13 A. He told -- he left, and he told me to be back  
14 at 1:00 o'clock. And so I went to have some lunch and I  
15 came back to the office at 1:00 o'clock.  
16 Q. Did he show up?  
17 A. No.  
18 Q. What happened?  
19 A. About 4:30, members of human resources showed  
20 up with my paperwork. And I signed the paperwork and I  
21 was fired.  
22 Q. I want to talk just a moment about what I'll  
23 call "retaliation." Were you retaliated against for  
24 what -- your actions that you took in this case?  
25 A. Yes.

1 Q. Tell the members of the Senate briefly how  
2 you were retaliated against.  
3 A. That he retaliated against me, was what  
4 you're asking.  
5 Q. Yes.  
6 A. Well, in firing me at the time I was 71 years  
7 old and had risen to a top level of law enforcement. In  
8 effect when he fired me and then berated me in the news,  
9 he ended my career.  
10 Q. By that time your career had taken up how  
11 many years?  
12 A. It was 48 years.  
13 Q. Were you proud of your career?  
14 A. Absolutely.  
15 Q. What is an F-5 form, as in -- F as in "Frank"  
16 5, the number?  
17 A. It's a TCOLE form.  
18 Q. TCOLE means what?  
19 A. Texas Commission on Law Enforcement.  
20 Q. What -- what's the importance of TCOLE?  
21 A. TCOLE is the regulatory agency for all peace  
22 officers in the state of Texas.  
23 Q. And so what happened with -- at first with  
24 regard to your TCOLE license and the F-5 form?  
25 A. The F-5 form is a form that is required for

1 the agency to fill out any time they separate from a law  
2 enforcement officer. There are three things that you  
3 can mark on the F-5. It can be an honorable discharge,  
4 it can be dishonorable, or it can be a general  
5 discharge.  
6 Q. Is a general discharge good or bad?  
7 A. Bad.  
8 Q. Did you contest that?  
9 A. I did.  
10 Q. Did you join in the filing of a whistleblower  
11 lawsuit?  
12 A. I did.  
13 Q. We've called it that.  
14 Why did you sue?  
15 A. I sued because he ended my career in a very  
16 unjust manner.  
17 Q. Eventually, partly as a result of the  
18 lawsuit, was the general discharge reversed and you got  
19 an honorable discharge?  
20 A. Yes.  
21 Q. Is that important?  
22 A. Yes.  
23 Q. Why?  
24 A. Because it's important to me to show that I  
25 had an honorable discharge and that I did nothing wrong

1 by standing up for right.  
2 MR. DeGUERIN: Pass the witness.  
3 PRESIDING OFFICER: Mr. Cogdell.  
4 MR. COGDELL: Thank you.  
5 Give me just a minute to set up.  
6 PRESIDING OFFICER: Take as much time as  
7 you need.  
8 MR. COGDELL: Thank you. You good, Dick?  
9 MR. DeGUERIN: Yeah.  
10 CROSS-EXAMINATION  
11 BY MR. COGDELL:  
12 Q. Good afternoon, Ranger.  
13 A. Good afternoon, Counselor.  
14 Q. How are you?  
15 A. I'm good.  
16 PRESIDING OFFICER: Mr. Cogdell -- I'm  
17 sorry -- since you're a little taller, you're going to  
18 need to get closer to that microphone so we can --  
19 MR. COGDELL: Wait, I'm taller than Dick?  
20 PRESIDING OFFICER: -- or raise that up.  
21 There you go.  
22 MR. COGDELL: All right.  
23 Q. (BY MR. COGDELL) It's been a minute, has it  
24 not?  
25 MR. DeGUERIN: I confess.

1 MR. COGDELL: Sir?  
 2 MR. DeGUERIN: I confess. He is taller,  
 3 and in fact -- well --  
 4 Q. (BY MR. COGDELL) It's been a minute since  
 5 you and I have seen each other.  
 6 A. It has.  
 7 Q. Let me go into sort of your preparation for  
 8 this hearing. And, Ranger, I know you as Ranger Dave  
 9 Maxwell, so I'm going to call you that whether you want  
 10 it or not because it's just in my brain.  
 11 A. I'm good with that.  
 12 Q. That -- good.  
 13 What have you done in preparation for  
 14 testifying here today, Ranger Maxwell?  
 15 A. I've consulted with the attorneys. I've  
 16 reviewed the material that has been turned over that I  
 17 would be speaking about.  
 18 Q. And is your lawyer here?  
 19 A. Yes.  
 20 Q. Tell me his name.  
 21 A. TJ Turner.  
 22 Q. And he's in the room?  
 23 A. He is.  
 24 Q. Now, when you say -- when you say that you  
 25 have consulted the material -- let me make sure I'm on

1 the same page with you.  
 2 A. Okay.  
 3 Q. I'm aware, Ranger Maxwell, that there are  
 4 transcripts of your original meeting with -- with the  
 5 Board of Managers back in February. You've read that  
 6 transcript, I assume.  
 7 A. Yes.  
 8 Q. There is the July 21st, 2020 interview by you  
 9 of Mr. Wynne and Mr. Paul, right?  
 10 A. Yes.  
 11 Q. You -- I assume you've read that transcript?  
 12 A. I have.  
 13 Q. There is the August 5th, 2020, interview by  
 14 you and Mark Penley of Mr. Wynne and Mr. Paul, correct?  
 15 A. Yes.  
 16 Q. There are also videotapes. I think the first  
 17 one is about an hour, the July one. And the second one  
 18 is an hour and a half or so.  
 19 A. Hour and 17 minutes, and hour and 54 minutes.  
 20 Q. Your memory is not lacking, I'll give you  
 21 that. At least so far.  
 22 But have you seen the videos as well,  
 23 Ranger?  
 24 A. No.  
 25 Q. Okay. Well, let -- I may ask you some

1 specific questions about those meetings. So let me give  
 2 you copies of the transcript, Ranger. Just so if I --  
 3 if I get down in the weeds and you need them, you'll  
 4 have them. Okay?  
 5 MR. COGDELL: May I approach, Your Honor?  
 6 PRESIDING OFFICER: Yes, you may.  
 7 Q. (BY MR. COGDELL) This is, Ranger, the Board  
 8 of Managers.  
 9 A. All right.  
 10 Q. The July and the August. We good?  
 11 A. Okay. Good.  
 12 PRESIDING OFFICER: He was not on mic,  
 13 but he was simply pointing out to the witness what the  
 14 different folders were.  
 15 Q. (BY MR. COGDELL) Let's go back to, I guess,  
 16 the first -- your first involvement, Ranger, with this  
 17 particular investigation in terms of your testifying,  
 18 okay?  
 19 A. Okay.  
 20 Q. And by -- what I mean by that is when you  
 21 were interviewed back in February I think by  
 22 Terese Buess and Dan McAnulty?  
 23 A. Yes.  
 24 Q. You remember that interview?  
 25 A. I do.

1 Q. You've read it?  
 2 A. I have.  
 3 Q. And in reviewing that transcript, Ranger,  
 4 did -- in your review, did you see anything that -- that  
 5 was in error or a mistake?  
 6 A. I see some things that may be misconstrued.  
 7 Q. What are those things?  
 8 A. About Drew Wicker and -- and what he may or  
 9 may not be able to testify.  
 10 Q. Gotcha. Now, let me put you on pause there.  
 11 You weren't here obviously during the  
 12 opening statement --  
 13 A. No.  
 14 Q. -- so you don't know what was said or what  
 15 wasn't said about Drew Wicker and your statements about  
 16 Drew Wicker. You weren't here, right?  
 17 A. No, that's correct.  
 18 Q. Have you met with Mr. DeGuerin or anybody  
 19 from the Board of Managers' team in anticipation of your  
 20 testifying?  
 21 A. Yes.  
 22 Q. Who did you meet with?  
 23 A. I met with Mr. DeGuerin, Rusty Hardin. I met  
 24 with the other attorneys that are helping prosecute this  
 25 case.

1 Q. Okay. And was that topic brought up in the  
2 meeting? That is what you said in the February meeting  
3 about Drew Wicker?  
4 A. Yes. They did ask me about that.  
5 Q. Okay. Now, you know Mr. DeGuerin personally?  
6 A. Yes.  
7 Q. And to jump way back in time, which is one of  
8 the first times I met you, Mr. DeGuerin famously walked  
9 into the Branch Davidian compound during the siege in  
10 1993?  
11 A. '3, '93.  
12 Q. Were you escorting him in and out? Was that  
13 you?  
14 A. No, I did not.  
15 Q. But the Rangers did have a significant role  
16 in the investigation of that -- that incident, that  
17 tragedy, whatever we want to call it. Right?  
18 A. Yes. I was one of the lead investigators.  
19 Q. Yes, sir. And if my memory serves me,  
20 Ranger, correct me if I'm wrong, but I think you helped  
21 a much younger me get access to my client in that  
22 ordeal, did you not?  
23 A. I did.  
24 Q. Thank you, sir.  
25 Now, I mean this sincerely and

1 respectfully, Ranger. You're an icon with the Texas  
2 Rangers, right?  
3 A. I don't see myself that way.  
4 Q. Well, a lot of folks do. You'd agree with  
5 me?  
6 A. I've heard a lot of people say that, yes.  
7 Q. You are in the Texas Ranger Hall of Fame,  
8 right?  
9 A. Well, at some point.  
10 Q. What do you mean at some point? You are now.  
11 A. I'm not an official member of the ones they  
12 recognize as being in the Hall of Fame. My picture has  
13 been there. It was once an exhibit on being in the Hall  
14 of Fame.  
15 Q. Well, let's see. You joined the DPS in 1972?  
16 A. That's correct.  
17 Q. You became a Ranger in 19 -- 1986?  
18 A. Yes.  
19 Q. You left the DPS -- and I'm sure 95 percent  
20 of the people in the room know this, but some folks  
21 watching on TV may not. All of the Texas Rangers, the  
22 genesis of being a Ranger, you hail from the Department  
23 of Public Safety. That's the outfit through which you  
24 become a Texas Ranger, right?  
25 A. Yes, because the Rangers are a part of the

1 Texas Department of Public Safety.  
2 Q. Yes, sir. So all told with the DPS and the  
3 Rangers, your career lasted 38 years?  
4 A. 38 years.  
5 Q. Now, you made some statements to Mr. DeGuerin  
6 about how ludicrous it was to be investigating judges or  
7 assistant United States attorneys in this particular  
8 case, right?  
9 A. Yes, in this particular case.  
10 Q. Yes, sir.  
11 A. That's correct.  
12 Q. But certainly you would agree with me,  
13 Ranger, that in your experience, you have been part of  
14 investigations, even prosecutions, of assistant United  
15 States attorneys or judges. Right?  
16 A. I have investigated and prosecuted public  
17 officials. I've never investigated a senior federal  
18 magistrate or an AUSA.  
19 Q. Well, let's go back to the Waco incident.  
20 One of the fallouts, tragically, for one of the  
21 assistant United States attorneys in that case, a fellow  
22 who I actually respect a lot so I'm not going to mention  
23 his name, but I think you know who I'm talking about.  
24 A. I do.  
25 Q. He was charged with a federal offense after

1 that ordeal, was he not?  
2 A. He was.  
3 Q. Now, you mentioned OIG, which is the Office  
4 of Inspector General. Right?  
5 A. Yes.  
6 Q. And they are kind of like -- I don't know  
7 what you'd call them -- OPR -- or what is it in the --  
8 in local law enforcement when you have a complaint  
9 against a law enforcement officer? What -- help me with  
10 the verbiage?  
11 A. I don't think we, on the state level, have an  
12 equal to the Office of Inspector General because they  
13 cover all of the federal agencies, as far as being able  
14 to inspect them. We don't have that in Texas. We don't  
15 have oversight other AGs.  
16 Q. Okay. Fair enough. But would you agree with  
17 me that in your experience as a Texas Ranger, you've  
18 seen, well, wrongful prosecutions of DPS agents?  
19 A. Yes.  
20 Q. One of those was a fellow by the name of  
21 Sergeant Bob Nesteroff. Remember that?  
22 A. I do remember Bob, yes.  
23 Q. He was a -- I think head of DPS narcotics  
24 enforcement?  
25 A. He and I were in narcotics at the same time.

1 Q. And he was charged by an AUSA in Florida, if  
 2 I remember --  
 3 A. Yes.  
 4 Q. -- for perjury and obstruction.  
 5 A. He was.  
 6 Q. Came here and went to trial in Houston in  
 7 front of Lee Rosenthal, right?  
 8 A. Yes.  
 9 Q. You remember his lawyer, right?  
 10 A. I don't remember who his lawyer was, no.  
 11 MR. DeGUERIN: Objection for a moment,  
 12 Your Honor. Relevance.  
 13 MR. COGDELL: Well, my point is this. No  
 14 one --  
 15 MR. DeGUERIN: Relevance.  
 16 PRESIDING OFFICER: Overruled.  
 17 Let him continue.  
 18 Q. (BY MR. COGDELL) Let's just say his lawyer  
 19 looked like a 27-year younger version of me, but that's  
 20 not really the point. The point is even AUSAs can make  
 21 mistakes, right?  
 22 A. You're talking about one individual.  
 23 Q. Yes, sir. One individual that charged a  
 24 compatriot of yours for something he didn't do?  
 25 A. Yes.

1 Q. Okay. My point is it is not beyond the realm  
 2 of possibility for anyone, including an assistant United  
 3 States attorney, to make an error in judgment or  
 4 whatever that ends up being criminal. Agree with me?  
 5 It's rare, but it happens.  
 6 A. It rare, but it happens.  
 7 Q. Now, let's talk about the resources through  
 8 your 38-year career, Ranger, that you've been exposed  
 9 to. You would agree with me as a general rule that you  
 10 have seen the tools and the resources available to law  
 11 enforcement grow exponentially in your time?  
 12 A. Absolutely.  
 13 Q. There are kinds of investigative tools that  
 14 weren't around when you started with the DPS, or when I  
 15 started practicing law, that are around today. Agree  
 16 with me?  
 17 A. There is no comparison.  
 18 Q. Yes, sir. Things like CrimeStar?  
 19 A. Yes.  
 20 Q. Things like CLEAR for law enforcement? It's  
 21 a public records database, right?  
 22 A. Yes.  
 23 Q. Accurant for law enforcement. Again, another  
 24 public records database, right?  
 25 A. Yes.

1 Q. TLO by TransUnion, another law enforcement  
 2 public records database, right?  
 3 A. Yes.  
 4 Q. Cellebrite, a cell phone analytics tool,  
 5 right?  
 6 A. Say that again.  
 7 Q. Cellebrite, it's a cell phone analytics tool?  
 8 A. Yeah. Uh-huh.  
 9 Q. GrayKey, another cell phone analytics tool?  
 10 A. Yes.  
 11 Q. PenLink, another phone analysis tool?  
 12 A. Yes.  
 13 Q. Obviously TCIC, NCIC searches, right?  
 14 A. Yes.  
 15 Q. Criminal history checks, driver's license  
 16 checks, right?  
 17 A. Yes.  
 18 Q. Access to some utility companies' databases,  
 19 right?  
 20 A. Yes.  
 21 Q. Open source data, like YouTube, Facebook,  
 22 Twitter, X, all those sorts of things?  
 23 A. Yes.  
 24 Q. And 95 percent of that just wasn't around  
 25 when you started your career, right?

1 A. Absolutely.  
 2 Q. So you would agree with me, I think, Ranger,  
 3 that you -- if you don't know how to use those tools,  
 4 you could certainly find somebody that could help you  
 5 use some of those tools if you wanted to use them.  
 6 Agree with me?  
 7 A. Agree.  
 8 Q. Now, the DPS and the Rangers have all kinds  
 9 of teams at their disposal, right?  
 10 A. Yes.  
 11 Q. They have a reconnaissance team, agreed?  
 12 A. Yes.  
 13 Q. A special response team, agreed?  
 14 A. Yes.  
 15 Q. A public corruption unit team, agreed?  
 16 A. Yes.  
 17 Q. They have -- it is not unusual at all for DPS  
 18 or the Rangers to participate in internal  
 19 investigations, right?  
 20 A. That's correct.  
 21 Q. DPS from time to time, I am told, triple  
 22 hearsay uses hypnosis?  
 23 A. We used to. I think it's been phased out  
 24 now.  
 25 Q. Did you yourself?

1 A. No, I didn't want --  
 2 Q. You never did?  
 3 A. I didn't want to do that.  
 4 Q. I'm -- your legend has been diminished by  
 5 just a bit. I thought you used hypnosis. All right.  
 6 A. No, sir.  
 7 Q. Now, you yourself, Ranger, you have taught  
 8 all kinds of courses, right?  
 9 A. Yes.  
 10 Q. You have taught on -- you personally taught  
 11 on how to conduct investigations?  
 12 A. Yes.  
 13 Q. Agree?  
 14 You have taught on interrogation  
 15 techniques. Agree?  
 16 A. Yes.  
 17 Q. You have taught on how to testify in court?  
 18 A. How to what?  
 19 Q. Really? You just did that?  
 20 Come on. You have taught on how to  
 21 testify in court?  
 22 A. Yes.  
 23 Q. And -- and no disrespect to anyone. This is  
 24 not your first rodeo. You have testified a few times,  
 25 right?

1 A. That's correct.  
 2 Q. Can you estimate for us, Ranger, how many  
 3 times you have testified in courts across this state or  
 4 across this country?  
 5 A. Hundreds.  
 6 Q. Okay. Now, simply put, Ranger David Maxwell  
 7 knows how to conduct an investigation if he wants to,  
 8 right?  
 9 A. Yes, that's correct.  
 10 Q. And you have literally conducted probably  
 11 thousands of investigations?  
 12 A. Yes, thousands of investigations.  
 13 Q. I guess, Ranger, anything from traffic  
 14 tickets to capital murderers and everything in between  
 15 you've investigated, right?  
 16 A. Yes.  
 17 Q. Now, let's talk for a minute about the good  
 18 traits of an investigator, see if we can agree on a few  
 19 good basics.  
 20 One, they should have the training and  
 21 the mental tenacity to be a good investigator, right?  
 22 A. Say that again.  
 23 Q. They got to be smart enough to know what  
 24 they're doing.  
 25 A. Yes.

1 Q. They should have an open and objective mind?  
 2 A. Yes.  
 3 Q. They should go into an investigation without  
 4 bias or predisposition?  
 5 A. Yes.  
 6 Q. They should be willing to follow the  
 7 evidence?  
 8 A. That's correct.  
 9 Q. And they shouldn't make assumptions that  
 10 aren't based on sufficient evidence, right?  
 11 A. Yes.  
 12 Q. Now, it is also important, is it not, to  
 13 follow up on any leads or information given to them by  
 14 others?  
 15 A. I lost that. Say it again.  
 16 Q. And I couldn't help but notice you got a  
 17 hearing aid.  
 18 A. I do. So it's a little hard for me.  
 19 Q. Yes, sir. And if I don't speak up enough --  
 20 A. All right.  
 21 Q. -- please let me know.  
 22 A. Thank you.  
 23 Q. It's important for a good investigator to  
 24 follow up on any leads or information that's been given  
 25 to them, right?

1 A. Yes.  
 2 Q. Would you agree with me, Ranger, that a good  
 3 investigator understands that, you know, we're kind of  
 4 all equal under the eyes of the law in terms of  
 5 everybody's entitled to have an investigation if -- at  
 6 least if it's warranted by the facts, investigated,  
 7 right?  
 8 A. Yes.  
 9 Q. An inmate, or a president, or anything in  
 10 between. Agree with me?  
 11 A. Yeah.  
 12 Q. An investigation should be thorough?  
 13 A. Yes.  
 14 Q. And accurate records and reports should be  
 15 generated and maintained?  
 16 A. Yes.  
 17 Q. And that's important, not only for the  
 18 investigator that's involved in the case, but really for  
 19 the future of the case, right?  
 20 A. Yes.  
 21 Q. I mean, investigators leave. They get fired.  
 22 They quit. But the case may still be going on. Right?  
 23 A. That's correct.  
 24 Q. So once again, you have the experience, the  
 25 training, the assets, the knowledge, and the



1 relationships, and the contacts to do a great  
 2 investigation if you were inclined to do that. Right?  
 3 A. Yes, I do.  
 4 Q. All right. Let me ask you -- and I think  
 5 Mr. DeGuerin touched on it briefly, but let me do it as  
 6 well.  
 7 I think he mentioned the search warrant  
 8 and a probable cause affidavit, right?  
 9 A. Yes, he did.  
 10 Q. Where is the --  
 11 MR. COGDELL: May I have just a minute,  
 12 Your Honor?  
 13 While he's looking for what he should  
 14 have had, Erick.  
 15 (Laughter)  
 16 Q. (BY MR. COGDELL) While he's looking for  
 17 that, let me cover a couple of things with you, Ranger.  
 18 First off -- first off, the quantum of  
 19 proof that a search warrant must satisfy before a judge  
 20 or a magistrate signs off on it is probable cause,  
 21 right?  
 22 A. Yes.  
 23 Q. And the lower standard of proof is scintilla.  
 24 And then we go into probable cause. Then we go into  
 25 clear and convincing. And then we go proof beyond a

1 reasonable doubt. You're aware of all of those things,  
 2 right?  
 3 A. Yes.  
 4 Q. Now -- thank you. I'm going to show you,  
 5 Ranger -- I don't know that if you have seen this or  
 6 not. But I'm going to show you, without offering it for  
 7 obvious reasons, the underlying affidavit in support of  
 8 the search warrant for Mr. Paul's properties and the  
 9 search warrant itself. Okay?  
 10 A. Okay.  
 11 MR. COGDELL: May I approach, Your Honor?  
 12 PRESIDING OFFICER: Yes, you may.  
 13 Q. (BY MR. COGDELL) So what you have in one  
 14 hand is a search warrant, which is pretty thick, right,  
 15 Ranger?  
 16 A. Yes.  
 17 Q. You should have -- and if you'll pull  
 18 forward, Ranger, because we got to have your voice --  
 19 pull forward.  
 20 A. I'm sorry.  
 21 Q. That's all right.  
 22 A. All right.  
 23 Q. You should have two different things. One is  
 24 a part of the other. But one is the greater search  
 25 warrant, which is several inches thick, right, the

1 entire search warrant?  
 2 A. Yes.  
 3 Q. And then included in that, which we've  
 4 excerpt -- excerpted out is the search warrant affidavit  
 5 in -- or the affidavit in support of the search warrant,  
 6 right?  
 7 A. Okay.  
 8 Q. Now, you have prepared -- estimate for us,  
 9 Ranger -- how many search warrant affidavits?  
 10 A. I couldn't tell you. I mean, it's a lot.  
 11 Q. A lot. Like thousands?  
 12 A. Yeah, a lot.  
 13 Q. Now, you would agree with me that the content  
 14 that goes into a search warrant affidavit is meant to do  
 15 really one thing and one thing only, and that content  
 16 that is to go into a search warrant affidavit is to  
 17 convince a magistrate judge that there is probable cause  
 18 for the issuance of a search warrant to search a given  
 19 premises or a given location at a given time, right?  
 20 A. Yes.  
 21 Q. And what's important is not the personalities  
 22 of the judge or anything to do with the prosecutor or  
 23 anything to do with anything other than what information  
 24 would establish probable cause, right?  
 25 A. That's correct.

1 Q. Now --  
 2 MR. DeGUERIN: Excuse me. Objection.  
 3 And I object to any further reference to this affidavit  
 4 as it was not part of his review, and he's not seen it  
 5 before.  
 6 MR. COGDELL: I'm happy for the Ranger to  
 7 take a few minutes to look at it, but these are -- Dick,  
 8 I think they're going to be pretty global questions.  
 9 But if the Ranger needs time to look at it, I'm happy to  
 10 stand down for a few minutes.  
 11 MR. DeGUERIN: I would also object to  
 12 it -- also object to relevance.  
 13 MR. COGDELL: The relevance is what  
 14 Mr. Hardin has suggested time and time and time again  
 15 about how -- how the search warrant affidavit could  
 16 endanger the lives of judges and prosecutors and all  
 17 this. That's -- I'm going there. I'll show you the  
 18 relevance.  
 19 PRESIDING OFFICER: I'll overrule the  
 20 objection.  
 21 But, Ranger, do you need some time?  
 22 Would you like five or ten minutes to look at it?  
 23 THE WITNESS: Yes.  
 24 PRESIDING OFFICER: It's a good time to  
 25 break.

1 Members, be back in -- at 2:45.  
 2 (Recess: 2:27 p.m. to 2:49 p.m.)  
 3 PRESIDING OFFICER: Okay. Be seated.  
 4 MR. COGDELL: Just let me know when to  
 5 proceed.  
 6 PRESIDING OFFICER: You may resume.  
 7 MR. COGDELL: Thank you.  
 8 Q. (BY MR. COGDELL) Ranger Maxwell, I asked  
 9 you -- sort of gave you a hint at the break of where I'm  
 10 going on this document, so let's go there.  
 11 Back up just a second. We're talking  
 12 about the search warrant affidavit in the Nate Paul  
 13 case, but really the questions kind of apply affidavits  
 14 generally speaking, not just here. Okay?  
 15 A. All right.  
 16 Q. Would you agree with me, Ranger, that in your  
 17 training in terms of law enforcement that you are  
 18 trained that if charges are filed, that ultimately the  
 19 defendant who is charged will get a copy of the search  
 20 warrant affidavit?  
 21 A. That's correct.  
 22 Q. And the basis for that, to bore us all a  
 23 little bit, is whether the search warrant affidavit is  
 24 sufficient or not is often argued by defense lawyers as  
 25 a basis for trying to suppress the search -- an illegal

1 search. That's the typical argument, right?  
 2 A. Yes, correct.  
 3 Q. So anybody that fills out a search warrant  
 4 with any experience is going to know at some point this  
 5 could well end up in the hands of the defendant or his  
 6 lawyer. You agree with me?  
 7 A. Yes, sir.  
 8 Q. So as a habit, custom, and practice, Ranger,  
 9 it's true, is it not, that you would not put anything in  
 10 a search warrant affidavit, or really allow anything to  
 11 be put in a search warrant affidavit, that could  
 12 cause -- come back to haunt somebody from a personal  
 13 safety perspective, right?  
 14 A. That would not be my first choice, but  
 15 sometimes judges don't give you a choice.  
 16 Q. Well, certainly there have to be names,  
 17 right?  
 18 A. There'd have to be a name, yeah.  
 19 Q. But they don't have home addresses of the  
 20 cooperator or where their kids go to school. That just  
 21 doesn't happen. Agree with me?  
 22 A. That's correct.  
 23 Q. All right. Now, this particular search  
 24 warrant, I'm assuming you've never seen this particular  
 25 search warrant or the affidavit in the -- in support of

1 the search warrant before. This is the first time, I  
 2 think, you've seen this.  
 3 A. It is.  
 4 Q. And did Nate Paul ever indicate to you in any  
 5 of your meetings with him that he had a copy of the  
 6 affidavit of the search warrant?  
 7 A. He told me very directly and positively that  
 8 he knew who signed the affidavit for the search warrant.  
 9 Q. That he what?  
 10 A. He -- he knew who was the officer who signed  
 11 the search warrant on the probable cause affidavit.  
 12 Q. He knew who signed it?  
 13 A. He knew who signed it, yes.  
 14 Q. Okay. All right.  
 15 A. Who the affiant was.  
 16 Q. Sir?  
 17 A. Who the affiant was.  
 18 Q. And who the affiant was is often discoverable  
 19 on the search warrant itself, right? Not the affidavit  
 20 but sometimes it's on the -- the affidavit and the  
 21 warrant. Agree with me?  
 22 A. Maybe, but he -- he referred to the probable  
 23 cause affidavit.  
 24 Q. Okay. The affiant is the person who signs  
 25 off on the search warrant?

1 A. That's correct, yes.  
 2 Q. So what he told you, if I'm understanding you  
 3 right, Ranger, is that he knew who the affiant was,  
 4 right?  
 5 A. That's correct.  
 6 Q. He did not say, I have a copy of the search  
 7 warrant affidavit. Rather he said, I know who the  
 8 affiant is, right?  
 9 A. Yes, he did.  
 10 Q. Okay. Now, let's get to the matter at hand a  
 11 little more directly.  
 12 You received the referral from the Travis  
 13 County DA's office on I think June 10th of 2020? I  
 14 think Mr. DeGuerin showed you that in your direct?  
 15 A. Well, it was -- it was created on June 10th.  
 16 It went through regular mail, so I didn't get it on  
 17 June 10th.  
 18 Q. Okay. You got it within a few days?  
 19 A. I got it through the mail.  
 20 Q. Okay. But you had gotten an email from Don  
 21 Clemmer telling you that the referral was on its way,  
 22 right?  
 23 A. Yes.  
 24 Q. And I think that is the point in time where  
 25 you did what a Ranger Dave Maxwell would do, you Googled

1 around and figured out, at least in your world view,  
 2 this guy is up to no good, I don't want anything to do  
 3 with him, right?  
 4 A. Yes.  
 5 Q. And you really began the investigation  
 6 believing that Nate Paul was a criminal, right?  
 7 A. Not just because of what you said. I felt he  
 8 was a criminal because of all that I saw.  
 9 Q. Fair enough.  
 10 But my point is, when you began your  
 11 review -- I'm not going to say investigation because it  
 12 never got that far, okay. So I don't want to step on  
 13 your verbiage.  
 14 A. Right.  
 15 Q. But when you began your review, you began it  
 16 with the conclusion that this guy is a, quote, criminal  
 17 and you want nothing to do with it, right?  
 18 A. When I began the review, my thought process  
 19 was I wanted to see what it was that he had to say.  
 20 Q. We'll get there.  
 21 A. And that was what I told my boss, Jeff  
 22 Mateer, that I would take a look at it. And when I read  
 23 it, the allegations of conspiracy among so many  
 24 professionals.  
 25 Q. Let me slow you down just a little bit,

1 Ranger, because we're going to get there.  
 2 A. All right.  
 3 Q. But will you agree with me at least right  
 4 here that you didn't exactly go into those meetings with  
 5 a positive mindset about Mr. Paul, right?  
 6 A. No.  
 7 Q. Okay. Now, if I'm understanding it right,  
 8 the Travis County DA's office decides it's not the  
 9 appropriate agency to review or investigate this  
 10 complaint because the Travis County DA's office deals  
 11 regularly with DPS and with the Rangers, right?  
 12 A. That's not exactly true.  
 13 Q. That's part of it.  
 14 A. That's what was in the -- in the email, but  
 15 that's not exactly the case.  
 16 Q. Okay. But that's at least what's in the  
 17 email. You'll give me that part?  
 18 A. That's correct.  
 19 Q. Now, does it strike you as ironic at all,  
 20 Ranger, that they say, We're not going to investigate  
 21 this because we're too close to the Rangers or -- or to  
 22 the DPS, and that -- and yet they refer it to a -- a  
 23 Ranger that's in the Hall of Fame that had a  
 24 40-plus-or-minus-year career with the DPS? That doesn't  
 25 strike you as ironic?

1 A. I -- I can explain that answer, if you'd  
 2 like.  
 3 Q. Well, first answer my question and then I'll  
 4 let you explain it. I'll give you that much, Ranger.  
 5 A. No, it doesn't strike me as ironic.  
 6 Q. Okay. Doesn't -- doesn't sound like Mickey  
 7 Mantle investigating the Yankees?  
 8 A. Say it again, please.  
 9 Q. It doesn't sound like Mickey Mantle  
 10 investigating the Yankees?  
 11 A. I'm sorry, I still couldn't understand you.  
 12 Q. I'm sorry. And I don't know if it's the  
 13 microphones or what.  
 14 A. Not really good.  
 15 Q. I'm trying to be cute but I'm really trying  
 16 to make a point.  
 17 A. Okay.  
 18 Q. It's kind of like Mickey Mantle investigating  
 19 the Yankees.  
 20 A. Okay.  
 21 Q. Doesn't exactly jump off the page as an  
 22 objective review. That's my point.  
 23 A. I would say you talked about my  
 24 professionalism. I always look at things objectively.  
 25 Q. And let me stop you, Ranger.

1 At no time, sir -- I may disagree with  
 2 what you did or didn't do. But at no time am I going to  
 3 suggest to you that I think you're a liar or you're  
 4 unprofessional or you're not a man of great character.  
 5 That ain't where I'm going.  
 6 A. Okay.  
 7 Q. We good?  
 8 A. I'm good.  
 9 Q. All right.  
 10 So it was Clemmer that you had the  
 11 conversation with, Don Clemmer, Ranger?  
 12 A. I did.  
 13 Q. And I think you knew him from back in the day  
 14 at the Harris County DA's office?  
 15 A. Actually I knew him when he worked for the  
 16 AG's office because he was the executive deputy over  
 17 prosecution when I was there in the law enforcement  
 18 division.  
 19 Q. Gotcha.  
 20 A. So we were colleagues at that point.  
 21 Q. You were also friendly with him, I guess?  
 22 A. Yes.  
 23 Q. So there's nothing in your personal history  
 24 that would be a source of conflict or tension between  
 25 you two?

1 A. No.  
 2 Q. So when you caught -- when you -- when was  
 3 this first call? Was the call between the time you got  
 4 the email and you got the referral?  
 5 A. No. I called him after I got the referral in  
 6 the mail.  
 7 Q. Okay. And -- and did you express to Don at  
 8 any time, Ranger -- Mr. Clemmer, that is -- did you,  
 9 Ranger Maxwell, express to Don Clemmer, you know, I'm  
 10 probably not the right guy to investigate this? I don't  
 11 like Nate Paul. I don't trust him. I think he's a  
 12 criminal. I think the world of the Rangers?  
 13 Did anything like that come up in that  
 14 conversation?  
 15 A. No. My language was much stronger than that.  
 16 (Laughter)  
 17 Q. (BY MR. COGDELL) Okay. But you communicated  
 18 those thoughts?  
 19 A. I communicated my thoughts in an unequivocal  
 20 term.  
 21 Q. And four-letters words were involved I'm  
 22 imaging, Ranger?  
 23 A. I probably won't use the same language in the  
 24 court that I'd used that day.  
 25 Q. I wouldn't -- I wouldn't ask you to, sir,

1 certainly. There may be some courts somewhere, but this  
 2 is not the one I'll ask you to use the language in.  
 3 All right. So it is true, is it not,  
 4 Ranger Maxwell, that typically as the -- are you deputy  
 5 director? Are you director of law enforcement? Give me  
 6 your title again at the --  
 7 A. Director of law enforcement.  
 8 Q. Okay. Typically as the director of law  
 9 enforcement, Ranger Maxwell, you didn't often get  
 10 personally involved in investigations, right?  
 11 A. Yes. I oversee them.  
 12 Q. Yes.  
 13 A. And sometimes I actually personally get  
 14 involved.  
 15 Q. But that's my point. The majority of the  
 16 time you oversee?  
 17 A. Yes, absolutely.  
 18 Q. Okay. And you certainly would -- would you  
 19 typically, Ranger, assign something like this if a -- if  
 20 a player like Nate Paul was involved, would you  
 21 typically assign a referral like this to someone lower  
 22 than you on the food chain?  
 23 A. I would assign it to my major, who was over  
 24 special investigations and have him assign a team to  
 25 investigate the allegations.

1 Q. Gotcha. And you told -- I think you told us  
 2 the reason why you didn't assign it any place else, but  
 3 regardless, you kept this one for yourself, right?  
 4 A. I did.  
 5 Q. All right. Now, you got the referral in  
 6 mid-June, right?  
 7 A. Yes.  
 8 Q. And you had the first meeting with Nate Paul  
 9 and Mr. Wynne, Michael Wynne, July 21st?  
 10 A. That's correct.  
 11 Q. Now, let's set the stage in terms of --  
 12 forget about how -- your thoughts about Nate Paul.  
 13 Forget about your thoughts about Paxton's involvement  
 14 with him. And focus, if you can, on just the otherwise  
 15 oddity of having something -- a conversation with a  
 16 fellow who is under investigation for federal offenses.  
 17 Right?  
 18 A. Yes.  
 19 Q. And he comes in to you, a known quantity,  
 20 shall we say, in the law enforcement community. And he  
 21 and his lawyer are sitting down with you opening  
 22 themselves up to ask you -- asking them any question you  
 23 want to. Right?  
 24 A. That's correct.  
 25 Q. I'm going to go out on a limb here, Ranger,

1 and suggest that, despite your storied career, something  
 2 like this may not have ever happened. Would you agree  
 3 with me?  
 4 A. Possibly.  
 5 Q. Okay. Now -- and when I say something like  
 6 this never happened, let's just say it -- I don't know  
 7 many defense lawyers that would have taken the same  
 8 position as Michael Wynne and walked their client into  
 9 that meeting. Agree with me?  
 10 A. Okay.  
 11 Q. Now, did -- before that meeting started, did  
 12 Ken Paxton ever come up to you -- did General Paxton,  
 13 Ranger, ever come up to you and say, Hey, I want you to  
 14 give him immunity. You can't use those statements  
 15 against him. He gets a free pass for anything he says?  
 16 I mean, there was no condition put on  
 17 your being able to ask Nate Paul questions. Agree with  
 18 me?  
 19 A. That's correct.  
 20 Q. And likewise, from Mr. Wynne, he never  
 21 likewise asked you, Hey, everything is off the record  
 22 here. You're not going to go anywhere. That didn't  
 23 happen either?  
 24 A. No.  
 25 Q. In fact, I think you told -- was it Mateer

1 that, Yeah, I'll have this meeting. And what I'm going  
 2 to do if they say anything that incriminates him, I'm  
 3 going to mail it right over to the U.S. Attorney's  
 4 Office, right?  
 5 A. Well, no, I was going to contact the FBI.  
 6 Q. Okay.  
 7 A. And give that information to them. I also  
 8 told General Paxton the same thing.  
 9 Q. Okay. So the point is you went into it with  
 10 the mindset that if Nate Paul, or I guess even his  
 11 lawyer, said anything that was incriminating about any  
 12 criminal activity, that you were going to pass that  
 13 information on to the appropriate agency?  
 14 A. Yes.  
 15 Q. And it's true, is it not, Ranger, that never  
 16 happened? That is, they never said anything that  
 17 incriminated them or that you passed on to another  
 18 agency, right?  
 19 A. Right.  
 20 Q. I want to make sure --  
 21 MR. COGDELL: I don't know frankly,  
 22 Mr. President.  
 23 I want to offer, if it's not in, the  
 24 House Board of Managers Exhibit 149, which is the video  
 25 of the 7/21 interview as well as the Board of Managers

1 151, which is the transcript of that same interview.  
 2 MR. DeGUERIN: No objection.  
 3 MR. COGDELL: Okay. And likewise while  
 4 I'm doing that, I want to offer into evidence 156 and  
 5 158, which are the video of the August 5th interview  
 6 that Ranger Maxwell and Mr. Penley had of Mr. Paul and  
 7 Mr. Wynne, as well as the transcript, which is 158.  
 8 PRESIDING OFFICER: And let me --  
 9 MR. DeGUERIN: No objection.  
 10 PRESIDING OFFICER: We're looking at  
 11 those numbers.  
 12 Yes, Mr. DeGuerin?  
 13 MR. DeGUERIN: No objection to the  
 14 introduction of those -- of the video, audio, and  
 15 transcript.  
 16 MR. COGDELL: Thank you.  
 17 PRESIDING OFFICER: Make sure I have the  
 18 numbers right. Hold on, Counselor.  
 19 MR. COGDELL: Yes, sir.  
 20 PRESIDING OFFICER: We're going to enter  
 21 151, 149, 156, and 158 into evidence?  
 22 MR. COGDELL: Yes, sir.  
 23 PRESIDING OFFICER: No objection. Show  
 24 them being entered into evidence. Go ahead.  
 25 (HBOM Exhibits 151, 149, 156, and 158

1 admitted)  
 2 Q. (BY MR. COGDELL) All right. Now, Ranger, do  
 3 you still have the three little --  
 4 A. I do.  
 5 Q. And -- and I'm not going to try to give you a  
 6 pop quiz and ask you if every single word that I'm  
 7 saying -- I hope you'll trust me far enough to say if I  
 8 say it it's in there. But if you want to check me,  
 9 please check me and I'll point you to the citation.  
 10 Okay?  
 11 A. Okay.  
 12 Q. I think early on in your House interview,  
 13 which is also in front of you, I think that's the orange  
 14 folder, that you said his main allegation -- when you  
 15 were -- back up.  
 16 When you were being interviewed -- I  
 17 jumped from your interview with him to their interview  
 18 of you. But in your interview with the Board of  
 19 Managers, you said his main allegation of why he didn't  
 20 like the raid that they conducted was he was alleging  
 21 that a copy of the search warrant had been altered.  
 22 Right?  
 23 A. Right.  
 24 Q. And that's true, right?  
 25 A. Right.

1 Q. That's true in terms of that was what Nate  
 2 Paul was claiming to you, right?  
 3 A. Right.  
 4 Q. And that at some point in the first  
 5 interview, I think Nate Paul told you, Ranger, that he  
 6 didn't even think they had a search warrant for at least  
 7 one of the properties being searched, which was the  
 8 storage unit. You recall him telling you that?  
 9 A. Yes. Uh-huh.  
 10 Q. And he went way deep. That is, Nate Paul  
 11 went way deep into metadata, right?  
 12 A. Yes, he did.  
 13 Q. Do you know as little about metadata as I do?  
 14 A. Maybe less.  
 15 Q. All right. Metadata, at least as far as you  
 16 and I know, is sort of the -- the fingerprints that any  
 17 electronically created documents leave, right?  
 18 A. Yes.  
 19 Q. Now, you said that -- and I hear you. You  
 20 said a couple of times to Mr. DeGuerin that his -- his  
 21 accusations were so ridiculous and so conspiratorial --  
 22 I'm characterizing -- that it was just absurd to you to  
 23 even hear them, right?  
 24 A. Right.  
 25 Q. Would you agree with me, Ranger, that

1 Mr. Wynne, his lawyer, through both of those things did  
 2 say words to the effect, Ranger, that he doesn't think  
 3 they're evil people. Maybe they just relied upon poor  
 4 information and they don't know how to back out. Do you  
 5 remember that verbiage that Mr. Wynne --  
 6 A. No.  
 7 Q. If you will look, Ranger, on Page 63, Line 22  
 8 of the 7/12 interview. And for the color-coded  
 9 challenge, that is going to be in the green.  
 10 PRESIDING OFFICER: In the green. He's  
 11 looking in the orange right now. The green or the --  
 12 MR. COGDELL: David. Ranger.  
 13 PRESIDING OFFICER: Ranger.  
 14 Q. (BY MR. COGDELL) The 7/12, which should be  
 15 in the green folder.  
 16 A. Yeah. Oh, in the green folder.  
 17 PRESIDING OFFICER: Yes.  
 18 Q. (BY MR. COGDELL) Yes, sir. I'm sorry 7/21.  
 19 If you'll look on Page 63.  
 20 A. 63, okay.  
 21 Q. At the very bottom of 63, do you recall  
 22 Mr. Wynne telling you -- I'll wait for you to get there,  
 23 Ranger.  
 24 A. Okay. Okay.  
 25 Q. At the bottom of 63, Ranger, Mr. Wynne says,

1 That's the problem. I don't think they're evil people  
 2 from the core.  
 3 You see that?  
 4 A. Well, mine doesn't have all the words.  
 5 Q. Yours doesn't have all the words?  
 6 A. It says -- I have, That's the problem. I  
 7 don't think they're -- and it's blank.  
 8 Q. Well, the next line is, I don't think they're  
 9 evil people from the core.  
 10 You see that?  
 11 A. Right.  
 12 Q. And make sure you keep that microphone close  
 13 to you, Ranger.  
 14 A. Sorry.  
 15 Q. No, sir. That's fine.  
 16 And then the next page, it says at the  
 17 top of Page 64, Ranger, They just got -- they listened  
 18 to the wrong people and it got it wrong and they just  
 19 can't come forward and say oops.  
 20 Right?  
 21 A. That's what he said.  
 22 Q. Now, again, not suggesting that you should  
 23 buy that description, but that is certainly what  
 24 Mr. Wynne is telling you in this first meeting, right?  
 25 A. Yes, that's right.

1 Q. Okay. Now, you told, Ranger, this jury in no  
 2 uncertain terms that you never had any intention of ever  
 3 investigating this. It was nonsense from the beginning.  
 4 And you just wanted nothing to do with it.  
 5 Again, I'm paraphrasing what you told us,  
 6 right?  
 7 A. That's correct.  
 8 Q. Ranger, it's true, though, that you never  
 9 said that to Mr. Wynne and Mr. Paul?  
 10 A. That's correct.  
 11 Q. Okay. Instead, what you told them -- and  
 12 this is probably the sly investigator coming out in  
 13 you -- I don't mean to diminish your skill set. But  
 14 what you told them was, Maybe I can get some answers for  
 15 you.  
 16 Right?  
 17 A. Right.  
 18 Q. And you said, I can look at this and talk to  
 19 the DA's office and see where we get.  
 20 Right?  
 21 A. Right.  
 22 Q. Told them, I'll look at the metadata just to  
 23 see what our people tell me about it because I pay a lot  
 24 of money to those people to get them trained, meaning  
 25 your metadata people?

1 A. That's correct.  
 2 Q. Right?  
 3 A. Yes.  
 4 Q. And I will sit down with the DA, and if we  
 5 have something, we do. And if we don't and they say no,  
 6 that's as far as I can go.  
 7 Right?  
 8 A. Right.  
 9 Q. So -- and, again, I think I get the reason  
 10 why. But what you're telling us about your opinions  
 11 about their story or their position is certainly  
 12 different than what you were telling them, right?  
 13 A. Say that last part.  
 14 Q. Yes, sir. What you're telling us -- your  
 15 opinion of their description of what may have happened,  
 16 your opinion that you shared with us is a very different  
 17 opinion than what you shared with them.  
 18 A. Absolutely.  
 19 Q. That is --  
 20 A. Absolutely.  
 21 Q. Now, did you, though, early on, Ranger, tell  
 22 them that it was up to the DA's office ultimately to  
 23 accept charges or not?  
 24 A. Yes.  
 25 Q. Okay. So when Mr. DeGuerin said had the DA's

1 office recused themselves -- and that's a term of art  
 2 we'll probably get to. But when he said had they  
 3 recused themselves, you said yes, but you certainly  
 4 never told or suggested that to Mr. Paul or Mr. Wynne.  
 5 That is, the Travis County DA's office had recused  
 6 itself. Right?  
 7 A. I go back to the protocol I testified in the  
 8 first place, which is I require --  
 9 Q. Ranger, I can't hear you. I don't mean to  
 10 step on you, but I want to hear you.  
 11 A. I'm sorry. I go back to my first statement  
 12 where we talked about the protocols I have in place that  
 13 I require a letter from the DA, and that jurisdiction  
 14 that they'll either prosecute or recuse themselves and  
 15 let us prosecute.  
 16 Q. Okay. And correct me if I'm wrong, but I  
 17 don't think you ever got a letter from the DA in this  
 18 case that they had recused themselves. Margaret Moore  
 19 never wrote you a letter and said, We are recusing  
 20 ourself from this investigation?  
 21 A. There is no investigation at this point.  
 22 Q. Okay.  
 23 A. There was not going to be an investigation,  
 24 and there's nothing for them to review.  
 25 Q. Okay. I hear you. But if they didn't recuse

1 themselves from an investigation because there was no  
 2 investigation, they didn't recuse themselves from  
 3 anything?  
 4 A. No, not the investigation. They had to -- if  
 5 they wanted to recuse theirself and have us prosecute.  
 6 Q. Yes, sir.  
 7 A. They either have to agree to prosecute the  
 8 case or recuse themselves and allow our -- our people to  
 9 prosecute.  
 10 Q. And neither one of those things happened, if  
 11 I'm understanding what you're saying right now.  
 12 A. Neither one were going to happen, no.  
 13 Q. Gotcha. And that's my point.  
 14 A. Yeah.  
 15 Q. That didn't happen.  
 16 And maybe you know this and maybe you  
 17 don't, but I'll go out on a limb and ask you. Do you  
 18 know sort of the condition precedent for a prosecutor  
 19 pro tem? Do you know what that -- that term means? And  
 20 you may not, Ranger.  
 21 A. No. I'm not going to try and define that.  
 22 Q. Sir?  
 23 A. I won't try and define that.  
 24 Q. Fair enough.  
 25 Now, what is the WebPass system, the

1 WebPass system?  
 2 A. I'm not sure.  
 3 Q. Well, as I understood it, and I could be  
 4 wrong, law enforcement division maintains what is called  
 5 a WebPass system, which has an offense report or a case  
 6 file in it.  
 7 A. I'm still not understanding what that is.  
 8 Q. Well --  
 9 A. What -- what's the purpose of it?  
 10 Q. Let me just put it this way. You never  
 11 created any memorandum, right?  
 12 A. No.  
 13 Q. No memorandum of interview, right?  
 14 A. No.  
 15 Q. No report of an investigation or review?  
 16 A. That's correct.  
 17 Q. No note to the file, right?  
 18 A. Right.  
 19 Q. You didn't -- you didn't initiate so much as  
 20 a Post-it note, if I'm understanding you right -- I'm  
 21 sorry if you can't hear me. I think you're the only one  
 22 in the world that can't hear me right now, Ranger. But  
 23 you didn't even create a Post-it note about this case,  
 24 if I'm --  
 25 A. I did not take any notes or even create a

1 Post-it note about it, that's correct.  
 2 Q. All right. Now, Operation Longhorn.  
 3 MR. COGDELL: May I have just a minute?  
 4 May I approach?  
 5 Mr. DeGuerin, I think I showed you this.  
 6 PRESIDING OFFICER: Yes, you may.  
 7 MR. DeGUERIN: I've seen what he's  
 8 offering, Your Honor. And my objection is that it's not  
 9 only -- if it's offered for the truth of the matter, we  
 10 think it's false and we don't want it, so we object to  
 11 it, but -- and I don't know what the offer is.  
 12 MR. COGDELL: Well, I thought at the  
 13 break that he told me he wasn't going to object to it,  
 14 but whatever. That's fine.  
 15 PRESIDING OFFICER: Go to your mic so we  
 16 can all hear the conversation.  
 17 MR. COGDELL: From my understanding with  
 18 Mr. DeGuerin at the break, he told me he wasn't going to  
 19 object to it, but that's all right. People can change  
 20 their mind, Dick. I've been married a few times. It's  
 21 okay.  
 22 PRESIDING OFFICER: Mr. DeGuerin.  
 23 MR. DeGUERIN: Let me clarify that. I  
 24 told him I didn't object to it. But I don't agree that  
 25 it should be admitted for the truth of the matters

1 stated. It's something that was prepared by Nate Paul  
 2 and his lawyers to show to Mr. Maxwell. We think it's  
 3 hogwash, but it can be admitted.  
 4 MR. COGDELL: Is that an objection, Dick?  
 5 MR. DeGUERIN: Yes, that's an objection.  
 6 MR. COGDELL: Objection. Hogwash?  
 7 MR. DeGUERIN: Objection. Hogwash.  
 8 (Laughter)  
 9 MR. COGDELL: All right. You best not  
 10 sustain that one, Your Honor.  
 11 PRESIDING OFFICER: Wait a minute. Which  
 12 one of those rules is that one, Mr. DeGuerin? 802 or  
 13 803? Got them all up here.  
 14 MR. DeGUERIN: 803.75.  
 15 PRESIDING OFFICER: If it's not, we're  
 16 writing a new one.  
 17 MR. COGDELL: It is not, Mr. President,  
 18 being offered for the truth of the matter asserted but  
 19 only to show that Ranger Maxwell, and I think  
 20 Mr. Penley, actually were presented with a copy of this.  
 21 We're not suggesting it's true or it's the letter of the  
 22 law but only that it was given to them. That's the  
 23 limited scope of the offer. All right?  
 24 PRESIDING OFFICER: We'll overrule --  
 25 MR. COGDELL: All right. Mr. --

1 PRESIDING OFFICER: -- because it's not  
 2 being offered as truth of the matter asserted.  
 3 MR. COGDELL: Mr. Arroyo, are you with  
 4 me?  
 5 And it's marked. I didn't think -- I  
 6 don't think I said this for the record, Your Honor.  
 7 It's AG 1005. So we're offering AG 1005.  
 8 Q. (BY MR. COGDELL) And, Ranger, can you see  
 9 that screen in front of you?  
 10 A. I see it, yes. We're up on screen.  
 11 Q. Thank you.  
 12 PRESIDING OFFICER: This is your exhibit?  
 13 MR. COGDELL: Yes, sir. It's the  
 14 electronic copy of what I'm holding in my hand, Judge.  
 15 PRESIDING OFFICER: For the same ruling,  
 16 we'll admit this into evidence.  
 17 (AG Exhibit 1005 admitted)  
 18 MR. COGDELL: Yes, sir.  
 19 All right. Mr. Arroyo, could you go to  
 20 the first page? Next page, yep. Next page, please,  
 21 Erick. And if you could highlight the first sentence  
 22 for me, please. Blow it up.  
 23 PRESIDING OFFICER: Can you go back to  
 24 the microphone, please?  
 25 MR. COGDELL: Oh, I'm sorry. It's a big

1 room.  
 2 If you could blow that up for us, Erick.  
 3 Q. (BY MR. COGDELL) It says that there were  
 4 three search warrants that were executed simultaneously  
 5 on Wednesday, August 14th. You see that, Ranger?  
 6 A. I do.  
 7 MR. COGDELL: And if we go down, Erick,  
 8 to the second-to-last paragraph.  
 9 Q. (BY MR. COGDELL) It says, Since the search  
 10 warrants were sent as PDF files via email, after the  
 11 searches we were able to analyze the metadata of the PDF  
 12 documents that were emailed.  
 13 Right?  
 14 A. I see that.  
 15 Q. And finally, Ranger, it says, According to  
 16 the filings with the Court in the Western District of  
 17 Texas, each of these search warrants was signed and  
 18 issued by Judge Mark Lane on Monday, 10:00 a.m.  
 19 August 12th.  
 20 But if we look at the first sentence and  
 21 the last sentence, what they are alleging is that the  
 22 search warrants were -- per the filings, per what you  
 23 and I could see if we looked at them, the search  
 24 warrants would have been issued at 10:00 a.m., but -- on  
 25 Monday the 12th. But in reality, the documents were

1 created on Wednesday, the 14th, two days later. Right?  
 2 That's their claim.  
 3 A. No. What it says is that the three search  
 4 warrants that were executed simultaneously on --  
 5 9:00 a.m. on Wednesday, August 14th --  
 6 Q. I gotcha. And the filings say -- you're  
 7 right. I stand corrected. They were executed on --  
 8 A. The 14th.  
 9 Q. -- the 14th, right?  
 10 And then -- and on the next page --  
 11 MR. COGDELL: Erick, if we'll go to the  
 12 next page.  
 13 Q. (BY MR. COGDELL) And I think were there a  
 14 total of six warrants, Ranger?  
 15 A. Well, there were three warrants that were  
 16 executed. They had three more warrants that they did  
 17 not execute.  
 18 Q. Gotcha.  
 19 So you spent a long time listening to  
 20 Mr. Paul's description and Mr. Wynne's description of  
 21 this contigo, this search of a storage facility.  
 22 A. Yes.  
 23 Q. You spent probably 30, 45 minutes listening  
 24 to that.  
 25 A. Yes.



1 Q. And the net-net of their suggestion to you,  
 2 Ranger, was that the search warrants for the -- for that  
 3 facility were created after the search, right?  
 4 A. That's what they're alleging.  
 5 Q. Okay. And according to them -- and, again, I  
 6 don't know metadata. But according to them, Ranger, it  
 7 was through the forensic analysis of a PDF that was sent  
 8 to -- by Alan Buie to one of their prior lawyers, Chuck  
 9 Meadows and Aaron Borden. That's how they say they  
 10 broke the code on this. You with me?  
 11 A. I am.  
 12 Q. And you agree with that summary?  
 13 A. What's that?  
 14 Q. You agree with the summary that that's their  
 15 claim? I'm not asking you --  
 16 A. That's the claim.  
 17 Q. -- legal fact.  
 18 A. That's the claim.  
 19 Q. If we go to the next page.  
 20 And, again, they are saying that the  
 21 document metadata reveals information that is  
 22 inconsistent with looking at the -- the documents on  
 23 their face. You with me?  
 24 A. Uh-huh, I am.  
 25 Q. Okay. And I'm not going to bore us all, but

1 this is what they gave you back on August 5th, right?  
 2 A. I see it.  
 3 Q. And they also gave you a thumb drive.  
 4 Correct?  
 5 A. Yes.  
 6 Q. Now, I think one of the things that would be  
 7 a condition precedent was whether or not the condition  
 8 precedent for involvement by the attorney general's  
 9 office of the State of Texas would be a violation of  
 10 state law, right?  
 11 A. Okay. Yes.  
 12 Q. I mean you -- you can't investigate --  
 13 review, investigate, or prosecute federal cases, right?  
 14 A. That's correct.  
 15 Q. Will you at least agree with me that if what  
 16 they were saying was true, that these actions by federal  
 17 prosecutors would be a violation -- would be, if they  
 18 were true, a violation of state law. Right?  
 19 A. The state law -- and this is one of the only  
 20 reasons why I agreed to hear him out -- was falsifying a  
 21 government document would cover a federal document.  
 22 Q. Yes, sir.  
 23 A. Even though we don't have jurisdiction over  
 24 anything else about it.  
 25 Q. Gotcha. And I think we're saying the same

1 things. You probably better than me.  
 2 But if a federal law enforcement agent or  
 3 prosecutor or judge or whatever, if they knowingly  
 4 entered false information into a document with the  
 5 intent to deceive someone else, not only would that be a  
 6 federal crime, it would be a state crime. I think it  
 7 would be tampering with governmental records, right?  
 8 A. That's correct.  
 9 Q. Now, would you agree with me, Ranger, that  
 10 despite your concern or belief or hope that Mr. Wynne or  
 11 Mr. Paul would say something incriminating or say  
 12 something that would cause them exposure criminally,  
 13 neither Mr. Wynne nor Mr. Paul ever asked you to do  
 14 anything illegal?  
 15 A. Yes. They asked me to interfere with a  
 16 federal investigation, which is absolutely illegal.  
 17 It's also obstruction of justice.  
 18 Q. Show me, Ranger, in the first hour or the  
 19 second two hours on the investigation or the interview  
 20 of July 21st or August 5th. You've got the transcript  
 21 there for both of those.  
 22 A. Counselor, you are showing me the evidence  
 23 right here. This is -- it's a map of how he wanted the  
 24 investigation to be done and to have the AG's office  
 25 follow how this was to be investigated along with

1 targeting six individuals.  
 2 Q. Okay. Where does he -- excuse me, Ranger.  
 3 A. Go through it and you'll see it.  
 4 Q. Show me --  
 5 A. I don't have a copy of it.  
 6 Q. I'm sorry?  
 7 A. I don't have a copy of it.  
 8 Q. You do. You've got a copy of the entire  
 9 transcript of July 12th, Ranger.  
 10 A. No, no. I'm talking about the document you  
 11 have up on screen right now.  
 12 Q. Show me, Ranger.  
 13 A. I don't --  
 14 Q. Where they say -- you say you reviewed the  
 15 transcripts of the July 12th interview, and you have  
 16 reviewed the transcripts of the August 5th interview.  
 17 Show me the language where in either one of those  
 18 interviews, Ranger, that they asked you to commit a  
 19 crime.  
 20 A. They're not in the interviews, Counselor.  
 21 They are in the documents you are looking at right now.  
 22 He lists six people as a person of interest to be  
 23 targeted in this investigation.  
 24 Q. Where does -- I'm sorry --  
 25 A. It's in Operation Longhorn.

1 Q. I'm sorry, I'm talking over you. I  
 2 apologize, Ranger.  
 3 Where in this PowerPoint -- show me,  
 4 Ranger, where in this PowerPoint that Mr. Wynne asked  
 5 you to commit a crime or Mr. Paul asked you to commit a  
 6 crime. Where?  
 7 MR. DeGUERIN: Objection, Your Honor. He  
 8 doesn't have a copy of this in front of him. May I give  
 9 him my copy so he can answer that question?  
 10 MR. COGDELL: I'll give him mine.  
 11 PRESIDING OFFICER: Providing a copy now.  
 12 MR. COGDELL: I'm sorry, I thought you  
 13 had one.  
 14 A. No, I don't.  
 15 Q. (BY MR. COGDELL) My apologies. I thought  
 16 you had one.  
 17 MR. DeGUERIN: Your Honor, may we  
 18 approach about some --  
 19 PRESIDING OFFICER: Yes, you may.  
 20 MR. DeGUERIN: -- addresses.  
 21 PRESIDING OFFICER: Yes, you may.  
 22 (Bench conference off the record)  
 23 MR. COGDELL: Judge, can we get a minute?  
 24 Can we get a minute so they can do what they need to do  
 25 with the world famous Erick?

1 PRESIDING OFFICER: We are going to let  
 2 Erick go to work here.  
 3 MR. COGDELL: Yes.  
 4 PRESIDING OFFICER: We'll take a stretch  
 5 break for five minutes. Stand at ease.  
 6 (Off the record)  
 7 PRESIDING OFFICER: Members, just to let  
 8 you know, we are redacting some personal information  
 9 from a file, and that's what we're taking some time to  
 10 do here.  
 11 Exhibit 1005.  
 12 (Off the record)  
 13 PRESIDING OFFICER: Members, if you can  
 14 retake your seats.  
 15 Erick has resolved the issue. And I know  
 16 I mentioned his name a few times.  
 17 Stacey, I just want to be sure, we  
 18 appreciate all of your work too. Okay.  
 19 MR. COGDELL: For the record, she has no  
 20 GoFundMe page set up.  
 21 PRESIDING OFFICER: I think they both  
 22 have a page out there.  
 23 MR. COGDELL: All right.  
 24 PRESIDING OFFICER: Ready to resume.  
 25 Q. (BY MR. COGDELL) We good, Ranger?

1 A. Yes.  
 2 Q. All right. So what happened there is that  
 3 someone noticed that there were names and home  
 4 telephone -- home numbers or home addresses and  
 5 telephone numbers. We've redacted those names, right?  
 6 A. Yes.  
 7 Q. Now, what crime is Mr. Wynne or Mr. Paul  
 8 asking you to commit by tendering this PowerPoint to  
 9 you?  
 10 A. They entered the PowerPoint and gave it to us  
 11 to map out how they felt our investigation that they  
 12 wanted to be created should go.  
 13 Q. Okay. We have a transcript, do we not, of  
 14 exactly what they said?  
 15 A. Transcript of?  
 16 Q. Exactly what they said when they were meeting  
 17 with you on August 5th when they gave you this  
 18 PowerPoint.  
 19 A. Yes.  
 20 Q. Okay. And you've reviewed that transcript,  
 21 you say?  
 22 A. Yes.  
 23 Q. And where in the transcript -- what words do  
 24 they use to describe to you that they desire a crime to  
 25 be committed?

1 A. They obviously did not say that they wanted a  
 2 crime to be committed. What they wanted was an  
 3 investigation.  
 4 Q. Okay. And your position, Ranger, is two  
 5 private citizens coming in and asking for an  
 6 investigation into whether or not search warrants were  
 7 illegally created, asking for that investigation is a  
 8 crime?  
 9 A. Following through on the investigation is a  
 10 crime.  
 11 Q. What crime would it be to investigate the  
 12 legal -- if that's a crime I'm going to be on death's  
 13 row. I investigate the legality of search warrants all  
 14 the time. That's what I do.  
 15 What crime is it, Ranger, for them to ask  
 16 you to investigate the legality of a search warrant?  
 17 A. The only purpose --  
 18 Q. No, sir.  
 19 MR. COGDELL: Objection. Nonresponsive.  
 20 Q. (BY MR. COGDELL) What crime is submitted --  
 21 PRESIDING OFFICER: Sustained.  
 22 MR. DeGUERIN: Objection. He didn't  
 23 allow him to finish so we could see whether it's  
 24 responsive or not. I believe it was going to be  
 25 responsive. Objection to interrupting the witness.

1 MR. COGDELL: I'll restate.  
 2 PRESIDING OFFICER: Overruled --  
 3 sustained, but...  
 4 MR. COGDELL: I'll ask again.  
 5 PRESIDING OFFICER: Ask again. Take a  
 6 pause.  
 7 MR. COGDELL: And I'll calm down.  
 8 PRESIDING OFFICER: And you can raise the  
 9 mic too.  
 10 MR. COGDELL: And I will calm down and  
 11 raise it up. Okay.  
 12 Q. (BY MR. COGDELL) I'll try again, Ranger.  
 13 A. All right.  
 14 Q. Even at my age, I get excited every now and  
 15 then.  
 16 What crime is committed, Ranger, by them  
 17 asking you to investigate the legality of a search  
 18 warrant? What crime is that?  
 19 A. In my professional opinion, to create this  
 20 investigation and follow through it will be obstruction  
 21 of justice and interfering with a federal investigation.  
 22 Q. Okay. In fact, doesn't Mr. Wynne say over  
 23 and over and over in the transcript he does not want to  
 24 interfere with the federal investigation. He does not  
 25 want to obstruct justice. Doesn't he say that?

1 A. He does.  
 2 Q. Okay. So the fact that he's saying he  
 3 doesn't want that done, even though he says he doesn't  
 4 want that done, you think it's a crime because?  
 5 A. His actions belie his words.  
 6 Q. Okay. Well, you are Dave Maxwell, Hall of  
 7 Fame Ranger. If they would have committed that offense  
 8 right there literally on videotape, the Dave Maxwell I  
 9 know would have stuffed and cuffed them right there.  
 10 You would have arrested them, right?  
 11 A. No.  
 12 Q. Okay. All right. In fact, Ranger, what did  
 13 you tell them?  
 14 A. I told them that -- what I said in the  
 15 beginning that we would have the forensic people look at  
 16 the metadata. And they promised to give us all the  
 17 documents they had in order for us to do an examination.  
 18 Q. Let me try again, Ranger. Instead of saying,  
 19 You've committed a crime, I'm going to arrest you. What  
 20 you say on Page 143, Line 24 is, We're going to look  
 21 every which way into this.  
 22 Right?  
 23 A. That is exactly right, as far as the  
 24 metadata.  
 25 Q. Okay. You -- Mr. Penley says, quote, We're

1 going to look into these allegations.  
 2 Right?  
 3 A. He may have said that.  
 4 Q. Okay. Mr. Penley says, Thank y'all for  
 5 coming in today. We appreciate it. Thank you for the  
 6 handout and the -- and for the documents. We'll look  
 7 into this.  
 8 Are those -- Mark Penley is an  
 9 experienced prosecutor. Right?  
 10 A. Yes.  
 11 Q. He was with the U.S. attorneys in the  
 12 Northern District of Dallas division by my recall 15, 18  
 13 years?  
 14 A. Something like that, yeah.  
 15 Q. Do those words, Ranger, sound like the words  
 16 of an 18-year experienced federal prosecutor that  
 17 believes a crime has been committed?  
 18 A. No.  
 19 Q. Thank you for the handout and for the  
 20 documents. We'll look into this?  
 21 A. What -- what is your question about what you  
 22 just said?  
 23 Q. My question is: Do the words spoken by  
 24 Mr. Penley suggest in any shape, form, or fashion,  
 25 Ranger, that he, Mark Penley, believes that a crime has

1 been committed in his presence by the tendering of the  
 2 very documents we've just discussed?  
 3 A. Absolutely not.  
 4 Q. Do you think Mr. -- Mr. Penley's a pretty  
 5 straightforward guy most of the time?  
 6 A. I'm sure he is.  
 7 Q. Well, you worked with him, didn't you?  
 8 A. Yes.  
 9 Q. I assume, Ranger, that if he exhibited any  
 10 characteristics of deceit or deception, you would have  
 11 picked up on them.  
 12 A. Who would have picked up on the deceit?  
 13 Q. You, Hall of Famer, Dave Maxwell.  
 14 A. What -- how I answer that is that he and I  
 15 both knew that the only thing we're going to do was look  
 16 at the metadata, period.  
 17 Q. Okay. Well, since you know what he knows,  
 18 did he think he'd been asked to commit a crime?  
 19 Mr. Penley?  
 20 A. Mr. Penley did not believe that a crime had  
 21 been committed by these officers or the magistrate or  
 22 the U.S. attorney's office.  
 23 Q. My question probably wasn't a good one,  
 24 Ranger.  
 25 Did Mark Penley believe that Mr. Wynne

1 and Mr. Paul, by asking for this investigation, did he  
 2 think that was a crime by the simple asking of the  
 3 legality of search warrants to be investigated was a  
 4 crime?  
 5 A. He believed, as I did, that if we followed  
 6 through with what they were asking, it would definitely  
 7 be a crime.  
 8 Q. Okay. And that's why he continued to work on  
 9 this case? That's why he continued to do an  
 10 investigation? That's why he told Ken Paxton, I've got  
 11 more work to do. There's more things I need. I need to  
 12 do some more research.  
 13 Does that make sense, Ranger?  
 14 A. I didn't tell Paxton that.  
 15 Q. No, he did. Are you aware of that?  
 16 A. Who did?  
 17 Q. Mark Penley.  
 18 A. Oh, I don't know what he told him.  
 19 Q. Ranger, when is it, sir, that you first heard  
 20 the name Brandon Cammack?  
 21 A. When I was on vacation in Colorado.  
 22 Q. And I think Mr. DeGuerin had us -- or had you  
 23 in late September?  
 24 A. Late September. I -- I was traveling to  
 25 Colorado on the 26th of September 2020.

1 Q. Okay. And was it -- you learned of that name  
 2 how?  
 3 A. Through Mark Penley.  
 4 Q. Okay. So do you have an independent recall,  
 5 Ranger, of the date of that? Like 25th, 26th, 27th?  
 6 Just ballpark it for me.  
 7 A. It was on the 26th of September --  
 8 Q. September.  
 9 A. -- 2020 when I -- Mark Penley told me about  
 10 what was happening with Cammack.  
 11 Q. Okay. So Penley calls you. You're in  
 12 Colorado at the top. And you got to come down and  
 13 that's --  
 14 A. Well, actually I was driving at that time, so  
 15 I had him on speaker phone.  
 16 Q. Okay. But anyway --  
 17 A. Yeah.  
 18 Q. -- you're in Colorado?  
 19 A. Right.  
 20 Q. He's here.  
 21 A. Right.  
 22 Q. And he's upset and annoyed, whatever, because  
 23 Brandon Cammack has been hired?  
 24 A. I think at the time he had not been hired,  
 25 that -- on that particular date he had a meeting with

1 Ken Paxton, and Ken Paxton tried to get him to sign the  
 2 EAM so Cammack could be hired.  
 3 Q. Let me -- let me slow you down.  
 4 A. Okay.  
 5 Q. Stepping on pronouns.  
 6 A. All right.  
 7 Q. When you say "he" tried to get, who is "he"?  
 8 You just said?  
 9 A. He tried -- Ken Paxton.  
 10 Q. Yes, sir.  
 11 A. Tried to get Mark Penley to sign off on our  
 12 EAM, which is a protocol that various people have to  
 13 sign in order to hire and spend money, that type of  
 14 thing.  
 15 Q. We've unfortunately heard a little too much  
 16 about an EAM. But for purposes of this exchange,  
 17 Ranger, are you aware that the attorney general has the  
 18 authority to hire outside counsel himself statutorily?  
 19 A. The way the system works is  
 20 MR. COGDELL: Nonresponsive. Objection.  
 21 Nonresponsive.  
 22 PRESIDING OFFICER: Sustained.  
 23 Q. (BY MR. COGDELL) Are you aware, Ranger,  
 24 statutorily, the attorney general has the authority for  
 25 he himself to hire outside counsel?

1 A. The -- I was told by --  
 2 Q. That's a yes or a no. Are you aware?  
 3 A. I do not know that's a fact, no.  
 4 Q. Okay. You don't know one way or the other?  
 5 A. It's not my bailiwick.  
 6 Q. Yes, sir.  
 7 All right. Now, when we talked earlier,  
 8 Ranger, about some potential mistakes that you may have  
 9 made when you met with the House committee about your  
 10 recollections -- and to be fair to you, Ranger, this was  
 11 a meeting this year in February. Right?  
 12 A. Yes. Yes, it was.  
 13 Q. And what had happened happened back at least  
 14 two years ago?  
 15 A. Yes.  
 16 Q. Maybe two and a half, right?  
 17 A. Yes.  
 18 Q. So I'm not harping at your memory. I just  
 19 want to make sure we're all on the same page now as to  
 20 what's accurate and what's not.  
 21 A. Okay.  
 22 Q. Okay? Do you remember telling the -- I think  
 23 we've already discussed sort of globally, at one point  
 24 you told the House committee that Drew Wicker delivered  
 25 documents in a back alley in the dark of night. Right?

1 A. I did say that.  
 2 Q. And I'm the last person, Ranger, to strike at  
 3 another about hyperbole, but that's what that was, that  
 4 was just an exaggeration on your part. Right?  
 5 A. No. It was -- it was actually what I had  
 6 been told by numerous other people.  
 7 Q. Okay.  
 8 A. I had no direct knowledge.  
 9 Q. All right. So who was it, Ranger, that --  
 10 I'm sorry. Who was it, Ranger, that told you that Drew  
 11 Wicker delivered these documents in the dark of the  
 12 night in a back alley somewhere? Who told you that?  
 13 You said you were told that by numerous people, so give  
 14 me two.  
 15 A. Counselor, I would -- in being very honest  
 16 with you, there's probably five or six people who told  
 17 me that in passing. And I couldn't tell you who it was.  
 18 It's three years ago.  
 19 Q. Okay. Well, if it's five or six people that  
 20 told you that, can you give me one of them?  
 21 A. I -- I -- if I testified today who it was  
 22 that gave me that information, I would not be able to  
 23 say honestly that that person did.  
 24 Q. Okay. Well, you certainly told the House  
 25 committee that, right?

1 A. I absolutely did.  
 2 Q. And when was it, Ranger, that you decided  
 3 that that statement to the House committee was  
 4 incorrect?  
 5 A. I didn't know whether it was correct or  
 6 incorrect. I passed it on to the House.  
 7 Q. Let me back --  
 8 A. That's their job.  
 9 Q. Let me back up, Ranger.  
 10 A. Yeah.  
 11 Q. I thought two hours ago, or whenever it was  
 12 when you and I started this dance, sometimes friendly,  
 13 sometimes not so friendly, I asked you if there was  
 14 anything in reviewing your statements to the House  
 15 managers that you believed was inaccurate, and you  
 16 pointed out this dirty statement, that is the Drew  
 17 Wicker dark of night, back alley statement. And you had  
 18 indicated that you had I think come to that conclusion  
 19 after meeting with either Mr. DeGuerin or Mr. Hardin.  
 20 Is that right?  
 21 A. Yes. It was one of my attorneys asked me did  
 22 I make that statement on that date. And I said yes,  
 23 that I was passing on information that I received from  
 24 someone else.  
 25 Q. Okay.

1 A. I had no direct knowledge.  
 2 Q. All right. So are you relying upon  
 3 Mr. DeGuerin or Mr. Hardin now for the truth or falsity  
 4 of something?  
 5 A. I'm not sure I understood your question.  
 6 Q. Okay. Well, you told the House back in  
 7 February that Drew Wicker, dark of night, back alley.  
 8 Now you're saying that's a mistake.  
 9 When did you determine it was a mistake?  
 10 A. I don't know whether it's a mistake or not.  
 11 I passed on the information. I was asked by our  
 12 attorneys did I say that, and I said yes. And I  
 13 explained to them that I passed on to them to  
 14 investigate it.  
 15 Q. Okay.  
 16 A. So I don't know what testimony would be or  
 17 would not be. I don't know the truth.  
 18 Q. So you don't know if what you were saying to  
 19 the House managers is true or not?  
 20 A. What I was saying to the House managers was  
 21 that somebody needed to talk to Drew Wicker. That was  
 22 my only purpose in bringing it up.  
 23 Q. Well -- but when you tell the House managers  
 24 your statement, you would agree with me, Ranger, you  
 25 don't say, I heard from five or six people that his

1 travel aide, who was with him at all times outside the  
 2 office, went with him to have meetings and also in one  
 3 instance carried documents and gave them to Nate Paul in  
 4 a dark alley one night in the middle of the night. You  
 5 don't say you heard that from five or six people. You  
 6 say that as a fact. Right?  
 7 A. In my mind, I said it for them to be a lead  
 8 to go talk to Drew Wicker.  
 9 Q. Okay.  
 10 A. I didn't say it was a fact because I have no  
 11 personal knowledge.  
 12 Q. You're saying you didn't suggest you had  
 13 personal knowledge of that?  
 14 A. I do not have any personal knowledge about  
 15 what Drew Wicker would or would not testify to. I was  
 16 relaying what I was told by others so the committee  
 17 could find Drew Wicker and find out what the truth is.  
 18 It's part of an investigation.  
 19 Q. So how do we know, Ranger, when we look at  
 20 your statements that have been made to the investigating  
 21 committee, how do we know that those are statements  
 22 based on your own personal knowledge or based on  
 23 something that you've heard?  
 24 A. I will certainly tell you if you ask me.  
 25 Q. But you didn't tell them. You didn't say I

1 heard this from five or six people. You said it  
 2 emphatically. First person. In fact. So how can we  
 3 tell when it's you're relying upon and your memory  
 4 or unnamed people? How do we know?  
 5 MR. DeGUERIN: Objection. Objection to  
 6 Mr. --  
 7 MR. COGDELL: Cogdell.  
 8 MR. DeGUERIN: -- Cogdell. Sorry.  
 9 Objection to Mr. Cogdell stating --  
 10 MR. COGDELL: Have I showed you  
 11 nothing -- nothing?  
 12 MR. DeGUERIN: Well, we've known each  
 13 other for at least 30 years.  
 14 But my objection is to Mr. Cogdell making  
 15 a statement of what the record says and then asking him  
 16 a different question about it. It's a statement by  
 17 counsel rather than proper cross-examination.  
 18 Q. (BY MR. COGDELL) Look on Page 18,  
 19 Mr. Maxwell, of your --  
 20 PRESIDING OFFICER: I'll sustain the  
 21 objection.  
 22 You can rephrase it.  
 23 MR. COGDELL: Yeah. Thank you.  
 24 And I'm sorry I call you "Judge." It's  
 25 just reflex, Your Honor.

1 PRESIDING OFFICER: You can call me  
 2 anything. It's fine. I'm just here for --  
 3 MR. COGDELL: Let's don't get carried  
 4 away.  
 5 PRESIDING OFFICER: I just have this job.  
 6 Q. (BY MR. COGDELL) If you will look, Ranger,  
 7 on Page 18, I believe Line 3, would you read out loud  
 8 what you tell the House managers on Page 18, Line 3?  
 9 A. Yes. Yeah, his travel aide, who was with him  
 10 all the time outside the office, went with him to -- and  
 11 there's a hyphen -- would have meetings with him. And  
 12 also in one instance carried some documents and gave  
 13 them to Nate Paul in a dark alley one night in the  
 14 middle of the night.  
 15 Q. Okay. So you would agree with me and to  
 16 satisfy Mr. --  
 17 MR. COGDELL: What's the name?  
 18 MR. DeGUERIN: Touche.  
 19 (Laughter)  
 20 PRESIDING OFFICER: Both of you need your  
 21 names in the hat right there.  
 22 Q. (BY MR. COGDELL) To satisfy Mr. Touche, you  
 23 would agree that you didn't qualify this statement,  
 24 Ranger, that it was told to you by five or six people,  
 25 right?

1 A. What are you asking me to agree to?  
 2 Q. You would agree to me that when you told the  
 3 House committee this story about Drew Wicker, you never  
 4 said you had heard it from someone else?  
 5 A. I did not.  
 6 Q. Okay. So my question remains the same.  
 7 Since you didn't qualify or explain your answers that  
 8 were based on hearing it from someone else, how do we  
 9 know, Ranger, when you're telling us something that you  
 10 know from your own personal knowledge as opposed to  
 11 hearing it from someone else?  
 12 A. There is no comparison between giving an  
 13 investigative committee a lead to go and investigate. I  
 14 never said that I had any personal knowledge of that.  
 15 Q. Okay. Let's try -- let's try again.  
 16 What's the answer to my question, Ranger?  
 17 A. Which is?  
 18 Q. Third time: Since you don't qualify your  
 19 explanations and explain to us whether they are based on  
 20 first-person knowledge or you heard it from somebody  
 21 else, how do we know what you are basing your  
 22 explanations on?  
 23 A. My explanations of what? Now, what are you  
 24 referring to when you say what did I base my  
 25 explanations on?

1 MR. DeGUERIN: My objection was asked and  
 2 answered.  
 3 MR. COGDELL: Actually, he hasn't  
 4 answered.  
 5 PRESIDING OFFICER: Overruled.  
 6 Q. (BY MR. COGDELL) Now, so that you and I are  
 7 clear, Ranger --  
 8 A. Okay.  
 9 Q. -- you are a fellow that's taught folks how  
 10 to testify, right?  
 11 A. Say that -- say it again.  
 12 Q. Why is it that every time I ask you if you've  
 13 taught folks to testify, you suddenly can't hear the  
 14 question?  
 15 A. Actually, my testifying I learned by  
 16 experience.  
 17 Q. Okay. And is that one of the things you've  
 18 learned by experience, Ranger, to pause and act like you  
 19 haven't heard the question?  
 20 A. Maybe.  
 21 (Laughter)  
 22 Q. (BY MR. COGDELL) Fair enough. What did you  
 23 learn?  
 24 A. I learned that it throws you off.  
 25 Q. Does it? Does it?

1 Okay. And that's your intent, Ranger?  
 2 Rather than testifying to the truth and giving direct  
 3 answers, your game is to throw people off? Is that  
 4 where we're going, Ranger? Is that where we're going?  
 5 A. No.  
 6 Q. That's what you just said. That's what you  
 7 just suggested.  
 8 A. I just said that I do sometimes pause.  
 9 Q. Ranger, you also told the House committee  
 10 that Ken Paxton met with the Travis County DA and  
 11 requested that the Travis County DA's office refer the  
 12 case to him. Do you remember telling him that?  
 13 A. They referred the case to who?  
 14 Q. To him, Ken Paxton.  
 15 A. Yes.  
 16 Q. Okay. Who told you that?  
 17 A. Don Clemmer.  
 18 Q. Okay. That's really interesting. Because  
 19 are you aware, Ranger, that it was Don Clemmer who told  
 20 Mindy Montford and Ms. Moore, Hey, I don't want to deal  
 21 with this. Let's give it back to the AG's office. It  
 22 was him that came up with the idea?  
 23 Are you aware of that?  
 24 A. I know that Don Clemmer, when I made the  
 25 phone call -- call to him, and I was chewing him out

1 about sending that over to me, that he told me it's not  
 2 his fault that Ken Paxton requested it be sent to him.  
 3 MR. COGDELL: Objection. Nonresponsive.  
 4 PRESIDING OFFICER: Sustained.  
 5 MR. DeGUERIN: Excuse me, Your Honor, but  
 6 he --  
 7 MR. COGDELL: No. He's not answering the  
 8 question, Mr. Touche. He's not.  
 9 MR. DeGUERIN: My objection -- my  
 10 objection is that Mr. Cogdell cut off his answer when  
 11 the answer was responsive to what Don Clemmer told him.  
 12 MR. COGDELL: No. That wasn't the  
 13 question.  
 14 Q. (BY MR. COGDELL) The question was --  
 15 PRESIDING OFFICER: Overruled.  
 16 And rephrase the question.  
 17 MR. COGDELL: Yes, sir.  
 18 PRESIDING OFFICER: Make it clear.  
 19 MR. COGDELL: Yes, sir.  
 20 Q. (BY MR. COGDELL) The question is,  
 21 Mr. Maxwell, are you aware that it was actually Don  
 22 Clemmer's idea to refer the case to the attorney  
 23 general's office, not Ken Paxton's? He wasn't even  
 24 aware that he could -- that process could occur. It was  
 25 Clemmer's idea, not Paxton's. Are you aware of that?

1 MR. DeGUERIN: Objection to the form of  
 2 the question, inserting what Ken Paxton knew.  
 3 PRESIDING OFFICER: Sustained.  
 4 Q. (BY MR. COGDELL) Are you aware that the idea  
 5 to refer the case to the -- to the AG's office came not  
 6 from Ken Paxton but from Don Clemmer? Are you aware of  
 7 that, yes or no, Ranger?  
 8 MR. DeGUERIN: Objection. That's a fact  
 9 not in evidence.  
 10 MR. COGDELL: I'm trying to get it in  
 11 evidence.  
 12 MR. DeGUERIN: But it's a lawyer  
 13 testifying.  
 14 MR. COGDELL: I'm --  
 15 PRESIDING OFFICER: Overruled.  
 16 Q. (BY MR. COGDELL) Fifth time, Ranger: Are  
 17 you aware that it was the idea of Don Clemmer to refer  
 18 this matter to the AG's office? Are you aware of that,  
 19 yes or no?  
 20 A. No. That's not what he told me.  
 21 Q. Thank you. Okay.  
 22 You've told the House committee, Ranger,  
 23 that -- actually it was your lawyer, Mr. Turner -- is he  
 24 here today? Did you say that?  
 25 A. Mr. Turner?

1 Q. Yes, sir.  
 2 A. Yes.  
 3 Q. Where is he?  
 4 A. He's in -- somewhere. I think he's in the  
 5 chambers.  
 6 Q. Okay. But he was with you while you were  
 7 being interviewed by the House Managers, right, back in  
 8 February?  
 9 A. That's correct.  
 10 Q. So you were present when your lawyer told the  
 11 House committee that Paxton drafted the contract to  
 12 Cammack and Paxton took Cammack over to the DA's office?  
 13 A. Yes, I was there.  
 14 Q. Okay.  
 15 A. You said that.  
 16 Q. Yes, sir. Look at Page 49, Ranger, of your  
 17 Board of Managers' interview.  
 18 If you'll look, Ranger, at, I think,  
 19 Line 3 down, your lawyer says, What David's talking  
 20 about is after David and Mark refused to approve hiring  
 21 of outside counsel, Attorney General Paxton actually  
 22 drafted and sent a contract to this guy, Cammack.  
 23 That's what your lawyer tells the Board  
 24 of Managers. Right?  
 25 A. Yes.

1 Q. Where did he get that from?  
 2 A. I don't know.  
 3 Q. Did you hear that from somebody?  
 4 A. Yeah.  
 5 Q. Who'd you hear that from?  
 6 A. Say it again. Who what?  
 7 Q. Really.  
 8 A. No. I'm -- I'm being serious.  
 9 Q. We're going to be here all day.  
 10 Who did you -- who did you hear that  
 11 from, Ranger? Who did you hear that Paxton drafted and  
 12 sent the contract from?  
 13 A. I don't know who has that information. I  
 14 wasn't involved with Cammack.  
 15 MR. COGDELL: Objection. Nonresponsive.  
 16 A. Okay.  
 17 PRESIDING OFFICER: Sustained.  
 18 Q. (BY MR. COGDELL) Ranger, I'm asking you who  
 19 told you that Ken Paxton drafted and sent the contract  
 20 to Brandon Cammack? What is the name of the human that  
 21 told you that?  
 22 A. I don't know that.  
 23 Q. I -- I'm not asking you if you know that.  
 24 I'm asking you who told you that. Those are two  
 25 different things.

1 A. I think the statement was made by my  
 2 attorney.  
 3 Q. And you said, after I pointed out, Ranger,  
 4 that your attorney made that statement, you were the one  
 5 that said I had heard that. And I am asking you who  
 6 told you that.  
 7 A. I would think it was Mark Penley.  
 8 Q. Mark Penley. Okay.  
 9 A. Because Mark Penley was involved with that.  
 10 Q. Okay. And your lawyer, Mr. Turner, Ranger,  
 11 goes on to say, And then -- referring to Paxton -- and  
 12 then took him over to the DA's office and introduced  
 13 them -- introduced him to them where he went to the  
 14 grand jury in the auspices of being his special  
 15 prosecutor for the attorney general's office and  
 16 obtained somewhere around 40 subpoenas.  
 17 So your lawyer is telling the committee  
 18 that Ken Paxton took Brandon Cammack to the Travis  
 19 County DA's office, to the grand jury, introduced  
 20 Cammack to the Travis County DA's office grand jury, or  
 21 the Travis County grand jury, and Ken Paxton got Cammack  
 22 to get the 40 subpoenas.  
 23 That's what your lawyer told you?  
 24 MR. DeGUERIN: Objection. The objection  
 25 is he's trying to cross-examine the witness from another

1 person's statement, the lawyer. He's only recited what  
 2 the lawyer said, not what the witness said in that  
 3 statement.  
 4 MR. COGDELL: I didn't think there was  
 5 any confusion about that.  
 6 Q. (BY MR. COGDELL) You were sitting right  
 7 there when your lawyer is telling the DA's office --  
 8 PRESIDING OFFICER: Sustained. Try a  
 9 different approach.  
 10 Q. (BY MR. COGDELL) You were sitting right  
 11 there when your lawyer is telling the committee that Ken  
 12 Paxton took Brandon Cammack over to the Travis County  
 13 DA's office, right?  
 14 A. Right.  
 15 Q. Was that your understanding of what happened,  
 16 that Ken Paxton took Brandon Cammack to the DA's office?  
 17 A. Like I said, I have no direct knowledge of  
 18 it. I talked to Mark Penley a lot. He may have told me  
 19 that.  
 20 Q. Okay. And your lawyer goes one step further  
 21 and says that Paxton introduced Cammack to the grand  
 22 jury. Is that your understanding of what happened?  
 23 MR. DeGUERIN: Objection.  
 24 A. I don't know. I don't know if that happened  
 25 or not.

1 Q. (BY MR. COGDELL) Okay.  
 2 MR. DeGUERIN: Objection to  
 3 cross-examining from what the lawyer said, not what  
 4 Mr. Webster -- Mr. Maxwell said.  
 5 MR. COGDELL: I am certainly free to test  
 6 this witness's memory about what happened and what  
 7 didn't happen. And if this lawyer is making falsehoods  
 8 while he's sitting there, I can cross-examine him about  
 9 that all day long.  
 10 PRESIDING OFFICER: Sustained.  
 11 MR. COGDELL: Okay.  
 12 Q. (BY MR. COGDELL) Did you tell your lawyer --  
 13 where did your lawyer learn from this -- where did your  
 14 lawyer learn this claim that Paxton took Mr. Cammack to  
 15 the grand jury?  
 16 MR. DeGUERIN: Objection. This -- Law  
 17 School 101 says you can't ask a client what he told his  
 18 lawyer. Object to that.  
 19 MR. COGDELL: I'm not asking him. Law  
 20 School 101 would also teach you to listen to the  
 21 question.  
 22 Q. (BY MR. COGDELL) Where did your lawyer learn  
 23 that Paxton took Cammack to the grand jury?  
 24 MR. DeGUERIN: I have an objection  
 25 pending as to inquiring about conversations between



1 Mr. Maxwell and his lawyer.  
 2 MR. COGDELL: They're not privileged.  
 3 They're in front of the House Committee.  
 4 PRESIDING OFFICER: Can both of you come  
 5 to the bench?  
 6 (Bench conference off the record)  
 7 PRESIDING OFFICER: Can you both come  
 8 back, Mr. DeGuerin, Mr. Cogdell?  
 9 (Bench conference off the record)  
 10 PRESIDING OFFICER: Jurors, if you'll  
 11 take your seats again, please.  
 12 Hopefully we've worked this out.  
 13 MR. COGDELL: I think so.  
 14 Q. (BY MR. COGDELL) Let me try it this way,  
 15 Ranger. You with me? Can you hear me?  
 16 A. Yes.  
 17 Q. Okay. Do you know how your lawyer knew, or  
 18 supposedly knew, that it was Paxton that ostensibly took  
 19 Brandon Cammack to the DA's office? Do you know how  
 20 your lawyer --  
 21 A. I do not.  
 22 Q. Do you know how your lawyer learned that  
 23 Paxton took him to the Travis County grand jury?  
 24 A. No, I don't know how he knows that.  
 25 Q. Do you know how your lawyer learned that

1 Paxton was with Cammack when he obtained these grand  
 2 jury subpoenas?  
 3 A. No.  
 4 Q. Well, when those statements were being made,  
 5 Ranger, did you, David Maxwell, stand up and say, Whoa,  
 6 whoa, whoa, whoa, whoa, whoa. Where'd you learn that  
 7 from? Where'd that come from? What are you basing that  
 8 on?  
 9 Did you say anything to suggest to the  
 10 committee that those statements weren't accurate?  
 11 A. I don't know if they're accurate or not.  
 12 Q. You don't know if they are or they aren't  
 13 apparently.  
 14 A. You're right. I don't. I don't have any  
 15 knowledge of it.  
 16 Q. Okay. So that I'm clear, are you suggesting  
 17 to this jury, to these 31 senators, that it's perfectly  
 18 permissible for you if your lawyer makes a statement to  
 19 the House committee and you have no personal knowledge  
 20 whether it's true or not? You're fine with that?  
 21 A. I am fine with somebody making a statement  
 22 that they know something about. It doesn't -- because I  
 23 don't know doesn't mean it's not true.  
 24 Q. Okay. Well, do you think, Ranger, that Ken  
 25 Paxton took Brandon Cammack to the DA's office?

1 A. I don't know the answer to that.  
 2 Q. Okay. Do you think, Ranger, that Ken Paxton  
 3 took Brandon Cammack before a grand jury?  
 4 A. I don't have any direct knowledge.  
 5 Q. Okay. Do you think, Ranger, that Ken Paxton  
 6 was with Brandon Cammack and helped him get those  
 7 subpoenas? Do you think any of those things are true?  
 8 A. I don't know the answer to it.  
 9 Q. Okay. So when you left the interview with  
 10 the Board of Managers, did -- after that point in time,  
 11 did you learn that any of the information that you had  
 12 been provided, or that your lawyer had provided, was  
 13 incorrect? Did you ever find out anything that was said  
 14 was untrue or inaccurate?  
 15 A. No.  
 16 Q. Okay. And, of course, had you, you would  
 17 have brought that to their attention?  
 18 A. I would.  
 19 Q. Okay.  
 20 MR. COGDELL: May I have just a minute,  
 21 Your Honor?  
 22 PRESIDING OFFICER: I'm sorry, say that  
 23 again.  
 24 MR. COGDELL: It's catching now.  
 25 Everybody's got it. Can I have just a second?

1 PRESIDING OFFICER: Yes, yes. The  
 2 acoustics in here are not the best.  
 3 (Pause)  
 4 Q. (BY MR. COGDELL) Ranger, you never had any  
 5 intention of investigating any of this, did you?  
 6 A. When I read the allegations, I never had any  
 7 intention to open up an investigation, that's correct.  
 8 Q. You never had any intentions of finding out  
 9 whether or not Mr. -- well, Mr. Cammack and Mr. Winward  
 10 telling you -- you never had any intentions of doing any  
 11 investigation. Right?  
 12 A. I plainly stated I was not going to do an  
 13 investigation.  
 14 Q. Okay. You didn't so much as make a phone  
 15 call, right? You didn't make a phone call to  
 16 investigate. You didn't get on PACER. You didn't do  
 17 TCIC. You didn't do -- all that litany of accessible  
 18 tools that you had at your disposal, you didn't do  
 19 anything. Right?  
 20 A. I did not run him through any of our  
 21 databases.  
 22 Q. And you never had any intention of conducting  
 23 an objective, fair, reasonable, thorough investigation,  
 24 did you?  
 25 A. There was no investigation to be done.

1 MR. COGDELL: Objection. Nonresponsive.  
 2 PRESIDING OFFICER: Sustained.  
 3 Q. (BY MR. COGDELL) Do you remember, Ranger,  
 4 when we looked -- went through the litany of  
 5 characteristics of a good investigator in the beginning  
 6 of your direct examination?  
 7 A. Yes.  
 8 Q. They should have an open and an objective  
 9 mind, right?  
 10 A. Yes.  
 11 Q. They should act without bias or  
 12 predisposition?  
 13 A. Yes.  
 14 Q. They should be willing to follow the  
 15 evidence?  
 16 A. Yes.  
 17 Q. Should conduct an investigation timely,  
 18 right? Should conduct an investigation timely?  
 19 A. Yes.  
 20 Q. And that they would know that no person is  
 21 more or less deserving of their best efforts than  
 22 another person, right?  
 23 A. Yes.  
 24 Q. The investigation should be thorough, right?  
 25 A. They should be, absolutely.

1 Q. And they should keep -- generate and keep  
 2 accurate records and reports, right?  
 3 A. I didn't quite get the last part.  
 4 Q. Now I couldn't hear you, that's a first.  
 5 A. I'm sorry.  
 6 Q. That's all right.  
 7 A. I didn't quite catch the last part of the  
 8 question.  
 9 Q. Yes, sir. That if someone's going to do a  
 10 legitimate investigation, they should keep accurate  
 11 records and reports.  
 12 A. Absolutely.  
 13 Q. Okay.  
 14 A. Yes.  
 15 Q. And you never had any intention of doing any  
 16 of that, right?  
 17 A. There was no investigation.  
 18 Q. That's a no, you never had any intention of  
 19 doing any of that?  
 20 A. Right.  
 21 Q. Okay.  
 22 MR. COGDELL: That's all I have, Ranger.  
 23 Thank you.  
 24 THE WITNESS: Okay.  
 25 PRESIDING OFFICER: Redirect.

1 REDIRECT EXAMINATION  
 2 BY MR. DeGUERIN:  
 3 Q. Once you were told that Nate Paul was the  
 4 person that General Paxton wanted you to meet with, did  
 5 you find out who Nate Paul was?  
 6 A. I did.  
 7 Q. And once you found out --  
 8 MR. COGDELL: This is asked and answered  
 9 on direct. Same -- same question.  
 10 PRESIDING OFFICER: Sustained.  
 11 Q. (BY MR. DeGUERIN) Did that -- when you found  
 12 out what he was and who he was, did that make the --  
 13 back all that other stuff that Mr. Cogdell talk about  
 14 unnecessary?  
 15 MR. COGDELL: Leading and asked and  
 16 answered.  
 17 Q. (BY MR. DeGUERIN) Whether or not, did it  
 18 make it unnecessary?  
 19 MR. COGDELL: Asked and answered on  
 20 direct.  
 21 PRESIDING OFFICER: Sustained.  
 22 Q. (BY MR. DeGUERIN) All right. Mr. Cogdell  
 23 asked you several questions about your conversation with  
 24 Don Clemmer, the man in the Travis County District  
 25 Attorney's Office. So what did he tell you about this?

1 MR. COGDELL: Objection. Hearsay.  
 2 MR. DeGUERIN: He opened the door, Your  
 3 Honor.  
 4 MR. COGDELL: No, I didn't suspend the  
 5 rules of evidence. Objection --  
 6 MR. DeGUERIN: Starting on Page 78,  
 7 Line 15, there were a number of questions asked about  
 8 the conversation with Mr. Clemmer, even to the point of  
 9 what Mr. Maxwell said to Clemmer. I believe the door  
 10 has been opened. I believe it's admissible. And I'm  
 11 asking that the Court allow it.  
 12 MR. COGDELL: "Open the door" is not a  
 13 hearsay exception.  
 14 PRESIDING OFFICER: Overruled.  
 15 Q. (BY MR. DeGUERIN) Go ahead.  
 16 A. Yes, Don Clemmer told me that Ken Paxton  
 17 requested the investigation be sent to me.  
 18 Q. And what did he tell you about his opinions  
 19 about the review?  
 20 MR. COGDELL: Objection. Hearsay. I  
 21 didn't ask him about that, even though I continue --  
 22 PRESIDING OFFICER: Sustained.  
 23 Q. (BY MR. DeGUERIN) In the presentation, this  
 24 PowerPoint presentation, was there a part of it that  
 25 listed six people to make targets of an investigation

1 Mr. Paul wanted you to conduct?  
 2 A. Yes.  
 3 Q. What -- what was your opinion about whether  
 4 that was proper?  
 5 A. If we followed the PowerPoint he created and  
 6 conducted that investigation, we would have committed  
 7 several federal crimes.  
 8 Q. What are they? What are the crimes that --  
 9 A. Obstruction of justice, interfering with a  
 10 federal investigation.  
 11 MR. DeGUERIN: That's all. Thank you.  
 12 PRESIDING OFFICER: Recross.  
 13 MR. COGDELL: Yes.  
 14 RECROSS-EXAMINATION  
 15 BY MR. COGDELL:  
 16 Q. Let me get this straight, Ranger. So if the  
 17 feds break into my house, break the door down, hold my  
 18 wife at gunpoint, kick my dog, cut off my Internet,  
 19 search my house without a warrant, and I want that crime  
 20 to be investigated, you're telling this jury with a  
 21 straight face that that's obstructing justice and  
 22 interfering with a federal investigation? That's your  
 23 position?  
 24 Ranger, you're smarter than that.  
 25 A. They did have a search warrant. And they did

1 execute it. And it was lawful.  
 2 Q. You don't know if the search warrant is  
 3 lawful -- was lawfully issued or not. You don't have a  
 4 clue, do you?  
 5 A. Mr. Nate Paul --  
 6 MR. DeGUERIN: Object to argument.  
 7 (Simultaneous crosstalk)  
 8 PRESIDING OFFICER: Witness, please.  
 9 MR. DeGUERIN: Arguing with the witness.  
 10 Objection.  
 11 PRESIDING OFFICER: Sustained.  
 12 Q. (BY MR. COGDELL) Have you ever analyzed the  
 13 search warrant affidavit to see if it establishes  
 14 probable cause for each of the search warrants that were  
 15 issued?  
 16 A. Mr. Paul did not provide us the document.  
 17 MR. COGDELL: Objection. Nonresponsive.  
 18 PRESIDING OFFICER: Sustained.  
 19 Q. (BY MR. COGDELL) Ranger, you're smart enough  
 20 to know what question I'm asking and whether or not to  
 21 answer it.  
 22 A. We --  
 23 MR. DeGUERIN: Objection to the sidebar  
 24 remark.  
 25 Q. (BY MR. COGDELL) Ranger, are you --

1 MR. DeGUERIN: Hold on. There's an  
 2 objection.  
 3 PRESIDING OFFICER: Slow down, gentlemen.  
 4 Slow down.  
 5 I sustained your objection before.  
 6 MR. COGDELL: Yes, sir.  
 7 Q. (BY MR. COGDELL) Ranger, are you smart  
 8 enough to understand my question, and are you smart  
 9 enough to answer my question?  
 10 A. We analyzed the material he gave us. That's  
 11 all I have.  
 12 MR. COGDELL: Nonresponsive.  
 13 PRESIDING OFFICER: Sustained.  
 14 MR. COGDELL: I think we're done here  
 15 Ranger. Good luck, sir.  
 16 PRESIDING OFFICER: Witness may step  
 17 down.  
 18 Can the witness be excused, both parties?  
 19 Both parties, witness excused? Yes?  
 20 MR. COGDELL: I don't think we'll need  
 21 the Ranger on recall, but I have no problem excusing  
 22 him, no, sir.  
 23 Good luck.  
 24 PRESIDING OFFICER: Both parties, come up  
 25 a moment.

1 Mr. DeGuerin, Mr. Cogdell, come up for a  
 2 second.  
 3 (Bench conference off the record)  
 4 PRESIDING OFFICER: Yes. Why don't y'all  
 5 take a ten-minute break, stretch your legs, and be back  
 6 at 4:40.  
 7 (Brief Recess)  
 8 PRESIDING OFFICER: Members -- Members,  
 9 after talking with both parties, they've decided to call  
 10 it a day. So we will adjourn until Monday morning at  
 11 9:00 a.m.  
 12 (Proceedings recessed 4:28 p.m.)  
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CERTIFICATE

STATE OF TEXAS )  
COUNTY OF TRAVIS )

I, Lorrie A. Schnoor, Certified Shorthand Reporter in and for the State of Texas, Registered Diplomat Reporter and Certified Realtime Reporter, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Certified to by me this 8th day of September, 2023.

**/s/ Lorrie A. Schnoor**

-----  
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1 THE SENATE OF THE STATE OF TEXAS  
 2 SITTING AS A HIGH COURT OF IMPEACHMENT  
 3  
 4 IN THE MATTER OF §  
 5 WARREN KENNETH §  
 6 PAXTON, JR.  
 7  
 8  
 9  
 10 TRIAL  
 11 VOLUME 5 - AM SESSION  
 12 SEPTEMBER 11, 2023  
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 24 Stenographically Reported by  
 25 Kim Cherry, CSR, RMR

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 5 Ms. Lara Hudgins Hollingsworth  
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1 VOLUME 5-AM  
2 SENATE IMPEACHMENT TRIAL  
3 September 11, 2023 PAGE VOL.  
4  
5 HBOM WITNESSES: Direct Cross Voir Dire Vol.  
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1 colleagues at their assigned place of duty. And it is that  
2 that we wish to remember as I -- as I offer this prayer, if I  
3 may, Members. Please know that it is my honor to be among  
4 you at this appointed place of duty.  
5 Father, we come before you, thankful for your  
6 grace, thankful for your mercy. We thank you for the  
7 miracles that you worked in the lives of the Birdwells, ask  
8 you for peace on Mel's heart and calm for her as we are apart  
9 today, and thank you for the blessing of friends that are  
10 with her.  
11 Thank you for the first responders that  
12 stepped out of their homes that morning thinking it would be  
13 a normal day and in many cases did not return home, but they  
14 responded to their places of duty and the circumstances  
15 before them.  
16 Bless those families of the loved ones lost,  
17 the loved ones injured, and bring peace and calm to their  
18 hearts on this day of remembrance.  
19 Let us not forget those that responded to the  
20 nation's call to arms because of the events that day. They  
21 left the shores of this great nation to defend our ideals and  
22 our way of life, and that their families be blessed and your  
23 peace and quiet be upon their hearts today.  
24 Thank you for those currently serving in our  
25 towns and our foreign lands on Freedom Sentinel.

1 P R O C E E D I N G S  
2 September 11, 2023  
3 (9:00 a.m.)  
4 THE BAILIFF: All rise. Court of Impeachment  
5 of the Texas Senate is now in session. The Honorable  
6 Lieutenant Governor and President of the Senate Dan Patrick  
7 now presiding.  
8 PRESIDING OFFICER: Good morning, everyone.  
9 Good morning.  
10 Will the bailiff bring in the jury.  
11 (Senate members enter the Senate chamber)  
12 PRESIDING OFFICER: Senator Birdwell, would  
13 you come forward for the prayer.  
14 And before the prayer, I'd like for every  
15 member to come up and stand alongside of Colonel Birdwell on  
16 this remembrance of 9-11. We will first have a moment of  
17 silence and then he will pray and make a few-minute remark.  
18 Everyone bow their heads in a moment of  
19 silence, remembering those that we lost on this day.  
20 (Moment of silence)  
21 PRESIDING OFFICER: Senator Birdwell?  
22 SENATOR BIRDWELL: Thank you, Mr. President.  
23 I -- I come to this duty with emotion. Today is the first  
24 day in -- the first September 11th in 18 years that I've been  
25 apart from Mel, but I am at my assigned place of duty with my

1 Father, we ask you for the wisdom that you  
2 gave Solomon in our current duties, but most of all we thank  
3 you for ordering your Son to step out of the perfection of  
4 heaven in your throne room to be the greatest example of  
5 selfless service to redeem a fallen world to you. And we  
6 thank you for the day that you have made today. In Christ's  
7 name we pray. Amen.  
8 PRESIDING OFFICER: Thank you, Senator.  
9 For those of you watching online who may not  
10 see other Senate proceedings or be as familiar with our  
11 Senators, Senator Birdwell was in the Pentagon on 9-11, a  
12 Lieutenant Colonel in the Army. And the plane hit right  
13 where his office was, and it's a miracle that he survived.  
14 He's had over 50 surgeries. And we're -- we're so honored to  
15 have Senator Birdwell, Lieutenant Colonel Birdwell with us  
16 today, and his wife, Mel, who he spoke to who didn't know if  
17 he was alive or not, no communications for hours and hours  
18 until later in the day. So, Mel, we know you're watching,  
19 and we're with you as a body as well.  
20 You all may be seated.  
21 Members and counsel, before we begin, I'd like  
22 to go over the clock and a reminder of the schedule ahead.  
23 Beginning today, the time remaining for the House Managers is  
24 14 hours, 28 minutes, and 17 seconds. And the time remaining  
25 for Respondent, 14 hours, 23 minutes, and 17 seconds.

1 That means -- and we plan to go until 6:30 or  
 2 7:00 tonight and tomorrow night, possibly Wednesday. And  
 3 since both of you have been almost even in direct and  
 4 cross-examination, redirect and recross, that you both have  
 5 about the same amount of time. And so based on that time  
 6 schedule, both sides will be likely down to under five hours  
 7 by sometime late Wednesday, depending on how the time is  
 8 divided. And both sides could be out of time on Thursday  
 9 morning.

10 I want to be very clear that one side or the  
 11 other could have time left that the other could not respond  
 12 to. Those are the rules that both sides proposed and agreed  
 13 to. So it's up to you to strategize and manage your time  
 14 properly. But when you're at the end of the time, I'm not  
 15 going to cut you off in midsentence. We'll give everyone  
 16 ample notice; you have an hour left, 30 minutes left, 15  
 17 minutes left. But there will not be "I need another half  
 18 hour," "I need another witness," "I need a few more  
 19 questions." When the time is up, the time is up. And then  
 20 you'll have an hour for rebuttal, and you'll have an hour for  
 21 your closing arguments beyond that.

22 That means, members of the jury, you may have  
 23 this in your hands late Thursday or Friday. We will not take  
 24 a day off until a final resolution, whether you deliberate a  
 25 short time, midtime, long time. We'll stay here through  
 9

1 Friday, Saturday, Sunday, Monday until you've made a decision  
 2 on every Article that you're prepared to come and vote. So  
 3 from this moment forward, no off days until the trial  
 4 deliberations and the decision is given.

5 With that, call your first witness.

6 MR. HARDIN: We call Mark Penley.

7 PRESIDING OFFICER: Bailiff, please bring in  
 8 the witness.

9 (Witness entered the chambers)

10 PRESIDING OFFICER: Mr. Penley, please step  
 11 forward. Did you take the oath the other day?

12 THE WITNESS: I did not take an oath.

13 PRESIDING OFFICER: All right. You don't have  
 14 to repeat after me. You can just at the end answer. Please  
 15 raise your right hand.

16 (Witness sworn by the Presiding Officer)

17 PRESIDING OFFICER: Please be seated.

18 MARK PENLEY,  
 19 having been first duly sworn, testified as follows:  
 20 DIRECT EXAMINATION

21 BY MR. HARDIN:

22 Q. Good morning.

23 A. Good morning, Mr. Hardin.

24 Q. I want to warn you now, each of us needs to be a  
 25 little bit closer to the microphone than you are right now.  
 10

1 I think that base actually does move, if you want to move it  
 2 towards you a little bit. If it doesn't, don't force it.

3 A. All right.

4 Q. All right. If you would just keep that in mind,  
 5 please because we have some acoustic issues.

6 State your name, please.

7 A. My name is Mark Penley.

8 Q. Mr. Penley, how old a man are you?

9 A. I'm 69.

10 Q. Where did you grow up?

11 A. Grew up in Denton, Texas.

12 Q. And when you -- high school? College? Give us a  
 13 little bit, like a minute and a half or so if you can.

14 A. All right. Went to Denton High School, graduated  
 15 in 1972, played high school football, president of the  
 16 student council, was in the fellowship of Christian Athletes,  
 17 went to church and Sunday school and sang in the youth choir  
 18 at the First Baptist Church. I was in Boy Scouts and was an  
 19 Eagle Scout.

20 Q. Let me stop you there. Let me just try to do some  
 21 of it, if I can, by question and answer rather than just a  
 22 narrative, which I first asked for.

23 If you'll keep in mind, you started talking  
 24 fast. You're an interesting combination. You talk slowly,  
 25 but you talk fast, if that makes any sense. So just stay  
 11

1 with me long enough, and everybody will be able to hear you.

2 After high school -- and I think -- you folks  
 3 who are Eagle Scouts, y'all stay pretty close together, do  
 4 you not, in terms of later in life or so? Have you stayed  
 5 active with them at all?

6 A. Well, I didn't. After I attained the rank of  
 7 Eagle, I was busy playing football and doing other things,  
 8 so -- but certainly something I was very proud to attain.

9 Q. Mr. Penley, you've mentioned religion. Would you  
 10 describe for the jury in your life what role religion has  
 11 played?

12 A. Yes, sir. I'm a Christian. My belief in Jesus  
 13 Christ is the most important thing in my life. He guides me  
 14 in everything I do. He's my strength. He's the cornerstone  
 15 of my life, and I try my best to honor Him in every area of  
 16 my life.

17 Q. Was there a particular moment in your life that you  
 18 particularly saw the road ahead for yourself?

19 A. I did. I grew up going to church, and I thought  
 20 being a Christian meant being good. But in 1968 in the  
 21 summer, I went on a school trip to San Antonio, and there was  
 22 a man by the name of Billy Graham having a crusade at Alamo  
 23 stadium. And for the first time in my life, I understood the  
 24 gospel. We can't save ourselves, but Jesus died to save us,  
 25 and I put my faith and trust in Christ that night.  
 12

1 Q. Mr. Penley, those of us, like myself, that grew up  
2 in North Carolina are very familiar with Billy Graham.  
3 From then on -- and I want to ask you if we  
4 could make our answers short and to the point of the  
5 question.  
6 A. Yes, sir.  
7 Q. But from then on, from the time you were 14 up --  
8 14, was your religion a very, very big, integral part of your  
9 life?  
10 A. Yes, sir.  
11 Q. All right. And then what about politics? If  
12 you -- did you at any time in your education and early  
13 careers become interested in politics?  
14 A. Well, I've always been interested in politics. My  
15 father was. He was active in local Republican politics in  
16 Denton County. He was the county chairman for Senator John  
17 Tower.  
18 Q. All right. So throughout your career -- this is  
19 not a -- probably a favorable point for Democrats but might  
20 be interesting to a Republican. Have you ever voted for a  
21 Democrat in your life? Just yes or no.  
22 A. No, not to the best of my recollection.  
23 Q. All right. Not on purpose? You mean you might  
24 have accidentally done it?  
25 A. Well, I might have voted for a judge.

13

1 Q. All right. Okay. Now, let me ask you, so high  
2 school, where did you go to college?  
3 A. I went to the United States Air Force Academy.  
4 Q. Did you serve all four years?  
5 A. Yes, sir, I stayed all four years and then --  
6 Q. And how long were you in the Air Force?  
7 A. I was on active duty for five years in the Air  
8 Force.  
9 Q. After Air Force, you were how old when you  
10 graduated?  
11 A. I'm sorry? Could you --  
12 Q. How old were you when you graduated from the Air  
13 Force Academy?  
14 A. I was 22.  
15 Q. What did you do then?  
16 A. Well, I went on active duty, and I became an  
17 aircraft maintenance officer and primarily stationed at Reese  
18 Air Force Base in Lubbock.  
19 Q. All right. Then after your service, how many -- I  
20 think you said, but how old were you when you got out of the  
21 Air Force?  
22 A. I was 27.  
23 Q. What did you do then?  
24 A. I went to law school at the University of Texas.  
25 Q. When did you graduate?

14

1 A. 1984.  
2 Q. What did you do then?  
3 A. I took a job at Andrews & Kurth in Houston in  
4 commercial litigation.  
5 Q. Andrews & Kurth at that time was one of the three  
6 or four largest firms in -- one of the four or five,  
7 probably, largest firms in Houston, was it not?  
8 A. Yes, sir.  
9 Q. And how long were you at Andrews & Kurth?  
10 A. I stayed there four years.  
11 Q. And then what type of practice did you do?  
12 A. A general commercial litigation practice, a little  
13 bit of tort litigation as well.  
14 Q. And then after your time at Andrews & Kurth, where  
15 did you go?  
16 A. I transferred to Strasburger & Price in Dallas. I  
17 wanted to do more trial work, and I felt like I'd get more  
18 opportunities there.  
19 Q. How long were you at Strasburger & Price?  
20 A. I stayed there 13 years, I believe, from the fall  
21 of '88 until January of '03, so --  
22 Q. While were you at Strasburger & Price, did you meet  
23 Mr. Ken Paxton?  
24 A. I did.  
25 Q. And how was that? How did you meet him?

15

1 A. Well, he was a fellow associate at the law firm.  
2 He got there a year or two after I started, and we met each  
3 other and had some similar interests and knew each other a  
4 little bit.  
5 Q. And so how long were you at Strasburger & Price  
6 with Mr. Paxton?  
7 A. I think we overlapped a year or two and then he  
8 left.  
9 Q. After that time, how would you describe your  
10 relationship? Were you a friend or associate, or tell us in  
11 your own words how you would describe your relationship at  
12 that time with Mr. Paxton?  
13 A. We stayed friendly acquaintances. I saw him  
14 infrequently; but when I did, we always spoke. It was always  
15 pleasant. We had similar interests in politics.  
16 Q. All right. And so then how long -- what -- how old  
17 were you and where did you go from Strasburger Price?  
18 A. Goodness. I left Strasburger & Price in January of  
19 2003, so I guess I was 48, 49. I'm not doing the math very  
20 well, but --  
21 Q. That's okay.  
22 A. -- late 40s.  
23 Q. And was Mr. Paxton -- how long was he there? Did  
24 he leave before you?  
25 A. Oh, he left many years before me.

16



1 Q. After he left and you're no longer a member of the  
2 same firm, did y'all stay in touch?

3 A. Well, we had a mutual friend, and I would hear what  
4 he was doing. And I saw him infrequently, but we did see  
5 each other on a few occasions. And we went to the same  
6 church for a year or so.

7 Q. Which church was that?

8 A. That was Stonebriar Community Church in Frisco.

9 Q. After you left Strasburger Price, where did you go?

10 A. I spent a few months working in a small firm in  
11 Fort Worth, and then I got a job offer from the United States  
12 Attorney's Office in Dallas, which I accepted.

13 Q. How long were you a federal prosecutor with the  
14 U.S. Attorney's Office in the Northern District of Texas?

15 A. For 16 years.

16 Q. And what were your jobs during that period? And I  
17 want to try to do it if we can hit the high points.

18 A. All right. I started out doing general crimes,  
19 counterfeiting, identity theft, things like that. And after  
20 I had been there a couple of years, I transferred to the  
21 national security section and worked on terrorism cases and  
22 export control cases for the rest of my time there.

23 Q. And so the last two or three years, or four years  
24 even, what were your assignments as a federal prosecutor?  
25 How would you describe it?

17

1 A. I did some violent crimes. I did some computer  
2 crimes, but mainly I did terrorism cases. I did a -- helped  
3 out on a large mortgage fraud trial, and I worked on a very  
4 large export control matter involving a foreign company  
5 selling American technology to prohibited nations.

6 Q. And when -- how is it that you then joined the  
7 Attorney General's Office? How did that come about?

8 A. I had spent a year in D.C. at the main justice  
9 department in the counterintelligence section in 2018. And  
10 in the summer of 2019 after I returned to Dallas, I got a  
11 phone call from First Assistant Jeff Mateer at the Office of  
12 Attorney General. He told me they had an opening for the  
13 deputy for criminal justice, and he said Ken Paxton wanted me  
14 to interview for the job.

15 Q. So he indicated to you the idea of giving you a  
16 call was Ken Paxton's?

17 A. Yes, sir.

18 Q. Did you interview for the job?

19 A. I did.

20 Q. Whom did you interview with?

21 A. Well, I came down here to Austin. I met a number  
22 of the deputies. I met Lacey Mase. I met Lisa Tanner who  
23 was the head of the criminal prosecutions division. I met  
24 the Chief of Staff Missy Cary, Ryan Bangert, several others.  
25 I can't recall everybody, but most of the people on the 8th

18

1 floor.

2 Q. And did you meet also with the Attorney General  
3 himself?

4 A. I did not meet with him in person. We spoke on the  
5 phone about a week later.

6 Q. All right. And when you spoke on the phone, were  
7 you offered the job?

8 A. Yes.

9 Q. So who offered you the job to come to work at the  
10 Attorney General's Office?

11 A. Mr. Paxton.

12 Q. And what year and month, if you recall, was that?

13 A. That would have been in July of 2019.

14 Q. All right. Now, at some time until the end of the  
15 year of 2019, had you ever heard the name Nate Paul?

16 A. No.

17 Q. And how is it that you ultimately did, if you did?  
18 Well, let me back up and ask, did you  
19 ultimately become familiar with the name of Nate Paul?

20 A. Yes, sir.

21 Q. And when was that that you became aware of it?

22 A. On December 16, 2019.

23 Q. And how and what was the occasion for you to become  
24 familiar with the name of Nate Paul?

25 A. I was in Dallas that weekend. Mr. Paxton called  
19

1 me, asked me to stay over on Monday and meet with him at the  
2 Highland Park Village shopping center at a coffee shop. And  
3 I agreed to do that, of course, and --

4 Q. Hold on. That -- that'll get us a start.

5 Now, when you got that call, explain to the  
6 jury how your working relationship -- the agreement with --  
7 as far as your residence in Dallas and working in Austin,  
8 what was your schedule by that time with the Attorney  
9 General's Office?

10 A. Yes, sir. When I was offered the job, I explained  
11 to Mr. Paxton and to Jeff Mateer that my wife and I each had  
12 an elderly parent in their 90s in the Dallas area, and we  
13 were looking after them. And I couldn't move to Austin, but  
14 I could stay down here most of the time. And they said,  
15 Look, just be here three or four days a week. We have a  
16 civil division office in Dallas. We'll give you a desk and a  
17 computer and a phone there. You can work from there one or  
18 two days a week. Typically, I worked in Dallas one workday a  
19 week, either a Friday or a Monday, and then commuted to  
20 Austin for the rest of the week, generally four days.

21 Q. So that's why he asked you to stay over as opposed  
22 to come back to Austin?

23 A. Yes, sir.

24 Q. All right. Did you meet with Mr. Paxton?

25 A. I did.

20

1 Q. And the day and place that you met, you said  
 2 Highland Park. The date was what?  
 3 A. It was Monday, December 16, 2019.  
 4 Q. And where did you meet and what was the  
 5 circumstance for your meeting?  
 6 A. Well, first I met in the coffee shop. He was  
 7 finishing another conversation. And then he said, Let's go  
 8 out to the car. We're going to make a phone call to a friend  
 9 of mine.  
 10 Q. So you went out to a car to have this phone call?  
 11 A. Yes, sir. And I don't remember if it was my car or  
 12 his, but we had the phone call on his cell phone.  
 13 Q. All right. And then I assume he put him on  
 14 speaker?  
 15 A. He did.  
 16 Q. And how did he describe -- what did he say to you  
 17 to describe who he wanted you to talk to?  
 18 A. He told me this was a friend of his who had had  
 19 some search warrants executed on his home and offices.  
 20 Q. Did he say anything else before the phone call that  
 21 you recall?  
 22 A. Not much.  
 23 Q. All right. And then what happened?  
 24 A. Then Mr. Paul came on the phone. Ken Paxton  
 25 introduced us, and then I listened as Mr. Paul told his  
 21

1 story.  
 2 MR. LITTLE: Objection, hearsay to anything he  
 3 said.  
 4 Q. (BY MR. HARDIN) Excuse me. Did you listen in the  
 5 presence of the Attorney --  
 6 PRESIDING OFFICER: Sustained.  
 7 Q. (BY MR. HARDIN) Excuse me. Did you listen --  
 8 MR. HARDIN: I'm sorry. I didn't mean to  
 9 speak.  
 10 Q. (BY MR. HARDIN) Did you listen in the presence of  
 11 the Attorney General?  
 12 A. Yes, sir. He was sitting at my right elbow.  
 13 Q. And did Mr. -- did the Attorney General also  
 14 periodically make observations or discuss during the phone  
 15 call?  
 16 A. Yes. He participated in the conversation.  
 17 MR. HARDIN: I renew my questions, Your Honor.  
 18 These are party admissions from the Attorney General himself.  
 19 If -- I wanted to go back to the original question and ask  
 20 him what was said.  
 21 PRESIDING OFFICER: Go ahead.  
 22 MR. HARDIN: Thank you.  
 23 Q. (BY MR. HARDIN) Now, can you recall what Mr. Paul  
 24 said to you and the Attorney General in this car?  
 25 MR. LITTLE: Mr. President, objection,  
 22

1 hearsay.  
 2 MR. HARDIN: I'm sorry? I didn't hear the --  
 3 apology.  
 4 PRESIDING OFFICER: Repeat your objection so  
 5 he can hear.  
 6 MR. LITTLE: I said it was objection,  
 7 hearsay.  
 8 PRESIDING OFFICER: Sustained.  
 9 MR. HARDIN: Your Honor, if I may, I certainly  
 10 don't want to argue with the Court, but this is a  
 11 conversation that the Attorney General himself is  
 12 participating in. And by participating and asking questions,  
 13 he is really acceding to what the conversation is.  
 14 And finally, the conversation in the presence  
 15 of the Attorney General is not being offered for the truth of  
 16 the matter. In fact, as the Court knows, we contend that  
 17 what he was saying is untrue. But whether that's true or  
 18 untrue, we're not offering it to prove the truth but only  
 19 that that's what this witness was telling -- was being told  
 20 in the presence of the Attorney General by Mr. Paul. And so  
 21 we renew our offer.  
 22 MR. LITTLE: Mr. President, may I be heard in  
 23 response?  
 24 Mr. President, thank you. Nate Paul is not a  
 25 party to this case. He's not an agent of any of the parties  
 23

1 of this case. And party admission is not an exception to the  
 2 hearsay rule, and none of the stated reasons to allow this  
 3 information to come in are exceptions to the hearsay rule.  
 4 So we renew our objection.  
 5 PRESIDING OFFICER: I have my legal counsel on  
 6 some of these more sophisticated, complex issues, a former  
 7 judge, of course. And we'll overrule this objection.  
 8 Continue.  
 9 MR. HARDIN: Thank you, Your Honor.  
 10 Q. (BY MR. HARDIN) You can answer that question.  
 11 What did Mr. Paul say?  
 12 A. He narrated a series of events related to search  
 13 warrants that were served on his home and two of his business  
 14 properties in August of 2019.  
 15 Q. How long did this conversation take place, would  
 16 you estimate?  
 17 A. Twenty to 30 minutes.  
 18 Q. Do you recall what your own thought processes were  
 19 as you listened to him?  
 20 A. I thought, Why is the Attorney General involved in  
 21 this? Why is he wanting me to know about this? This is not  
 22 a state matter from what I could tell. And I thought it was  
 23 very suspicious that someone who was the target of a federal  
 24 investigation was reaching out to the Attorney General of  
 25 Texas for legal help.  
 24

1 Q. Did you make sure in your conversation with him in  
 2 the presence of the Attorney General to Mr. Paul that you  
 3 yourself were not allowed or able to give him legal advice?  
 4 A. Yes, sir. I specifically told Mr. Paul that. I  
 5 said, I represent the State of Texas. I can't be your  
 6 lawyer. I can't give you legal advice. Do you have counsel?  
 7 And he gave an affirmative answer. And I said, You need to  
 8 talk to your counsel about this so they can guide you.  
 9 Q. All right. When this conversation was over -- and  
 10 I think you said it was like 20 to 25 minutes?  
 11 A. Yes, sir.  
 12 Q. Did you talk to the Attorney General about that  
 13 subject anymore --  
 14 A. We --  
 15 Q. -- on that occasion?  
 16 A. Yes, sir, we did, and on later occasions. But on  
 17 that day, December 16th, he made comments to me that  
 18 indicated he was very mistrustful of law enforcement, and he  
 19 made a comment as to how he felt about how he had been  
 20 treated by law enforcement, which was in a negative way.  
 21 Q. Do you recall what he said, please?  
 22 A. He said, I've been the subject of a corrupt  
 23 investigation.  
 24 Q. Did you know at that time that he had pending  
 25 criminal charges?

1 A. I knew about the securities fraud charges. I knew  
 2 nothing about the facts of the case, and I still don't.  
 3 Q. Okay. Now, at the -- at the end of the day, did  
 4 that -- on that occasion, did he say any more to you about  
 5 his feelings about law enforcement in general?  
 6 A. Not on that day.  
 7 Q. All right. Then after that occasion, when is the  
 8 next time that you heard anything about Nate Paul?  
 9 A. It was on June 16th or 18th of 2020.  
 10 Q. Let me stop you there. So is it your testimony  
 11 that from that conversation in December of '19 until June of  
 12 2020, you neither heard nor had any involvement with any  
 13 issues involving Nate Paul?  
 14 A. That's correct.  
 15 Q. All right. And then what was the date in June did  
 16 you say?  
 17 A. It was either June the 16th or the 18th to the best  
 18 of my recollection because those were the dates of our two  
 19 weekly staff meetings.  
 20 Q. All right. So that the jury knows, there's been  
 21 some reference maybe to different meetings. What was the  
 22 normal schedule about staff meetings of the upper -- upper  
 23 management of the AG's Office at that time when you were  
 24 there in 2020?  
 25 A. We met every Tuesday and Thursday. If the Attorney

1 General was in town, he attended, but First Assistant Jeff  
 2 Mateer chaired the meetings if he wasn't there. And if I'm  
 3 correct, on one of those days, we had a strategy meeting.  
 4 Q. Hold on. I'll get there. I didn't ask you about  
 5 that yet.  
 6 On those meetings, would -- how long would  
 7 they last and what time of day would they usually be?  
 8 A. I believe they started at 9:00 or 9:30, and they  
 9 would last an hour, hour and 15 minutes.  
 10 Q. Where would you have them?  
 11 A. In the executive conference room right next to the  
 12 Attorney General's Office on the 8th floor.  
 13 Q. And who all -- and do this slowly so the jury can  
 14 absorb who all the upper staff would be at these -- these  
 15 weekly meetings. Who all would attend those weekly meetings?  
 16 A. All of the deputies, and there were 12 or 13  
 17 positions at the deputy level; the first assistant; and if he  
 18 was in town, the Attorney General.  
 19 Q. All right. And what about the chief of staff?  
 20 Would she -- would she attend the meetings?  
 21 A. Yes.  
 22 Q. And who was the chief of staff at that time?  
 23 A. That was Missy Cary.  
 24 Q. All right. Would there be any other staff member?  
 25 And let me ask you this: Were you familiar

1 with the young man named Andrew Wicker?  
 2 A. Yes, sir.  
 3 Q. And what was his position?  
 4 A. He was a personal assistant to General Paxton. He  
 5 had a desk outside his office, and he'd travel with the  
 6 General and just took care of whatever duties the Attorney  
 7 General gave him.  
 8 Q. Would Mr. Wicker ever attend any of these meetings?  
 9 A. I don't have a specific recollection of that one  
 10 way or the other.  
 11 Q. All right.  
 12 A. And if I may, sometimes other staff people and  
 13 other executives were present. So I'm not trying to say it  
 14 was only the deputies that were there. There could be  
 15 different people involved on different days.  
 16 Q. So would Mr. Wicker perhaps attend sometime at the  
 17 request of somebody?  
 18 A. Certainly he could.  
 19 Q. All right. Now, back to the June time when you say  
 20 that you became familiar with -- again with the name of  
 21 Mr. Paul. What was the circumstance in which you again came  
 22 into contact with something about him?  
 23 A. It was the weekly deputies meeting, and I believe  
 24 it was on a Thursday. The Attorney General was present, and  
 25 he announced that he had received a referral from the Travis

1 County District Attorney's Office. And after the meeting was  
2 over, Jeff Mateer handed that referral document to me and  
3 David Maxwell.

4 Q. All right. So at that meeting, was that a meeting  
5 just between you and Mr. Maxwell and Mr. Mateer?

6 A. Well, initially it was the deputies meeting with  
7 everybody present. But then as the meeting adjourned, Jeff  
8 Mateer asked me and Mr. Maxwell to stay, and we -- we talked  
9 about the referral.

10 Q. All right. Once you became aware of the referral,  
11 what did you do?

12 A. Well, first, I read the referral and realized I've  
13 heard this story before.

14 Q. And was the referral -- and why did you say that  
15 you had heard it before? What was it about the referral that  
16 was similar to what you had heard before?

17 A. Well, it was basically the same story in a little  
18 more detail, and it was typed up. It was unsworn, but it was  
19 signed by Nate Paul.

20 Q. And did you learn where that complaint had  
21 originally gone to?

22 A. Yes. I --

23 Q. You answered. That's good enough.

24 A. All right, sir.

25 Q. Thank you. And then did you -- when you read the  
29

1 referral, did that -- did that inform you as to how it  
2 originated and with what agency?

3 A. Yes, sir.

4 Q. And which agency was that?

5 A. That had initially gone to the Travis County  
6 District Attorney's Office.

7 Q. Were you informed at that time by the Attorney  
8 General one way or the other anything about whether he had  
9 already personally met with representatives of the District  
10 Attorney's Office about this matter?

11 A. Not that day, no.

12 Q. All right. So when you -- did you share that  
13 referral and what it said with Mr. Maxwell at that time?

14 A. Well, we both read it.

15 Q. All right. And then did you lay out a plan of  
16 action as it applied to that referral?

17 A. Yes, sir.

18 Q. Did you at that time -- what did you do after that  
19 meeting and you had been shown the referral?

20 A. Well, the first thing we did was talk about it, the  
21 three of us.

22 Q. And when you say "the three of us," you mean who?

23 A. Jeff Mateer, David Maxwell, and me.

24 Q. After you had that conversation, did you make any  
25 plans for how you would deal with it?  
30

1 A. Yes.

2 Q. When did you make plans -- your initial reaction,  
3 what did you do with it?

4 A. Well, my initial reaction was this is crazy.

5 Q. All right. After you -- and without going into  
6 anything Mr. Maxwell said, what type of reaction did you get  
7 from him when he read it?

8 A. The same as mine.

9 Q. All right. So then did you decide not to  
10 investigate it at that time?

11 A. We hoped to slow walk it and see if the Attorney  
12 General would drop it.

13 Q. All right. Did you talk to the Attorney General  
14 any more about it before you then met with anybody about it?

15 A. I think the Attorney General talked to me.

16 Q. And when did the Attorney General talk to you after  
17 he had informed you of that referral?

18 A. I recollect two conversations. One of them  
19 occurred in my office when he came to my office.

20 Q. All right. I'm going to stop -- stop you there. I  
21 want to know when that was. How soon did you have a  
22 conversation with the Attorney General about that referral  
23 after you were given it to it -- after it was given to you on  
24 the morning of the 16th?

25 A. The first date I recall was July the 6th of 2020.  
31

1 Q. Well, from the time you got it on June 16th to July  
2 the what?

3 A. 6th.

4 Q. Had you done anything with it?

5 A. Only talked to David Maxwell about it.

6 Q. All right. What was the occasion for the Attorney  
7 General coming to talk to you about it on July the 6th?

8 A. He just knocked on my door and walked in and wanted  
9 to talk about the status of the Nate Paul referral.

10 Q. Do you recall what he said?

11 A. He was unhappy that nothing was happening. He said  
12 he wanted us to get moving on it. That was basically the  
13 gist of the conversation.

14 Q. Well, why was it that nothing had happened on it  
15 from June 16th to July 6th? Did I get that date wrong? Was  
16 it July 6th or July -- yeah.

17 A. There was -- there was one conversation on July  
18 6th.

19 Q. All right.

20 A. And there was another one.

21 Q. All right. Why had nothing happened between the  
22 16th or the 6th, or had something happened?

23 A. David Maxwell and I saw no merit to the complaint.  
24 We saw no state interest. We saw no evidence of a state  
25 crime violation.  
32

1 Q. So what did you do when he -- what did he -- when  
2 he came in and talked to you on the 6th, what was your  
3 response?

4 A. I told him I had talked to David Maxwell, and we'd  
5 get moving and set up a meeting with Mr. Paul and his  
6 attorney at some point.

7 Q. Were you opposed to having that meeting?

8 A. I wasn't opposed to having a meeting, no.

9 Q. All right. Well, why hadn't you arranged it before  
10 then?

11 A. Again, speaking for myself, I thought it was crazy,  
12 and I was hoping the Attorney General would drop it. He  
13 didn't.

14 Q. Why did you think it was crazy?

15 A. The idea that the State of Texas Attorney General's  
16 Office would go investigate the federal courthouse,  
17 investigate federal agents and also state agents that were  
18 task force officers on the raid, and that -- those were  
19 agents from the DPS and the State Securities Board -- that we  
20 would investigate a federal magistrate judge and federal  
21 prosecutors was insane. That -- that is something that can  
22 be handled by federal authorities. And there's no easy or  
23 practical way for state authorities to investigate the type  
24 of complaints Mr. Paul was making.

25 Q. Why? What was it about the complaints that would

33

1 have been difficult or -- or so for you to investigate?

2 A. Well, as the matter developed, their main complaint  
3 that -- that could theoretically have been a state criminal  
4 violation was that the Assistant United States Attorney who  
5 got the search warrants signed by the magistrate judge had  
6 then altered the warrant after it had been signed by a  
7 federal judge, which was absolute craziness.

8 Q. All right. Why is that craziness?

9 A. Because that would be a felony, that would get you  
10 fired, that would get you sent to federal prison.

11 Q. All right. So why was that crazy? People commit  
12 felonies all the time.

13 A. They do. I knew the Assistant U.S. Attorney. He  
14 used to work in Dallas. He had a stellar reputation. He had  
15 very high personal integrity. I had never seen any  
16 indication in Dallas that he would even think of doing such  
17 an outrageous thing.

18 Q. Well, let me ask you this: Was it just limited to  
19 a complaint about federal officials?

20 A. Well, there were state agents involved in the  
21 searches. And Mr. Paul at a later date named one of the  
22 state agents as being the affiant on the sealed federal  
23 search warrant affidavit.

24 Q. I was going to ask you about that. First of all,  
25 were there agents from the Texas Security Board involved in

34

1 the search warrant? Were there?

2 A. Yes, sir, there was at least one.

3 Q. And were those security folks, the Security Board,  
4 the same agency that had brought charges against the Attorney  
5 General and that were part of the case that was currently  
6 pending against him at the time he wanted you to meet with  
7 Mr. Paul?

8 MR. LITTLE: Objection, leading,  
9 Mr. President.

10 PRESIDING OFFICER: Sustained.

11 Q. (BY MR. HARDIN) Were there -- could you tell us in  
12 your observations at the time whether actually the Attorney  
13 General was asking you to investigate a matter with Mr. Paul  
14 who was being -- he was -- let me put it this way.

15 Were you aware or did you focus on the fact  
16 that one of the things they -- one of the groups that they  
17 were asking you to investigate was the very agency that had  
18 brought the charges that were currently pending against  
19 Mr. Paxton?

20 MR. LITTLE: Objection --

21 A. Yes, sir.

22 MR. LITTLE: -- leading, Mr. President.

23 MR. HARDIN: I believe he had a choice there.

24 He could have said --

25 PRESIDING OFFICER: Overruled.

35

1 MR. HARDIN: Thank you, Your Honor.

2 Q. (BY MR. HARDIN) All right. So was that also an --  
3 did that -- did that give you any concern?

4 A. Yes, it did.

5 Q. All right. Into the microphone, what was that  
6 concern?

7 A. Well, my concern was not only was he asking us to  
8 investigate state agencies, including an agency that was  
9 investigating him, but he was asking us to investigate the  
10 investigators who were conducting a federal investigation of  
11 Nate Paul.

12 Q. All right. Now, once he asked you to do something  
13 to get moving on it, what did you do?

14 A. I told him I'd talk to Mr. Maxwell and we would get  
15 moving.

16 Q. Did you do so?

17 A. I did. I talked to Mr. Maxwell.

18 Q. I want -- I don't want you to tell us what you told  
19 him. But after you talked to Mr. Maxwell, what was the next  
20 course of action?

21 A. Well, we had a brief delay. Mr. Maxwell was out of  
22 the office for a few days. And after that, the Attorney  
23 General spoke to me again on July 16th. But eventually we  
24 did schedule a meeting for Mr. Maxwell to meet with Mr. Paul  
25 and his attorney Michael Wynne.

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1 Q. All right. Hold on a second. You said you had  
 2 another conversation with the Attorney General before you  
 3 made your first meeting with Mr. Paul; is that correct?  
 4 A. That's correct.  
 5 Q. What was that conversation and when -- when was it?  
 6 A. That was on July 16th, and that was in a little  
 7 more detail. He told me that --  
 8 Q. Wait. Stop. Let's just get this -- set the stage  
 9 for it. Where was it and about what time of day?  
 10 A. I don't remember if that was in person or by phone.  
 11 Q. All right. What did he tell you?  
 12 A. He told me that he wanted to get things moving. He  
 13 said there had been a leak to Texas Monthly about issues  
 14 surrounding the federal raid. And I never saw the story, so  
 15 I don't know the specifics. But he was concerned that  
 16 something had gotten out in the press. And then he mentioned  
 17 that Mr. Paul's sister was his personal counsel. I never  
 18 spoke to her. But again, he was insisting that we get moving  
 19 and do something with the referral.  
 20 MR. LITTLE: Mr. President, just briefly. Can  
 21 we have the witness clarify for the record that Nate Paul's  
 22 sister is -- Sheena Paul is Nate Paul's personal counsel and  
 23 not the Attorney General's.  
 24 MR. HARDIN: Certainly, I have no objection to  
 25 that.

1 Your Honor, may I visit the table just for a  
 2 second?  
 3 Q. (BY MR. HARDIN) When did you view the video?  
 4 A. I viewed it on July 23rd.  
 5 Q. Were you aware of any meetings -- without going  
 6 into what anybody told you, were you aware of any meetings  
 7 that the Attorney General had with other members of the  
 8 executive staff about Mr. Paul just the day before on July  
 9 22nd?  
 10 A. No, sir.  
 11 Q. All right. So when you met -- how is it that you  
 12 reviewed the interview? The date of the interview was what?  
 13 A. July 23rd.  
 14 Q. And then when's the next time you heard from  
 15 Mr. Paul -- from Mr. Paxton about that matter?  
 16 A. Mr. Paxton called me on July 23rd and said he  
 17 wanted me to come to his office and view the video with him.  
 18 Q. Did you do so?  
 19 A. I did.  
 20 Q. So had he ever asked you on any occasion to look at  
 21 evidence or so, or interviews or so, that -- meetings or so  
 22 that you were dealing with on criminal justice matters?  
 23 A. Not as a general matter. There are two exceptions.  
 24 Q. What are they?  
 25 A. There was one case up in the Panhandle where

1 PRESIDING OFFICER: Would you clarify that,  
 2 please?  
 3 THE WITNESS: Yes, sir.  
 4 A. He was saying that Sheena Paul was Nate Paul's  
 5 personal counsel.  
 6 MR. LITTLE: Thank you, Mr. Penley.  
 7 Q. (BY MR. HARDIN) All right. Now, so then when was  
 8 the meeting with Mr. Paul?  
 9 A. The first meeting was on July 21st.  
 10 Q. And who was at that first meeting?  
 11 A. That was conducted by David Maxwell on behalf of  
 12 the OAG. Nate Paul attended along with his personal counsel  
 13 Michael Wynne.  
 14 Q. Michael Wynne is spelled do you know how for the  
 15 court reporter?  
 16 A. It has an E on the end, W-y-n-n-e.  
 17 Q. Thank you. Now, were you present or watching this  
 18 interview or anything?  
 19 A. I didn't watch it live. I didn't attend it, but I  
 20 watched later. It was video and audio recorded.  
 21 Q. Do you recall about how long that lasted?  
 22 A. It was over an hour. Maybe an hour and 15, 20  
 23 minutes.  
 24 MR. HARDIN: Okay. May I have the exhibit  
 25 number?

1 someone in a town met him at a political event and asked him  
 2 for our office to take a look at a cold case.  
 3 Q. All right. Did your office do that?  
 4 A. We did.  
 5 Q. All right. And then what's the other occasion?  
 6 A. There was an occasion in July of 2020 where a  
 7 former deputy at the Attorney General's Office, who was in  
 8 private practice in San Antonio, represented some parents in  
 9 a drowning case. And he contacted the Attorney General and  
 10 wanted our office to look at -- at this drowning case down  
 11 there where Bexar County was not pursuing criminal charges.  
 12 Q. All right. Now, those are two occasions that  
 13 previously -- excuse me -- that previously during your  
 14 service he had asked you to look at, correct?  
 15 A. Yes. Yes, sir.  
 16 Q. Now, would you describe the level of involvement  
 17 that he had in each of those cases compared to the  
 18 involvement he had with Mr. Paul?  
 19 A. Vastly different.  
 20 Q. How? Now, I don't want to really go into the facts  
 21 of the other two cases.  
 22 A. All right.  
 23 Q. I just want to know -- I want to ask you to  
 24 describe in each of those two other occasions that he had  
 25 contacted you on behalf of some constituent, describe what

1 his behavior -- what his involvement was in those cases.  
 2 A. Yes, sir. On the Panhandle case, he asked me to  
 3 look at it. Our law enforcement division had looked at it.  
 4 I reviewed what they had done. I reported to him that they  
 5 had done everything that could be done, and he accepted that  
 6 and didn't bring it up anymore.  
 7 Q. What about the Bexar County case?  
 8 A. On the Bexar County case, I made some phone calls.  
 9 I looked at some evidence the family's attorney had sent me.  
 10 I made a report back to the Attorney General that I didn't  
 11 see any state criminal charges that we should pursue. He  
 12 accepted that and never brought it up again.  
 13 Q. In either of those cases, did he have any further  
 14 involvement after asking you to look at it?  
 15 A. No, sir, other than asking me to report back to  
 16 him.  
 17 Q. And after you reported back to him, did he do  
 18 anything -- have any further involvement in either of those  
 19 two cases that you're aware of?  
 20 A. Not -- not to my knowledge. He didn't with me.  
 21 Q. By the time July 22nd rolls around, July 23rd rolls  
 22 around, how many times had the Attorney General talked to you  
 23 about the Nate Paul case? Just take your time and count back  
 24 up to that moment.  
 25 A. I'll count three to that moment -- well, actually  
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1 five to that moment counting the December phone call.  
 2 Q. All right. Now, when you -- describe for the jury  
 3 how -- this review of the video of the initial interview by  
 4 Mr. Maxwell of Mr. Paul with his attorney present.  
 5 A. We watched the video together. Mr. Paxton was  
 6 unhappy with David Maxwell because David Maxwell was not  
 7 accepting what they were saying at 100 percent face value.  
 8 Q. Well, let me ask you this: Did you see anything,  
 9 as an experienced law enforcement professional, that was  
 10 objectionable about the way Mr. Maxwell was conducting the  
 11 interview?  
 12 A. No, sir.  
 13 MR. HARDIN: Your Honor, at this time -- it's  
 14 already in, but for the record, I'll say that Exhibit 149 is  
 15 a video and audio. I'm not going to go into it right now,  
 16 but it is a video and audio of the initial David Maxwell  
 17 interview, if the jury later decides they want to look at  
 18 it.  
 19 PRESIDING OFFICER: All right. Thank you.  
 20 MR. HARDIN: 149.  
 21 Q. (BY MR. HARDIN) Now, after -- after you looked at  
 22 that interview, do you recall anything else that the Attorney  
 23 General said about it during the course of watching it with  
 24 you or after it was completed?  
 25 A. He made comments that told me he didn't understand  
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1 the significance of some of the claims they were making.  
 2 Number one, he didn't recognize the legal difficulties for us  
 3 to investigate the federal authorities when a search warrant  
 4 is under seal at the federal courthouse. I didn't see any  
 5 way we could get that realistically other than by asking the  
 6 federal judge if he would open up the sealed record and let  
 7 us examine the issued search warrant and compare it to the  
 8 returned search warrant.  
 9 Q. All right. So now at the heart of this thing that  
 10 you looked into the file, there's been one interview, you've  
 11 heard from Mr. Paul -- let me back up. In that interview you  
 12 watched, who does most of the talking in the interview?  
 13 A. Nate Paul.  
 14 Q. Does his lawyer also participate some in it?  
 15 A. He does.  
 16 Q. And in the case of -- how much does Mr. Maxwell  
 17 talk in there, if you could just characterize it?  
 18 A. I'd say Mr. Maxwell spoke 35 to 40 percent of the  
 19 time. He asked questions, appropriate questions, and then  
 20 they gave answers.  
 21 Q. Did you find anything objectionable about the  
 22 questions or the way Mr. Maxwell was asking them?  
 23 A. No, sir. In fact, he made some very excellent  
 24 comments to them about where they should go to get relief.  
 25 Q. All right. In that particular document,  
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1 Mr. Maxwell is suggesting they go where for that complaint  
 2 they had?  
 3 A. He told them the best place for them to go to get  
 4 help with their complaints was the Department of Justice  
 5 Inspector General's Office because that office would have the  
 6 power to investigate federal authorities.  
 7 Q. Now, let me ask you something that may perhaps not  
 8 have been clear in this trial at all. If a defendant -- a  
 9 search warrant is run in the federal court, where you were  
 10 for a number of years, and ultimately -- a judge has signed  
 11 it, the warrant is executed, evidence is gathered, and then  
 12 ultimately charges are filed and the person -- something  
 13 happens with them, they're indicted. If they have a pending  
 14 criminal case, what is your experience as to whether the  
 15 defendant would then be given access to not just the search  
 16 warrant but the probable cause affidavit?  
 17 MR. LITTLE: Objection, Mr. President, leading  
 18 and calls for speculation.  
 19 MR. HARDIN: I'm simply asking what his  
 20 experience is --  
 21 PRESIDING OFFICER: Overruled.  
 22 MR. HARDIN: Thank you.  
 23 A. Well, the way it works is the Assistant U.S.  
 24 Attorney and the agent go see the federal magistrate judge to  
 25 ask for a search warrant to be signed, to be approved. And  
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1 when you go, either beforehand or at time you're talking to  
2 the judge, the agent presents a probable cause affidavit  
3 which lays out the key facts of their investigation which the  
4 AUSA and the agent believe establish probable cause to get  
5 the search warrant under Rule 41.

6 Q. (BY MR. HARDIN) Now, let me stop there. At that  
7 time, in the affidavit they present to the judge, does it  
8 describe what all kind of information would be in there --

9 A. Yes.

10 Q. -- that they might later ask be sealed?

11 A. Yes. There is often confidential law enforcement  
12 evidence in there. There is information -- if there's an  
13 informant in the case, that information may be in there. The  
14 work the agent has done to that point, the investigative  
15 steps they've taken, what they've uncovered, the facts  
16 they've developed are laid out so that the judge will see  
17 probable cause exists. And if the judge rejects it, you  
18 don't get the warrant.

19 Q. All right. And in addition to what you just  
20 described, is there information in there potentially of other  
21 citizens who may have talked to the government and provided  
22 information?

23 A. Yes, sir, and other confidential information.

24 Q. So if, in fact, the magistrate or the judge signs  
25 the search warrant and it is executed, what happens then in

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1 are filed. And sometimes charges aren't filed, but they  
2 don't get to see it. That's confidential law enforcement  
3 investigative material. It's very important that not leak  
4 out because the target could go destroy evidence. He could  
5 go intimidate witnesses and do other things to undermine an  
6 investigation.

7 Q. In the case -- did you relay essentially the kind  
8 of information you just told the jury to the Attorney  
9 General?

10 A. At various points during this entire matter, yes, I  
11 did.

12 Q. All right. And at some time, did you express to  
13 him the fact that you would not have access -- even you  
14 yourself and the Attorney General's Office would not have  
15 access to that sealed probable cause affidavit?

16 A. Yes.

17 Q. Now, if, in fact, somebody made a public  
18 information request, would what was in the sealed affidavit  
19 be -- potentially be provided by the law enforcement  
20 authorities for them to decide whether to release it or not?

21 MR. LITTLE: Objection, Mr. President, calls  
22 for speculation on the part of this witness.

23 MR. HARDIN: I'll ask this, if it's okay.

24 PRESIDING OFFICER: Sustained.

25 MR. HARDIN: Thank you.

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1 terms of the warrant being given and the affidavit being  
2 given? What is the practice?

3 A. Well, the original documents are given to the  
4 judge's clerk who files them under seal in the federal  
5 district clerk's office. Now, typically there's a motion to  
6 seal filed by the Assistant United States Attorney. If  
7 that's granted by the judge, and they routinely are, the  
8 clerk's office keeps that under seal. So they're not going  
9 to give it to anybody except the Court or the government. A  
10 target of an investigation is not entitled to see the  
11 affidavit which lays out the facts of the investigation until  
12 they've actually been indicted and are entitled to discovery.

13 Q. So if the charges are filed against them and  
14 they're indicted, then what is the law -- what is the  
15 practice as to whether they then get the probable cause  
16 affidavit?

17 A. At some point that would be unsealed and the  
18 Assistant U.S. Attorney would send a copy of the previously  
19 sealed search warrant affidavit to the defense attorney.

20 Q. But if they are not charged as yet and not charged  
21 at that time or not charged immediately after, what will  
22 happen with the sealed probable cause affidavit and whether  
23 or not that target, that you've used the word, is entitled to  
24 see it until charges are filed?

25 A. The target is not entitled to see it until charges

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1 PRESIDING OFFICER: Rephrase.

2 MR. HARDIN: Thank you very much.

3 Q. (BY MR. HARDIN) Would you -- do you have any  
4 personal knowledge of how the public information requests  
5 would work for somebody who wants to see a probable cause  
6 affidavit that he has not been given by the federal judge?

7 A. Yes. I have an understanding that there is a law  
8 enforcement exception in the public information request laws  
9 and that an agency has a right when there's a pending law  
10 enforcement investigation to keep that private and not  
11 release it to a requestor.

12 Q. So in order for the Attorney General's Office to  
13 know what their position to be and whether the law  
14 enforcement exception applies, would the agency that is  
15 seeking to withhold the information reveal what is in the  
16 probable cause affidavit in order for the Attorney General's  
17 Office to make the decision?

18 MR. LITTLE: Objection, leading.

19 Q. (BY MR. HARDIN) If you know.

20 A. My understanding is --

21 MR. LITTLE: Hold on. Hold on, Mr. Penley.

22 PRESIDING OFFICER: Sustained.

23 MR. LITTLE: Thank you.

24 Q. (BY MR. HARDIN) All right. Now, let's move on, if  
25 we can. After you had that meeting with the Attorney General

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1 and when the two of you watched the -- I think you said on  
2 July 23rd, what was the next thing you did that was in  
3 connection with Mr. Paul's case?

4 A. On July 28th or 29th, I received a phone call from  
5 Mr. Wynne requesting a second meeting, which I agreed to.

6 Q. All right. Now, at this meeting -- when did that  
7 meeting occur that the lawyer for Mr. Paul requested?

8 By the way, why did you give them another  
9 meeting?

10 A. Why did we need another meeting?

11 Q. Yeah.

12 A. Well, I hadn't attended the first one. He was  
13 asking for it. I was trying to show the Attorney General we  
14 were being accommodating and willing to listen to whatever  
15 they had. So I agreed to a second meeting, which we  
16 scheduled for August the 5th.

17 Q. All right. Did you do anything in connection -- in  
18 preparation for that meeting on August the 5th, the second  
19 meeting on Mr. Paul?

20 A. Well, I had reviewed the entire transcript from the  
21 first meeting, and I'm sure I had spoken to Director Maxwell.

22 Q. All right. And then what happened on the next  
23 meeting? And again, what date was it, the second meeting?

24 A. August the 5th.

25 Q. What happened at that meeting?

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1 alteration of a federal search warrant was in the metadata of  
2 those documents. So we -- I told them that we're going to  
3 get with our computer forensic examiners that work for  
4 Director Maxwell. We'll review this with them, we'll explain  
5 your theory, and I'll get back to you.

6 Q. All right. So now, what was the contention that  
7 they were saying that would show that -- let me back up.

8 Were they talking to you in terms of warrant  
9 is presented, judge signs it, and then supposedly the law  
10 enforcement people changed that affidavit?

11 A. Yes, sir.

12 Q. And what was -- what was, as you understood it, the  
13 contention as to why it was changed?

14 A. Their contention was that --

15 Q. Microphone.

16 A. -- the magistrate judge had signed it on August the  
17 12th, and they claimed that they had metadata from the  
18 documents that showed it had been changed on August the 14th,  
19 the day of the first searches. And they claimed that --  
20 their theory anyway, which again sounded insane to me, that  
21 initially the search warrant had been approved to search for  
22 guns and drugs and related items. But after the agents got  
23 there and started the search at 9:00 o'clock, by 11:00  
24 o'clock the Assistant United States Attorney was changing the  
25 search warrant to a white-collar crime type of search warrant

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1 A. That meeting was also in the law enforcement  
2 interview room, so it was audio and video recorded. Mr. Paul  
3 and Mr. Wynne came. They had not brought any documents to  
4 the first meeting, which surprised me, because normally when  
5 a complainant comes in, you expect them to bring their  
6 evidence. But this time they brought documents because I had  
7 asked Mr. Wynne to do that during our phone call on the 28th  
8 or 29th.

9 Q. All right.

10 MR. HARDIN: Your Honor, if I may, just for  
11 the record, that interview is Exhibit 156 that is in  
12 evidence. And I'm not going to ask the -- at this time it be  
13 played. It's a long interview, but it is available during  
14 deliberations for the jury to review if they choose to.

15 PRESIDING OFFICER: Thank you.

16 Q. (BY MR. HARDIN) Now, in this second meeting, about  
17 how long do you estimate that lasted?

18 A. About an hour and a half.

19 Q. Was it just four people there?

20 A. Yes.

21 Q. And that meeting, how did that conclude?

22 A. Well, it concluded that I told them --

23 Q. Stay with the microphone.

24 A. -- thank you for coming in. We've heard your  
25 theories. They had really stressed that their proof of

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1 seeking documents and computer files, bank statements,  
2 financial records, things of that nature. And that just --  
3 that was insane.

4 Q. All right. So did they have any reason they would  
5 not have gone back to a federal judge and said, Hey, hey,  
6 these guys -- these guys changed your warrant?

7 A. I asked them --

8 MR. LITTLE: Again, Mr. President, leading.

9 PRESIDING OFFICER: Sustained.

10 Q. (BY MR. HARDIN) Let me put it this way: What was  
11 the reason that they would not go back to a federal judge to  
12 complain, these guys changed your warrant?

13 A. Right.

14 MR. LITTLE: Objection, Mr. President,  
15 speculation as to what someone else thought.

16 MR. HARDIN: Your Honor --

17 PRESIDING OFFICER: Sustained.

18 MR. HARDIN: Excuse me.

19 Q. (BY MR. HARDIN) Did they give you reasons as to  
20 why they wouldn't go back to a federal judge?

21 A. They told me they had done that, and I inquired  
22 further.

23 Q. When did they say they had gone back to him?

24 A. They told me they actually had a hearing in late  
25 February of 2020. Because I asked Mr. Wynne, who's a former

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1 Assistant United States Attorney in Houston and Austin and a  
2 graduate of Harvard Law School, Why are you coming here? Why  
3 don't you go file a motion with the magistrate here in Austin  
4 who signed the warrant? He's got the power to deal with  
5 everything.

6 Q. And so instead of doing that, did they then contend  
7 the federal magistrate was in on all this?

8 A. At some point, they did.

9 MR. LITTLE: Mr. President, leading.

10 PRESIDING OFFICER: Sustained.

11 Q. (BY MR. HARDIN) Then why would they not go back to  
12 the federal magistrate or to the federal district judge?

13 I think everybody in the jury may know this,  
14 but just to be sure, the search warrant was entered by a  
15 federal magistrate, correct?

16 A. Correct.

17 Q. And that federal magistrate handled matters like  
18 that on behalf of a federal district judge, correct?

19 A. Correct.

20 Q. Did they have any explanation as to why they hadn't  
21 gone to a federal district judge to complain about this  
22 magistrate who must be in on this whole thing?

23 A. No. And in fact, that was one of the giant red  
24 flags that was raised in my mind by that --

25 Q. At your microphone, please.

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1 A. I talked to Director Maxwell. He took the thumb  
2 drive. I said -- we both discussed the fact that his  
3 computer forensic examiners needed to analyze the documents  
4 based on their contention that the metadata had been -- would  
5 show an illegal alteration.

6 Q. And what would you need to be able to show an  
7 illegal alteration -- address the issue as to whether it had  
8 been illegally altered or not?

9 A. You would need the actual computer that the  
10 Assistant United States Attorney used to type up the search  
11 warrant documents; and you would need his computer files, the  
12 original computer files, which only existed at the United  
13 States Attorney's Office and would be subject to all kinds of  
14 privileges.

15 Q. Well, let me ask you this though: If a search  
16 warrant is signed by the magistrate and is taken out and  
17 executed, all right, and then ultimately a copy of that  
18 search warrant is given to the lawyers of the target -- are  
19 you with me?

20 A. Yes, sir.

21 Q. What documents could you potentially compare to see  
22 if the original search warrant was altered? What would you  
23 need?

24 MR. LITTLE: Objection, calls for speculation,  
25 Mr. President.

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1 A. -- and the --

2 Q. Microphone, please.

3 MR. LITTLE: Mr. President, I'm going to  
4 object as nonresponsive to everything after "no." It's a  
5 yes-no question.

6 PRESIDING OFFICER: Sustained.

7 Q. (BY MR. HARDIN) All right. Now, please, please  
8 remember the microphone --

9 A. Yes, sir.

10 Q. -- to make sure people in the back can get it. All  
11 right?

12 Now, at the end of the day, what is it that  
13 they wanted you to do?

14 A. They wanted us to agree with them on their metadata  
15 theory and agree that an Assistant United States Attorney had  
16 illegally, at a felony-level crime, altered search warrants  
17 after they were issued by a federal judge and that two  
18 Assistant United States Attorneys, a federal judge, and a  
19 whole bunch of state and federal agents were in on a grand  
20 conspiracy to cover this up and target Nate Paul.

21 Q. So did they want you to investigate all of these  
22 people that you've just elicited?

23 A. That was my understanding.

24 Q. Yeah. Well, now, when the meeting was over, what  
25 did you do?

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1 MR. HARDIN: No, this is what --

2 PRESIDING OFFICER: Overruled.

3 MR. HARDIN: Thank you.

4 A. The source material, the Rosetta Stone, if you  
5 will, would be the sealed search warrant that was actually  
6 signed by the federal magistrate and on the day of signing  
7 was placed under seal at the federal district clerk's office.  
8 So if I had the original issued search warrant and I got the  
9 returned search warrants that were actually served on the  
10 defendant, not the affidavit, but just the warrants  
11 themselves, and you could put those together and you could  
12 see if there were any changes in the original and in the  
13 copies that were given to the defendant and the copies that  
14 the agents filed back with the clerk's office after the  
15 search is concluded. The agents fill out an inventory of all  
16 the items that are seized during the search, and they file  
17 that back with the district clerk's office and it goes in the  
18 file together. So if I had the beginning and the ending, I'd  
19 have a bookend.

20 Q. (BY MR. HARDIN) All right. And are those  
21 actually -- were those documents the ones that were under  
22 seal?

23 A. The originals, the issued sets were under seal, and  
24 I had no access to them.

25 Q. All right. So without going into what the -- what

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1 your experts told you, did you have these -- these materials  
 2 or what you had, at least the original warrant, did you have  
 3 your IT people look at it?  
 4 A. Yes. In the thumb drive that Mr. Paul and  
 5 Mr. Wynne gave us on August the 5th --  
 6 MR. LITTLE: Mr. President, I need to object  
 7 again as nonresponsive --  
 8 MR. HARDIN: That's fine. That's fine. We'll  
 9 do it real quickly.  
 10 Q. (BY MR. HARDIN) Did you --  
 11 PRESIDING OFFICER: Sustained.  
 12 MR. HARDIN: Excuse me. Thank you.  
 13 Q. (BY MR. HARDIN) Did you, in fact, give the  
 14 information they gave you to your IT people to look at?  
 15 A. Yes, sir.  
 16 Q. Without going into what they said to you, did they  
 17 come back to you with a recommendation?  
 18 A. They gave us their opinion, yes.  
 19 Q. Were they able to find anything that would  
 20 determine one way or the other with the information they had  
 21 available?  
 22 MR. LITTLE: Objection, hearsay.  
 23 MR. HARDIN: Whether they could find? How is  
 24 that hearsay? I'm sorry. I'm learning a lot in this case.  
 25 PRESIDING OFFICER: Overruled.

1 MR. HARDIN: Thank you.  
 2 A. The metadata theory advanced by Mr. Paul and  
 3 Mr. Wynne was not validated.  
 4 Q. (BY MR. HARDIN) And so were you able to tell from  
 5 your experts one way or the other as to whether there had  
 6 been any alteration?  
 7 A. The only alterations were through innocent  
 8 functions.  
 9 Q. What do you mean?  
 10 A. If you redact anything in a search warrant, which  
 11 is routinely done, that --  
 12 Q. Let me stop you. The kind of things that might be  
 13 redacted would be what?  
 14 A. If there were other targets in the investigation  
 15 that were listed in the warrant, in the -- in one of the  
 16 attachments, routinely you redact the name of the other  
 17 target.  
 18 Q. All right. And so if there are redactions, what  
 19 happens?  
 20 A. That will change the metadata.  
 21 Q. All right. So ultimately, were the -- were the  
 22 experts in your -- your office able to answer one way or the  
 23 other whether or not it had been redacted?  
 24 A. Yes. They were able to tell it was redacted. We  
 25 had copies of the warrants, and it showed redactions.

1 Q. All right. Were they able to offer an opinion as  
 2 to whether or not that meant the document was changed for the  
 3 basic things that were contended by Mr. Paul's lawyers?  
 4 A. Well, let me explain it this way.  
 5 Q. Let's do it shortly. Let's see how you do.  
 6 A. All right. There are innocent functions that can  
 7 change metadata that are routinely done. I had evidence  
 8 those innocent functions were done. Therefore, the metadata  
 9 theory proved no wrongdoing. It proved no criminal conduct  
 10 by the federal authorities. There was no evidence of a  
 11 crime.  
 12 Q. All right. And then what did you do after you got  
 13 this report back from your people?  
 14 A. That was on August the 6th. A couple of days later  
 15 I saw the Attorney General in the hallway and I said, Ken,  
 16 there's no evidence of a crime. I recommend we close this  
 17 investigation.  
 18 Q. All right. And what was his response?  
 19 A. His response was, Okay. Fine. All I ask you to do  
 20 is meet with them and tell them, which I agreed to do.  
 21 Q. All right. So what happened then?  
 22 A. I scheduled a meeting. I called Mr. Michael Wynne.  
 23 We set up a meeting for August the 12th, which I believe was  
 24 a Wednesday, again here in Austin. And a couple of days  
 25 after that -- this was before the August 12th meeting -- I

1 saw the Attorney General in the break room, and I told him I  
 2 had set up the meeting as he had requested.  
 3 Q. All right. Then what happened?  
 4 A. Well, he told me he wanted to attend. So I changed  
 5 the meeting location to the executive conference room so it  
 6 would be right next to his office for his convenience.  
 7 Q. Now, was this meeting either videotaped or  
 8 audiotaped?  
 9 A. No, sir. There was no video or audio in the  
 10 executive conference room.  
 11 Q. All right.  
 12 A. Not for recording a meeting.  
 13 Q. Excuse me. So when did this third meeting with  
 14 Nate Paul -- did Nate Paul attend the second -- the third  
 15 meeting?  
 16 A. Yes, sir.  
 17 Q. So when did this third meeting with Mr. Paul and  
 18 his attorney occur and who all was there?  
 19 A. It occurred on August the 12th in the morning. The  
 20 Attorney General attended; I was there; Director David  
 21 Maxwell was there; his two forensic examiners that we had met  
 22 with on August the 6th were there; Drew Wicker, the Attorney  
 23 General's assistant, attended; and Mr. Paul and his attorney  
 24 Michael Wynne were there.  
 25 Q. And during this meeting, did the Attorney General

1 stay -- how much of that meeting did he stay for?  
 2 A. He stayed for about three-fourths of it.  
 3 Q. All right. So what happened in this meeting?  
 4 A. Well, I opened the meeting and announced to  
 5 Mr. Paul and Mr. Wynne that -- I thanked them for coming and  
 6 said, We've looked at your metadata theory, but we don't find  
 7 any evidence of a state crime and we're going to close our  
 8 investigation.  
 9 Q. What was their reaction?  
 10 A. It was very unhappy. They -- they pushed back  
 11 immediately.  
 12 Q. How about Mr. Paul? How would you describe his  
 13 conduct?  
 14 A. He was angry.  
 15 Q. So as both as being angry what did he do?  
 16 A. Well, number one, the Attorney General was also  
 17 unhappy. And then Mr. Paul demanded that a laptop computer  
 18 be brought in, because we had discussed what the forensic  
 19 examiners had told me and Director Maxwell. He disagreed  
 20 with them; demanded a laptop to be brought in. So the  
 21 Attorney General told Mr. Wicker, Go get your laptop and  
 22 bring it in and hook it up. There was a video screen at the  
 23 end of the room.  
 24 Q. Did Mr. Wicker do that?  
 25 A. He did.

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1 Q. And then what did Mr. Paul do?  
 2 A. He got on the keyboard. He pulled up a document,  
 3 and he said -- he said, What I've just shown you here  
 4 disproves what your forensic examiners are saying.  
 5 Q. Did it?  
 6 A. I'm not a computer expert, but I know that the  
 7 forensic examiners didn't tell me they were wrong.  
 8 Q. Yeah. And I'm curious, how was Mr. Paul acting in  
 9 this meeting in terms of who was in charge and what was going  
 10 to happen here?  
 11 A. Mr. Paul acted like we didn't understand who the  
 12 real boss was. It wasn't the Attorney General; it was him.  
 13 That was his body language, that was the expression on his  
 14 face, the way he bowed up. He got very unhappy with us. He  
 15 got very unhappy when Director Maxwell called him out for  
 16 leaking our investigation to the media.  
 17 Q. Let me stop there. What are you talking about  
 18 there?  
 19 A. There were two publications that printed reports  
 20 about Nate Paul and some of his civil litigation issues and  
 21 bankruptcies. And they reported quotes from --  
 22 MR. LITTLE: Objection, hearsay.  
 23 Q. (BY MR. HARDIN) All right. He doesn't want you  
 24 to report --  
 25 PRESIDING OFFICER: Sustained.

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1 MR. HARDIN: Thank you, Your Honor.  
 2 Q. (BY MR. HARDIN) He doesn't want you to talk about  
 3 what their articles were.  
 4 A. Right.  
 5 Q. So my question is, what did Mr. Maxwell say to them  
 6 in the presence of the Attorney General?  
 7 A. He said, You leaked the fact of our investigation  
 8 to the media.  
 9 Q. All right. And what was the import of that? Why  
 10 was that a concern?  
 11 A. When you're doing a law enforcement investigation,  
 12 you don't do it through the media. You keep it confidential.  
 13 You don't want to alert the target. You don't want people  
 14 destroying evidence or hiding evidence. You keep it quiet.  
 15 And secondly, sometimes the targets of your  
 16 investigation may not have done anything wrong. You don't  
 17 want to smear people's reputation unnecessarily due to the  
 18 fact that they've been investigated.  
 19 Q. What was Mr. Paul's reaction to that?  
 20 A. Mr. Paul pushed back against Mr. Maxwell and said  
 21 he had a First Amendment right to talk to whoever he wanted  
 22 to.  
 23 Q. And what -- he didn't deny that he had done it, did  
 24 he?  
 25 A. Initially he did and then he admitted it, which

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1 told me something about his veracity.  
 2 Q. And then what was the Attorney General's reaction?  
 3 A. The Attorney General took his side and agreed with  
 4 him that he had a First Amendment right to talk.  
 5 Q. So then what happened?  
 6 A. Shortly thereafter, the Attorney General announced  
 7 he had to leave. And a few minutes later, the meeting was  
 8 not productive anymore. Mr. Paul and Mr. Wynne were unhappy,  
 9 so --  
 10 Q. All right.  
 11 A. -- I closed the meeting.  
 12 Q. Again, this meeting was on what date?  
 13 A. August the 12th.  
 14 Q. And then what happened after that?  
 15 A. The next day we had our weekly deputies meeting on  
 16 Thursday. Jeff Mateer was there. I met with Jeff after the  
 17 meeting.  
 18 Q. I'm confused. Earlier you talked about a weekly  
 19 deputies meeting on Tuesday.  
 20 A. I believe -- and I'm trying to remember this. I  
 21 could be wrong, but I think the deputies meeting was on  
 22 Thursday, and I think we had a policy and strategy meeting on  
 23 Tuesday. If I'm mistaken, then reverse it.  
 24 Q. All right. But are they the same people attending?  
 25 A. There could be differences. The policy meeting

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1 might be a smaller group.

2 Q. All right. So what is this meeting that you had on  
3 Thursday after the previous meeting?

4 A. After our regular weekly staff meeting on Thursday,  
5 David Maxwell and I stayed behind, and we met Jeff Mateer  
6 either in his office or in the executive conference room,  
7 just the three of us.

8 Q. Without going into what was said at that time, did  
9 you become ultimately aware of anything having to do with an  
10 outside counsel being hired?

11 A. Not at that time, but later I did.

12 Q. All right. And then when did you first become  
13 aware that the Attorney General was considering or wanted to  
14 hire an outside counsel to investigate Mr. Paul's complaint?

15 A. Well, number one --

16 Q. Wait. Let me stop. You mentioned something about  
17 this a moment ago. When you're investigating people and  
18 wanting to find out information and so, in your years in law  
19 enforcement, do you put people that you want to elicit  
20 information from under oath?

21 A. No, sir.

22 Q. Have you ever done that?

23 A. Rarely. Sometimes in federal practice we would  
24 bring somebody in to the grand jury, but that was not a  
25 common practice.

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1 Q. Well, let me ask you this: Have you ever put  
2 people that you were trying to investigate or get information  
3 from an investigation, other than presenting them in a grand  
4 jury where they're sworn in, do you ever swear in people that  
5 you are trying to get information from, you want to sit and  
6 talk to you and inform you?

7 MR. LITTLE: Objection, relevance,  
8 Mr. President.

9 MR. HARDIN: Very relevant. This allegation's  
10 been made repeatedly by these guys.

11 PRESIDING OFFICER: Overruled.

12 MR. HARDIN: Thank you.

13 A. No, sir.

14 Q. (BY MR. HARDIN) All right. Are you familiar with  
15 anybody in law enforcement doing that?

16 A. I don't believe that's a routine practice, no.

17 Q. Well, as a matter of fact, the complaint that  
18 Mr. Paul went down and filed -- filled out that started all  
19 this with the Travis County District Attorney's Office, have  
20 you looked at that complaint form?

21 A. I have. I've read it.

22 Q. And on that complaint form, does it have a place to  
23 have the statement and complaint notarized, therefore being  
24 sworn under oath?

25 A. It has a place, yes.

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1 Q. And the complaint filed by Mr. Paul in that matter,  
2 which is called -- we'll call it referral number one. Did he  
3 swear to that complaint that he was making all these  
4 allegations?

5 A. No.

6 Q. And then there's another referral. Did you become  
7 aware later of another referral?

8 A. I did.

9 Q. By Mr. Paul about another group of people he wanted  
10 investigated?

11 A. Yes. And that was also to the Travis County DA's  
12 Office.

13 Q. And again, is there a place there for it to be  
14 notarized so he could swear under oath?

15 A. Yes.

16 Q. On the complaint?

17 A. Yes.

18 Q. Did he do that?

19 A. No.

20 Q. So the two complaints that he wanted you to  
21 investigate with all of these allegations about all these  
22 people, did a single -- did he swear under oath to a single  
23 one of those allegations?

24 A. No, sir.

25 Q. If he had, would that potentially -- and if they

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1 were untrue, would that potentially subject him to a charge  
2 of perjury?

3 A. I believe so.

4 Q. So if he doesn't swear to it under oath, does it  
5 swear -- does it particularly -- potentially open him up to  
6 perjury?

7 A. No.

8 Q. All right. Now, let's go to after you have this  
9 meeting by outside counsel. When do you become aware, if you  
10 do at all, of the possible people that are being considered  
11 by the Attorney General to be the outside counsel?

12 A. After the August 12th meeting, the Attorney General  
13 did not talk to me about the Paul matter for a number of  
14 weeks. I believe --

15 Q. Keep your voice up. I still -- the microphone,  
16 when you pull back -- both of us, when we pull back, we get  
17 away. So again, keep the mic -- would you tilt it just a  
18 little bit?

19 A. Let me turn it down. Is that better?

20 Q. Thank you. That is better.

21 A. All right. I can't --

22 Q. Go ahead.

23 A. I can't move the base, so I'm just trying to  
24 stretch it out.

25 Q. All right. That's okay.

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1 All right. So when you leave that meeting  
2 after we talked about that the Attorney General was there for  
3 most of it, when is the next time that you did anything in  
4 relation to this particular matter with Nate Paul?

5 A. The next thing I recall hearing was on September  
6 the 3rd when -- I had been making phone calls to Michael  
7 Wynne trying to get additional documents. I wrote a note to  
8 the Attorney General on August 13th, the day after the  
9 meeting, and I -- I told him I had reexamined the copies of  
10 documents Mr. Paul and Mr. Wynne had given me, and I realized  
11 it didn't appear they had given me all the evidence they told  
12 us they had.

13 So I started making phone calls to Mr. Wynne,  
14 and I told the Attorney General in my August 13 note that  
15 there might be further steps I could take if they'd give me  
16 all the documents.

17 Q. All right. So if anybody was to suggest that you  
18 had refused to investigate or do anything else on this case,  
19 would that be an accurate or inaccurate statement?

20 MR. LITTLE: Objection, Your Honor, assumes  
21 facts not in evidence.

22 PRESIDING OFFICER: Sustained.

23 MR. HARDIN: I'm sorry, I'm trying to think if  
24 that was actually something that wasn't in evidence. Pardon  
25 me.

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1 Q. (BY MR. HARDIN) Let me ask you this: Would it be  
2 an accurate statement today to say one way or the other as to  
3 whether you had refused to investigate this matter?

4 A. I did not refuse, and I did investigate this  
5 matter, and I continued after August the 12th to attempt to  
6 investigate it.

7 Q. In attempting to investigate it, how did you go  
8 about attempting to?

9 A. I told the Attorney General I needed all the  
10 documents Mr. Paul had, and I made numerous attempts to  
11 contact Mr. Wynne and request all the evidence they had been  
12 given by the magistrate judge at that February 2020 hearing.

13 Q. Had you ever -- had he ever provided that to you?

14 A. No, sir. He never provided me any further  
15 documents after giving us the thumb drive on August the 5th.

16 Q. Did he ever -- did address whether or not the  
17 hearing before the magistrate had been on the record back in  
18 February of 2020?

19 A. He did not -- I believe he told me it was not on  
20 the record, but I'm not absolutely certain.

21 Q. Do you know one way or the other as to whether it  
22 was under -- was on the record?

23 A. I don't have personal knowledge.

24 Q. Did he attempt to provide you any information of  
25 anything the magistrate said at that hearing?

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1 A. He told me a few comments that had been made, and  
2 he told me the judge gave him some documents that afternoon,  
3 and that's all he said.

4 Q. Did you ask him to provide you those documents?

5 A. I did ask him to provide me those documents.

6 Q. Did he?

7 A. No.

8 Q. All right. How many times would you think -- after  
9 the meeting in the Attorney General's Office that you  
10 described, the third meeting, how many times would you  
11 estimate you reached out to Mr. Wynne in an attempt to get  
12 further documents?

13 A. Five to six to seven times.

14 Q. And were you successful?

15 A. No. I never got a single piece of paper or another  
16 thumb drive or anything.

17 Q. Do some of those times you reached out, are they  
18 voicemails that you left for Mr. Wynne?

19 A. Yes, some were voicemails.

20 Q. How many times were you able to talk to him  
21 actually after the meeting in the Attorney General's Office  
22 seeking additional information?

23 A. The only record I have of reaching him is one time,  
24 and that was on September 14. We had a five-minute phone  
25 call.

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1 Q. All right. And in that five-minute phone call,  
2 were you promised documents?

3 A. No, I wasn't promised documents, but I -- I was  
4 promised he was going to talk to Mr. Paul that afternoon and  
5 that he would get back to me by the end of the day, and he  
6 never did.

7 Q. All right. So did you ever hear from him again  
8 about those documents?

9 A. No, sir.

10 Q. All right. Now, what impact did that inability to  
11 get documents from have on you?

12 A. It affected my thought process in a major way.

13 Q. Your microphone, please.

14 A. Number one, when you're doing a criminal  
15 investigation and you have a complaining witness telling you  
16 a story, you have to believe they're being truthful to act on  
17 what they're telling you. In other words, I can't just have  
18 somebody come in and tell me there's some crime being  
19 committed against them if they don't have some proof or if I  
20 can't corroborate it. You've got to have some evidence to  
21 believe that a crime occurred. And when you've got a  
22 complainant like Mr. Paul who's not being cooperative --

23 MR. LITTLE: Mr. President, I need to --

24 MR. HARDIN: I'll do --

25 MR. LITTLE: -- object to narrative.

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1 MR. HARDIN: I'll do question and answer.  
 2 PRESIDING OFFICER: One second, members.  
 3 MR. HARDIN: I'll do question and answer.  
 4 PRESIDING OFFICER: State your objection.  
 5 MR. LITTLE: I need to object to the narrative  
 6 answer. It needs to be responsive to a question.  
 7 PRESIDING OFFICER: Sustained.  
 8 Q. (BY MR. HARDIN) All right. In addition -- by the  
 9 way, let me ask you something. When you talked about when  
 10 Nate Paul first came to talk to David Maxwell, do you  
 11 remember that?  
 12 A. Yes, sir.  
 13 Q. And in that interview I believe you said that it  
 14 was just Mr. Maxwell, Nate Paul, and his lawyer, correct?  
 15 A. Correct.  
 16 Q. Now, did Mr. Nate Paul in that interview provide  
 17 his oral recitation of what he contended happened?  
 18 A. Yes.  
 19 Q. What is your testimony as to whether if a person  
 20 comes in, is orally talking to you about what they contend  
 21 happened, do you consider oral statements as evidence?  
 22 A. I do.  
 23 Q. All right.  
 24 A. It's some evidence, yes.  
 25 Q. All right. So in evidence -- what types of

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1 evidence do you, as a law enforcement professional, want and  
 2 consider?  
 3 A. Well, there are many types of evidence. There's  
 4 physical evidence. You could have tire tracks or something  
 5 like that, fingerprints, DNA. That's physical evidence. You  
 6 can have direct eyewitness testimony. That is evidence.  
 7 That is powerful evidence. You can have circumstantial  
 8 evidence.  
 9 Q. Was Mr. Paul providing you eyewitness testimony as  
 10 to what happened at his search?  
 11 A. He was in part.  
 12 Q. And is that evidence?  
 13 A. Yes, sir.  
 14 Q. All right. Now, when somebody comes in, are they  
 15 supposed to bring you a wrapped up, beyond a reasonable doubt  
 16 case or do they -- tell me what you expect them to be doing.  
 17 A. No, that's not the way an investigation works. You  
 18 get an initial report by a complaining witness or by a police  
 19 officer who's met with a crime victim or complaining witness,  
 20 and then you work from there.  
 21 Q. Do you consider that information -- that initial  
 22 information as evidence?  
 23 A. Absolutely.  
 24 Q. And then what are you supposed to do as an  
 25 investigator with that?

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1 A. You follow leads suggested by that initial  
 2 evidence, and you see if you can corroborate it, and you see  
 3 where it takes you. You follow the road. You follow further  
 4 evidence that you can get.  
 5 Q. So when -- when Mr. Paul and his lawyer came to you  
 6 in that initial interview, or came to Mr. Maxwell, and gave  
 7 their version of what happened, do you consider that evidence  
 8 that's to be considered as part of your investigation?  
 9 A. Yes, we did, and we treated it accordingly.  
 10 Q. Now, now we move forward to sometime in -- I  
 11 believe you said into September?  
 12 A. Yes, sir. Now we -- we're in early September, I  
 13 believe.  
 14 Q. All right. And what was happening then in early  
 15 September?  
 16 A. Well, the first thing that happened was on  
 17 September the 3rd, Ryan Vassar told me that the --  
 18 MR. LITTLE: Objection, hearsay.  
 19 Q. (BY MR. HARDIN) Without going into what he told  
 20 you.  
 21 A. All right.  
 22 PRESIDING OFFICER: Sustained.  
 23 Q. (BY MR. HARDIN) On September the 3rd --  
 24 MR. HARDIN: Thank you, Your Honor. I'm  
 25 sorry.

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1 Q. (BY MR. HARDIN) On September the 3rd, did you  
 2 have -- did you become aware of an outstanding proposed  
 3 contract?  
 4 MR. LITTLE: Objection --  
 5 A. Yes.  
 6 MR. LITTLE: -- hearsay, same situation. It's  
 7 derivative of the hearsay.  
 8 PRESIDING OFFICER: Sustained.  
 9 Q. (BY MR. HARDIN) At some -- let me ask you this:  
 10 Did you see the contract at that time?  
 11 A. No.  
 12 Q. Were you aware -- did you become aware of people  
 13 that the Attorney General was considering to be appointed as  
 14 outside counsel?  
 15 A. Sometime in late August or early September, yes.  
 16 Q. Did you -- did you have names of people he was  
 17 considering?  
 18 A. I got those names on September the 14th.  
 19 Q. Whom did you get those names from?  
 20 A. Jeff Mateer.  
 21 Q. All right. The two names that you --  
 22 MR. LITTLE: Mr. President, objection,  
 23 hearsay. Move to strike. This was a backdoor attempt at  
 24 getting hearsay in.  
 25 MR. HARDIN: Your Honor, he's not testified to

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1 any statement. He's talked about information he obtained.  
 2 Whether or not that is true or not, we don't know. We're not  
 3 offering it to show that those were the actual two, but what  
 4 he acted on.

5 PRESIDING OFFICER: Overruled.

6 MR. HARDIN: Thank you.

7 Q. (BY MR. HARDIN) Now, when you became aware of  
 8 these two names that you understood to be, did you do  
 9 anything in connection with either one of them?

10 A. Well, that was on --

11 Q. Just yes or no.

12 A. Yes.

13 Q. All right. When?

14 A. Well, did I do anything with those two names?

15 Q. Yeah.

16 A. No, I didn't.

17 Q. All right. Had you met either one of the two men  
 18 that you understood were under consideration?

19 A. No, sir.

20 Q. The two names you were acting on were who?

21 A. The names were Joe Brown, a former United States  
 22 Attorney in the Eastern District of Texas, and Brandon  
 23 Cammack.

24 Q. Now, did you know anything about the career or past  
 25 of either one of those two men?

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1 getting that information?

2 A. I did on the 16th.

3 Q. What did you do?

4 A. Well, on the 14th I had spoken to Michael Wynne  
 5 asking for documents. On the 15th, I called him and  
 6 voicemailled him again, with no response, to request the  
 7 documents. On the morning of the 16th, the Attorney General  
 8 called me into his office.

9 Q. And what did he want?

10 A. He said, What documents are you trying to get from  
 11 Nate Paul? Write them down on a piece of paper. Give me  
 12 Michael Wynne's phone number. They're not going to give you  
 13 the documents because they don't trust you. I'll try to get  
 14 the documents for you.

15 Q. I'll try to get the documents?

16 A. That's what he said. He said he would try.

17 Q. Well, let me back up a second. When the Attorney  
 18 General comes to you, why had you reached out to Michael  
 19 Wynne before that?

20 A. Why had I reached out to Mr. Wynne previously?

21 Q. In September.

22 A. The reason I was reaching out to him --

23 Q. Microphone.

24 A. -- is I was still trying to get all the documents I  
 25 believed they had, and he would not give me a definitive

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1 A. I knew about Joe Brown's career.

2 Q. What did you know about Joe Brown?

3 A. That he'd been a long-time District Attorney in  
 4 Grayson County and Sherman and had then become the United  
 5 States Attorney for the Eastern District of Texas under  
 6 President Trump.

7 Q. So you knew that he was an appointee of President  
 8 Trump, correct?

9 A. Yes, sir.

10 Q. And did you know what party he belonged to when he  
 11 was the District Attorney in Grayson County?

12 A. Well, I didn't know that. I could make an  
 13 assumption --

14 Q. Oh, if you didn't know it, that's okay.

15 A. But I do know now.

16 Q. That's all I'm asking you.

17 All right. Now, did you do anything as it  
 18 applied to either one of those applicants?

19 A. No.

20 Q. When you found out after that those two were being  
 21 considered, did you -- in between that early part of  
 22 September and what date did you find out?

23 A. Well, I found out on September the 14th those two  
 24 names.

25 Q. You found out. Did you do anything in response to

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1 answer as to whether he had given me all his evidence.

2 Q. Were you -- were you -- had you refused to do  
 3 anything further in the investigation?

4 A. No, sir.

5 Q. Were you willing to continue the investigation?

6 A. Yes.

7 Q. And so when you hear that they're about to hire an  
 8 outside counsel, what was your concern and your position?

9 A. My concern was that if Nate Paul wasn't going to  
 10 cooperate, we shouldn't be doing the investigation. As I  
 11 said earlier, I thought the whole idea of investigating the  
 12 federal and state authorities doing this federal  
 13 investigation on Nate Paul and essentially mounting a  
 14 counterattack was ridiculous, was highly out of the ordinary,  
 15 and was completely improper unless there was solid proof of a  
 16 criminal act. And I didn't have that.

17 Q. So what -- what were you going to do by trying to  
 18 get additional arguments as it applied to hiring of an  
 19 outside counsel?

20 A. Starting on August 12th when I realized the  
 21 Attorney General, who initially told me he agreed with me and  
 22 then did a 180 and came at me in opposition to my idea to  
 23 close the investigation --

24 Q. You mean -- are you referring to the third meeting?

25 A. The third meeting on August 12th.

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1 Q. Okay.  
 2 A. I was concerned the Attorney General was turning  
 3 against me, that he might fire me because I wouldn't agree  
 4 with what he wanted. And I was trying to find a way to prove  
 5 to him that Mr. Paul's theories had no merit and we had no  
 6 business taking Mr. Paul's side against the federal  
 7 authorities who were investigating him for criminal activity.  
 8 Q. What was your attitude at that time, Mr. Penley,  
 9 about the Attorney General in terms of what was motivating  
 10 you here?  
 11 A. Well, I felt like he was under Mr. Paul's  
 12 influence. I didn't know to what extent. That became clear  
 13 to me as things unroll and as we go forward in time. My  
 14 concerns that he was -- either had been bribed or been  
 15 blackmailed or somehow was being controlled by Nate Paul  
 16 increased over time.  
 17 Q. Well, let's talk about -- let's talk about in terms  
 18 of how you felt about him. Have you ever said anything  
 19 about -- in terms of the subject of trying to protect him  
 20 against himself?  
 21 A. I did tell him that. We had a very long  
 22 conversation about that.  
 23 Q. All right. I'll get to that conversation in a  
 24 moment, but at the --  
 25 PRESIDING OFFICER: Counsel, excuse me. We're

1 a little past our juror break.  
 2 MR. HARDIN: This would be a good --  
 3 PRESIDING OFFICER: Is this a good time to  
 4 break?  
 5 MR. HARDIN: It is. Thank you.  
 6 PRESIDING OFFICER: We'll take a break until  
 7 10:50. So ten minutes before 11:00 be back. Thank you.  
 8 (Break was taken at 10:31 a.m. to 10:54 a.m.)  
 9 PRESIDING OFFICER: You may continue,  
 10 Mr. Hardin.  
 11 Not yet. We need a witness. Bailiff, get the  
 12 witness.  
 13 I made sure all the jurors were there and you  
 14 were there. I missed him.  
 15 (Witness retakes the stand)  
 16 PRESIDING OFFICER: Mr. Hardin.  
 17 MR. HARDIN: Thank you, Your Honor.  
 18 Q. (BY MR. HARDIN) Now, Mr. Penley, by the way, as we  
 19 move into the things that happened in the month of September  
 20 of 2020, did you, yourself, ever reduce -- produce any real  
 21 extensive notes as to what you remember about the events that  
 22 occurred during that time?  
 23 A. Yes, sir, I did.  
 24 Q. Oh, well -- oh, not only turn it on, but lean up.  
 25 Okay.

1 A. Yes. The answer is yes, I did write notes, and I  
 2 produced a seven-page memo.  
 3 Q. And have you asked, and therefore have with you --  
 4 if you could have those notes available to you as we talk  
 5 about matters that go forward.  
 6 A. Yes, sir, I have them right here.  
 7 Q. All right. Now, what I'm going to instruct you and  
 8 suggest to you is if at any time you think you need to refer  
 9 to them to refresh your memory, you can refer to them, but  
 10 then testify from what you believe at the time. If you --  
 11 your notes tell you something that you can't remember  
 12 exactly, certainly you want to be telling the judge and the  
 13 other side that. Okay?  
 14 A. Yes, sir.  
 15 Q. Now, let's go forward. I believe you were at the  
 16 stage of talking in terms of trying to assure the Attorney  
 17 General you were willing to continue to investigate, correct?  
 18 A. Yes.  
 19 Q. And what was your hope -- that if you continued to  
 20 investigate, what was your hope that would accomplish?  
 21 A. My hope was I could dissuade him from believing  
 22 that this investigation had any merit and should be  
 23 continued.  
 24 Q. All right. Now, at that time, were you personally  
 25 upset with the Attorney General?

1 A. No, sir.  
 2 Q. What was your mindset as to what you wanted to try  
 3 to do for him?  
 4 A. I thought he was misguided. I thought he was  
 5 biased against law enforcement to his detriment. I thought  
 6 he was too aligned with Nate Paul, whether through friendship  
 7 or -- as time went on, I began to believe other things --  
 8 Q. I don't want -- I don't want the "as time went on."  
 9 Okay? So having said that -- we'll get to that. My point is  
 10 when -- when -- we're in the narrative.  
 11 At the end of the day when you reached out to  
 12 the Attorney General, can you tell me -- after you found out  
 13 about the fact that he wanted to appoint outside counsel, did  
 14 you -- if we get to the middle of August, at that time were  
 15 you aware as who he had decided that he wanted to retain?  
 16 A. Not in the middle of August, but in the middle of  
 17 September, yes.  
 18 Q. All right. Approximately when did you become aware  
 19 of whom he wanted to do the investigation?  
 20 A. That would have been on the September 14th meeting  
 21 with Jeff Mateer.  
 22 Q. All right. And then once you found out who it was,  
 23 what was the -- that he wanted to hire, what was the next  
 24 thing you did in your involvement?  
 25 A. Well, I found that out on the 14th. On the 14th, I

1 also spoke to Michael Wynne and kept trying to get documents.  
 2 Then the next day, the 15th, I emailed Michael Wynne and left  
 3 him a voicemail; no response. On the 16th, the Attorney  
 4 General called me to his office.

5 Q. All right. Now, when he called you to the office,  
 6 were you still -- had you for two straight days been trying  
 7 to get documents from Michael Wynne?

8 A. Yes.

9 Q. And did you personally talk to Michael Wynne either  
 10 of those two occasions?

11 A. I spoke to him on the phone for five minutes on the  
 12 14th.

13 Q. What did you tell him?

14 A. I told him I needed the rest of their documents. I  
 15 said, I've realized I don't think I have everything you got  
 16 from the judge. Would you please give me the documents? And  
 17 then he promised to get back to me; he never did.

18 Q. So the next thing you heard about it was on the  
 19 16th?

20 A. From the Attorney General, the next conversation  
 21 was the 16th.

22 Q. And -- and where did you have this conversation?  
 23 Do you recall whether it was in person or over the phone?

24 A. It was in person in his office.

25 Q. And how did it come about? I mean, how was it?

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1 Did he call you? You call him? What?

2 A. He called me.

3 Q. All right. When he called you, what did he say?

4 A. He said, Come to my office. I want to talk to you.

5 Q. When he did -- when you did come to his office,  
 6 what happened?

7 A. He said, What are these documents you're asking  
 8 Michael Wynne and Nate Paul for? I want you to write down a  
 9 list of the documents on a piece of paper.

10 Q. Stop. Stop for a second. How would he know that  
 11 you were ask -- still asking Michael Wynne for documents?

12 A. Well, I only know of one way, and that would be  
 13 Nate Paul was calling him.

14 MR. LITTLE: Objection, calls for  
 15 speculation.

16 Q. (BY MR. HARDIN) Well, let me ask you this: Do you  
 17 know --

18 PRESIDING OFFICER: Sustained.

19 MR. HARDIN: Excuse me. I'm sorry, Judge.

20 Q. (BY MR. HARDIN) Do you know of any way else that  
 21 was part of your conversation on the 16th or really -- what  
 22 was it? Was it the 16th with Michael Wynne?

23 A. My conversation with Wynne prior to that was the  
 24 14th.

25 Q. All right. Do you know of anybody else besides you

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1 and Michael Wynne that was involved in your conversation  
 2 asking him for additional documents?

3 A. The only other party would be Nate Paul because he  
 4 told me he was going to meet with Nate Paul.

5 MR. LITTLE: Objection, hearsay.

6 PRESIDING OFFICER: Sustained.

7 Q. (BY MR. HARDIN) All right. So other than Michael  
 8 Wynne --

9 MR. LITTLE: Mr. Hardin, hold on. Hold on.

10 MR. HARDIN: Excuse me.

11 MR. LITTLE: Hold on. The objection was  
 12 hearsay as to what Mr. Nate Paul told Mike Wynne.

13 PRESIDING OFFICER: I sustained it.

14 MR. LITTLE: Thank you.

15 PRESIDING OFFICER: Sorry, I think we were  
 16 three talking over each other.

17 MR. HARDIN: Thank you. Thank you very much,  
 18 Your Honor.

19 Q. (BY MR. HARDIN) Now, let me ask you this: When  
 20 the Attorney General asked you to write down the names, did  
 21 he tell you what -- and the documents -- was it the documents  
 22 he said -- he asked you to write down?

23 A. Yes.

24 Q. Did he -- go ahead with the rest of that  
 25 conversation.

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1 A. He asked me to write down the documents. He asked  
 2 me for Michael Wynne's phone number. Then the Attorney  
 3 General told me that they weren't likely to give me any more  
 4 documents because they didn't trust me. They didn't like the  
 5 way the August 12th meeting had gone. They felt I was too  
 6 aligned with Director David Maxwell. And then he said, I'll  
 7 try to get the documents for you.

8 Q. Well, have you ever experienced a supervisor  
 9 telling you that since the person who is asking you to do the  
 10 investigation doesn't trust you, he wants you to get out of  
 11 it and he'll try -- and then he'll go get the documents?

12 MR. LITTLE: Objection, leading.

13 PRESIDING OFFICER: Sustained.

14 Q. (BY MR. HARDIN) Let me ask you this: Have you  
 15 ever had an experience like that?

16 A. No, sir, never before.

17 Q. Well, did he say why he was going to go get the  
 18 documents instead of you?

19 A. He did not say.

20 Q. Did he offer any support for you in their  
 21 allegation that they didn't trust you?

22 A. No. And, in fact, starting on August 12th, he had  
 23 not supported me.

24 Q. So now you've got your Attorney General is against  
 25 you on this issue.

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1 A. Yes.

2 Q. And you're still -- what was your policy or  
3 procedure as you were advancing, trying to still continue to  
4 find out if you could head off the special -- not the  
5 special, but head off the outside counsel?

6 A. Well, number one, I was keeping Jeff Mateer  
7 informed of everything that was going on. I was sharing my  
8 views with him. He was my immediate supervisor, and so I  
9 frequently talked to Jeff in person or on the phone and  
10 updated him on everything I was thinking and doing.

11 Q. All right. So were you effectively taken out of  
12 the Nate Paul investigation after the call on the 14th?

13 A. Yes. Later I realized the Attorney General had cut  
14 me completely out of the loop.

15 Q. All right. But even at the time he did, had you  
16 ever indicated to him in any way that you were not willing to  
17 continue to look into the matter if they would provide you  
18 the documents they claimed to have?

19 MR. LITTLE: Objection, leading.

20 MR. HARDIN: That is not leading.

21 A. No, sir.

22 PRESIDING OFFICER: Overruled.

23 Q. (BY MR. HARDIN) Pardon me?

24 A. No. I never told the Attorney General I would  
25 refuse to investigate if they would cooperate.

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1 Q. All right. Had you ever experienced before  
2 anything concerning continuing getting off of an  
3 investigation because you -- or in spite of -- let me put it  
4 another way: Have you ever had an experience in which an  
5 investigation continues to try to help somebody who won't  
6 cooperate with you?

7 A. No, sir. If someone won't cooperate, that's a  
8 giant stop sign.

9 Q. All right. Now, for one, after the 16th in your  
10 conversation with the Attorney General, when was the next  
11 time you had any involvement in this case?

12 A. The next time was on the 23rd.

13 Q. 23rd of September?

14 A. Actually, let me back up. I had the meeting with  
15 the Attorney General on the 16th. One other significant  
16 matter occurred on this case that day that related to me, and  
17 that was in my email I received a DocuSign email requesting  
18 approval or declination for an executive approval memorandum  
19 for an outside counsel contract for Brandon Cammack.

20 Q. All right. Can I --

21 MR. HARDIN: Your Honor, at this time I'll  
22 move to introduce Exhibit 236. I believe it is not in  
23 evidence.

24 PRESIDING OFFICER: It is not.

25 MR. HARDIN: I show it's not. Let me check

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1 with the true person.

2 PRESIDING OFFICER: Any objection?

3 MR. LITTLE: Briefly, if I may, Your Honor.  
4 This document isn't a complete -- if Your Honor will take a  
5 look at House Managers' 236, it is a partial image of a  
6 DocuSign report, what I'll call a completion report, but it  
7 doesn't go to the bottom and include Mark Penley.

8 MR. HARDIN: Your Honor, if I may, this is the  
9 cover page -- or one of the pages that will reflect what was  
10 happening with the document. It was already -- there is a  
11 draft of it in evidence. I'll get that. If they object to  
12 this, then --

13 MR. LITTLE: It's just simply incomplete. We  
14 can't see what Mark Penley did and the dates at the bottom of  
15 236.

16 MR. HARDIN: That's fine. In the interest of  
17 time, let me -- I'll --

18 PRESIDING OFFICER: Sustained.

19 MR. HARDIN: Thank you.

20 Q. (BY MR. HARDIN) Now, in the conversation that you  
21 had with him on the 16th, the other matter you said that you  
22 didn't complete was what?

23 A. The other matter on the 16th was I received a  
24 DocuSign email.

25 Q. Right. And what was the significant of you

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1 receiving that?

2 A. The significance was the -- it was office practice  
3 for certain contracts to be approved by a number of people in  
4 the chain of command. And since this matter involved a  
5 criminal investigation, it was routed through me. And it was  
6 to go on to other people. The last signer was to be Jeff  
7 Mateer, the first assistant.

8 Q. Did you sign off and agree to this contract for  
9 Mr. Cammack?

10 A. I did not.

11 Q. And on the 16th of September, did you do anything  
12 in relation to it?

13 A. No. I saw it was there. I knew I wasn't going to  
14 approve it. I didn't touch it.

15 Q. And if you didn't touch it, does anything happen  
16 with the contract until you, the division involved, sign off  
17 on it?

18 A. It should not have.

19 Q. All right. And then when is the next time you had  
20 any contact with anyone about it?

21 A. The next time I had any news about the Nate Paul  
22 matter was on the 23rd.

23 Q. And what happened on the 23rd and what was your  
24 contact and with whom?

25 A. I had contact with Ryan Vassar. I got word that

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1 the Attorney General was asking where --  
 2 MR. LITTLE: Objection, hearsay.  
 3 MR. HARDIN: It is. You're absolutely  
 4 right.  
 5 PRESIDING OFFICER: Sustained.  
 6 MR. HARDIN: You're absolutely right.  
 7 PRESIDING OFFICER: Thank you, Counselor, for  
 8 that help.  
 9 MR. HARDIN: Thank you. Thank you, Your  
 10 Honor.  
 11 Q. (BY MR. HARDIN) So when you -- did you get to talk  
 12 at all to the Attorney General during this time frame?  
 13 A. Not on -- not between the 16th and 23rd, but I did  
 14 on the 24th.  
 15 Q. All right. On the 24th, where did you talk to him?  
 16 A. He called me on the phone. He told me he was at  
 17 the White House. He said he had just left a meeting in the  
 18 Oval Office, and he wanted me to approve the DocuSign  
 19 executive approval memo for the outside-counsel contract.  
 20 Q. What -- what do you remember about that  
 21 conversation?  
 22 A. I remember we talked for about ten minutes. And  
 23 that was the day that I drew the line with the Attorney  
 24 General that I would not cross, and I never did. I said I  
 25 would not approve the contract. I said --

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1 Q. Hold on.  
 2 MR. LITTLE: Object to nonresponsive, move to  
 3 strike.  
 4 PRESIDING OFFICER: Sustained.  
 5 Q. (BY MR. HARDIN) Hold on. What -- just as best as  
 6 you can remember, tell us exactly what and how he said, what  
 7 he did, and then tell me your response to it.  
 8 A. He said, Mark, I'm at the White House. I just left  
 9 a meeting in the Oval Office. I understand that the  
 10 executive approval memo is with you. I need you to approve  
 11 that contract.  
 12 Q. At that time, were you aware one way or the other  
 13 whether the contract had been signed by the Attorney General?  
 14 A. No. I wouldn't expect --  
 15 Q. Just -- there you go. Did you know?  
 16 A. I didn't know.  
 17 Q. All right. And so at that time, what was your  
 18 level of knowledge of the status of the contract?  
 19 A. That it was stuck in my email inbox, and it  
 20 hasn't -- had not been approved through the normal office  
 21 procedure because I wouldn't approve it.  
 22 Q. All right. What did you respond to the Attorney  
 23 General?  
 24 A. I said, Ken, I cannot approve this and respectfully  
 25 I will not, and I told him why.

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1 Q. All right. Would you articulate for the jury  
 2 exactly what you told him as to why you were not willing to  
 3 approve that contract?  
 4 A. I told him that Nate Paul and his attorney were not  
 5 being cooperative with us by giving us all the documents that  
 6 I believed they had. They had gone to the media.  
 7 Furthermore, there was no evidence of any crime. We had  
 8 absolutely no scintilla of evidence that any criminal  
 9 activity had occurred on the part of the federal agents, the  
 10 state agents, the federal prosecutor, or the federal judge.  
 11 And I said, Ethically, Ken, I can't proceed  
 12 with this investigation. And I'm the senior prosecutor in  
 13 the agency; and if it's not right for me to do it, it's not  
 14 right for me to delegate it to anybody else. I won't sign  
 15 this.  
 16 Q. What was his response?  
 17 A. He said, Well, we'll have to disagree on this.  
 18 I've got to go to a press conference. We'll talk later.  
 19 Q. What was your history with the Attorney General as  
 20 to how he would handle or respond to areas of disagreement  
 21 with you and the staff?  
 22 A. Well, by this time, I had realized he was very  
 23 passive-aggressive.  
 24 Q. And what do you mean?  
 25 A. I mean he'd say something was okay or indicate he

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1 accepted your opinion one day, and then you would find out  
 2 later he had gone around you or he was disagreeing with you,  
 3 but he wouldn't come and tell me that.  
 4 Q. Over the months that this had been going on, had  
 5 you become aware of anything involving Mr. Paul and the  
 6 Attorney General -- and this is as -- I'm really at the day  
 7 of the 24th of September. Had you at that stage become aware  
 8 of other incidents that were occurring, or were you pretty  
 9 much just knowledgeable of what -- about the events that were  
 10 affecting you?  
 11 A. I had heard a little bit about --  
 12 Q. I don't want to hear what you heard.  
 13 MR. LITTLE: Objection, hearsay.  
 14 Q. (BY MR. HARDIN) Only that if you had heard things.  
 15 A. Yes, I had heard some things, not much.  
 16 Q. But as a practical matter day by day, was your  
 17 knowledge of things with the Attorney General and Mr. Paul  
 18 pretty much generally restricted to the things that you've  
 19 been telling the jury about that involved you?  
 20 A. Yes. My knowledge was siloed.  
 21 Q. All right.  
 22 A. I didn't know about these other issues until later.  
 23 Q. All right. Now, on the 24th when you told him that  
 24 and he said, We'll just have to disagree --  
 25 A. Yes.

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1 Q. -- when was the next time you heard from him?  
 2 A. He called me again on the next day, Friday,  
 3 September 25th.  
 4 Q. And what was -- and do you know where he was at  
 5 that time?  
 6 A. I don't know.  
 7 Q. And what did he say then?  
 8 A. He said, Are you available to meet with me  
 9 tomorrow?  
 10 Q. What did you tell him?  
 11 A. I said yes.  
 12 Q. What happened? So what happened?  
 13 A. I said, Can I assume it's about the matter we  
 14 discussed yesterday? And he said it was, and then we talked  
 15 about scheduling.  
 16 Q. Where did he want to meet and when?  
 17 A. He wanted me to come to McKinney. I told him I had  
 18 an event to go to in Denton in the middle of the day. I  
 19 said, I'll meet you before or after. He asked me to meet  
 20 with him at 2:00 o'clock in McKinney. He said he would text  
 21 me a location, which he did later that day.  
 22 Q. All right. So then did you meet with the Attorney  
 23 General of the State of Texas regarding Nate Paul and the  
 24 contract for an outside lawyer to investigate? Did you meet  
 25 with him about that matter on Saturday, September the 26th?

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1 A. Yes, sir.  
 2 Q. What time of day and where did you meet?  
 3 A. The meeting was scheduled to begin at 2:00 o'clock.  
 4 I was there before 2:00. He arrived about 2:20 or 2:15. We  
 5 met until -- for an hour and 45 minutes.  
 6 Q. And when he got there, where did you go? Where did  
 7 you meet?  
 8 A. Well, he asked me to meet in one coffee shop, a  
 9 Panera Bread; and I was there. He came inside and let's go  
 10 sit outside, and he crossed the driveway. There was a  
 11 Dunkin' Donuts across the driveway that had an outside table  
 12 with an umbrella, and he wanted to sit there.  
 13 Q. So unlike what we're experiencing so far right now  
 14 in September, was it a September day with more normal weather  
 15 that was cool enough to comfortably sit outside?  
 16 A. Yes, sir.  
 17 Q. All right. And then who began the conversation?  
 18 A. He did.  
 19 Q. What did he say?  
 20 A. He said he was frustrated. He said, I felt like I  
 21 did when I couldn't get Chip Roy to do what I wanted him to  
 22 do. My staff's not doing what I'm telling them.  
 23 Q. Chip Roy was the previous first assistant; is that  
 24 correct?  
 25 A. That's correct.

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1 Q. All right. Now, when he -- what did you respond to  
 2 that?  
 3 A. Well, he then went on to talk about he wanted me to  
 4 approve the contract. He was upset that I hadn't approved it  
 5 or that Jeff Mateer hadn't approved it.  
 6 Q. I want to go back, if I can, to whether or not you  
 7 did any preparation for this meeting.  
 8 A. Yes, sir, I did.  
 9 Q. Tell the jury what you did in anticipation of this  
 10 meeting.  
 11 A. Well, in all honesty, I woke up at 5:00 o'clock in  
 12 the morning, and I felt like the Lord woke me up and  
 13 impressed upon me that I needed to get ready; this was a  
 14 serious situation. Again, I felt like my job was in  
 15 jeopardy. I didn't want to get fired. And I was hoping that  
 16 I could get Ken Paxton to listen to reason.  
 17 And so I -- I did my morning Bible reading.  
 18 There was a verse in there. It said, Do true justice,  
 19 Zechariah 7:9. And I wrote that on the top of my notes, and  
 20 then I proceeded to write out a bullet point outline with all  
 21 the problems with proceeding with the investigation of the  
 22 Nate Paul matter, and I wrote down things that I felt like he  
 23 needed to understand that were a danger to him personally and  
 24 careerwise.  
 25 MR. HARDIN: So if I may, I -- I'm going to

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1 ask if we can show him a copy of the first page -- I mean, of  
 2 the first -- the notes that he prepared before the meeting.  
 3 I have marked this as Exhibit 214. It's not in evidence, but  
 4 I wonder if we have a copy we can show him that's clean.  
 5 Mine's got all kind of markings on it.  
 6 A. Sir, I have a copy here.  
 7 Q. (BY MR. HARDIN) Pardon me?  
 8 A. I have a copy.  
 9 Q. I know, but I want to show you one that's got the  
 10 exhibit. I want you to look at it, identify it, but I don't  
 11 want you to testify about what's in it yet. I want you to  
 12 look and see if that is a true and accurate copy of the notes  
 13 you prepared in anticipation of meeting with the Attorney  
 14 General.  
 15 A. Yes, sir.  
 16 Q. All right. Would you look -- it's a two-page  
 17 notes -- well, it's three pages really, isn't it?  
 18 A. It's -- it's front and back copies.  
 19 Q. All right.  
 20 A. There are three pages.  
 21 Q. All right. You went away from your microphone  
 22 again.  
 23 A. I'm sorry. There are three pages.  
 24 Q. I've done it much more times than you have.  
 25 All right. And in those -- do those notes

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1 accurately reflect your thoughts that you were reducing to  
 2 writing in anticipation of discussing this subject with the  
 3 Attorney General?  
 4 A. Yes, sir.  
 5 MR. HARDIN: Your Honor, I'll move to  
 6 introduce. These have been produced. Both sides have these.  
 7 Actually, I think we received these notes from the Attorney  
 8 General's Office in the production. Or actually we got them  
 9 from Mr. Penley, excuse me.  
 10 PRESIDING OFFICER: Any objection?  
 11 MR. LITTLE: Yes, Mr. President. These --  
 12 Mr. Hardin has not provided me a copy of the document, but  
 13 I'm extensively familiar with it. It's hearsay. It was  
 14 not -- these were not notes from a meeting with the Attorney  
 15 General. These were the out-of-court statements of  
 16 Mr. Penley expressed in an outline prior to the meeting. And  
 17 hence, they are inadmissible hearsay.  
 18 MR. HARDIN: Do we have a copy for the  
 19 attorney -- for the Court? Does the Court have a copy? Oh,  
 20 thank you.  
 21 PRESIDING OFFICER: I'm going to sustain the  
 22 objection.  
 23 MR. HARDIN: Thank you.  
 24 Q. (BY MR. HARDIN) Now, these notes that you have --  
 25 are these -- a copy of these same notes that we've talked  
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1 about, Exhibit 214, do you have them up there with you?  
 2 A. I do.  
 3 Q. Can you tell the jury in general, from your own  
 4 memory, all the things that you planned you were going to  
 5 tell him?  
 6 A. Yes.  
 7 MR. LITTLE: Hold on. I believe that Your  
 8 Honor sustained my objection to hearsay, and so any testimony  
 9 from this document would also be hearsay.  
 10 MR. HARDIN: I didn't ask him to testify from  
 11 it. In fact, I asked him the exact opposite.  
 12 Q. (BY MR. HARDIN) I said simply put them down. Now  
 13 tell us in your own mind, and if you need to refer to them to  
 14 remind yourself or something, but my questions to you are  
 15 directed to what you told the -- what you planned to tell the  
 16 Attorney General --  
 17 A. Right.  
 18 Q. -- in both tone and content for this meeting of the  
 19 26th.  
 20 PRESIDING OFFICER: Overruled. Continue.  
 21 Continue.  
 22 A. Sir, what I planned to tell the Attorney General  
 23 was, number one, this was a very dangerous investigation for  
 24 him to continue. He was a friend of Nate Paul's. Nate Paul  
 25 is a campaign donor to him. There was no evidence of any  
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1 criminal wrongdoing. There was no legal basis to continue  
 2 the investigation. There was no ethical basis to continue  
 3 the investigation. In fact, I felt it was unethical to  
 4 continue. I felt that Nate Paul was trying to manipulate me  
 5 and Director Maxwell and the Attorney General to do an  
 6 investigation that had no merit, and we shouldn't be doing  
 7 it.  
 8 And then I also told him there was great risk  
 9 to him. This could look like bribery. This could turn into  
 10 a criminal charge against him. I told him this could turn  
 11 into a media scandal if it got out. I said, You should not  
 12 be doing this. Please back away from this. Let me handle  
 13 this my way.  
 14 And then I -- I had a section where I wanted  
 15 to go over with him the practical difficulties of doing the  
 16 investigation that he wanted us to do. As I explained  
 17 previously, the issued set of search warrants were still  
 18 under seal at the federal district clerk's office by federal  
 19 court order. I had no way to get access to those. The  
 20 original computer that the forensic experts --  
 21 MR. LITTLE: Mr. President, I need to object  
 22 to the narrative testimony. This needs to be a response to a  
 23 question.  
 24 PRESIDING OFFICER: Sustained.  
 25 Q. (BY MR. HARDIN) All right. So you're telling us  
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1 what you planned to do. My next question is, did you tell  
 2 him what you have just testified to the jury?  
 3 A. Yes. I told him all of those things and many  
 4 others.  
 5 Q. And I'm about to ask you about the many others. So  
 6 let's go now to the 26th itself. You get up at the morning;  
 7 you write all these things out that you've been testifying  
 8 about. What else did you tell him in an attempt to persuade  
 9 him to drop the Nate Paul matter?  
 10 A. Number one, I told him I don't know Mr. Cammack. I  
 11 don't know his experience level. It's my understanding he's  
 12 never been a prosecutor. I'm not going to supervise him.  
 13 He told me at that meeting for the first time  
 14 that Mr. Cammack had already been hired and was working and  
 15 had been working on this for at least two weeks. I did not  
 16 know that.  
 17 Q. What did you say in response to that?  
 18 A. Well, I said, I won't supervise him. And he said,  
 19 Don't worry, I will.  
 20 Q. Well, did you know anything in the background of  
 21 the Attorney General that would have qualified him to  
 22 supervise a federal -- or not a federal, but a state  
 23 prosecution investigation?  
 24 A. Nothing whatsoever.  
 25 Q. So when you said you wouldn't supervise him and he  
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1 said, Don't worry, I will, what did he say then?  
 2 A. Well, I think the conversation shifted at that  
 3 point, and I was trying to tell him, Stop Mr. Cammack -- in  
 4 fact, this was at the end of the meeting. I had two  
 5 recommendations for him. Stop Mr. Cammack and talk to Jeff  
 6 Mateer about a way to get Mr. Cammack paid for whatever he's  
 7 already done.  
 8 That was one of the Attorney General's big  
 9 issues in the conversation. This guy's working, and I've got  
 10 to pay him. And you won't sign the executive approval memo,  
 11 so I don't have money in the budget to pay him with.  
 12 And then he threw out, I spent \$50,000 on my  
 13 personal lawsuit last month. And then he made comments about  
 14 his distrust of law enforcement and his concern about --  
 15 Q. What did he say about law enforcement?  
 16 A. He said -- he said, You don't know what it feels  
 17 like to be the target of a corrupt law enforcement  
 18 investigation. I've spent \$50,000 on my case, things of that  
 19 nature. He made many comments to me -- or several, I'll say  
 20 several -- during the course of these months that indicated  
 21 he had a negative attitude and a distrust of law enforcement.  
 22 Q. Did he particularly ever focus on DPS in his  
 23 negative attitude?  
 24 A. Yes, I've heard him make negative comments about  
 25 DPS.

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1 Q. Like what?  
 2 A. He doesn't trust the director, and he feels like  
 3 the DPS ran a corrupt investigation on him in the securities  
 4 fraud matter.  
 5 Q. Did he have the same feeling about the Securities  
 6 Board?  
 7 A. I did not hear him talk about the Securities Board.  
 8 Q. All right. Were you aware of one other -- one way  
 9 or the other as to whether a representative of the Securities  
 10 Board had been involved in a search warrant?  
 11 A. Yes, I knew at least one of their agents was a task  
 12 force officer with the FBI on the searches.  
 13 Q. And do you know who that officer was?  
 14 A. Yes.  
 15 Q. Who?  
 16 A. His name is Rani Sabban or Sabban.  
 17 Q. Will you spell Sabban or Sabban for the court  
 18 reporter?  
 19 A. S-a-b-b-a-n.  
 20 Q. How would he know -- do you know who -- let me back  
 21 up.  
 22 In your meetings with him back starting in  
 23 July and into August, in one of those meetings, was there a  
 24 conversation with him and Mr. -- these are the three meetings  
 25 we talked about.

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1 A. Yes, sir.  
 2 Q. In which he specifically addressed the issue as to  
 3 whether Agent Sabban was actually the applicant for the  
 4 search warrant?  
 5 MR. LITTLE: Objection, leading.  
 6 Q. (BY MR. HARDIN) Did you ever hear --  
 7 PRESIDING OFFICER: Sustained.  
 8 Q. (BY MR. HARDIN) Did you ever hear anything from  
 9 him during those meetings with you about Agent Sabban?  
 10 A. Yes, sir. You're talking about Nate Paul's  
 11 comments?  
 12 Q. Yes.  
 13 A. Yes, I did.  
 14 Q. And in the meetings, did you ever hear him say that  
 15 Agent Sabban was the affiant in the application for the  
 16 search warrant?  
 17 MR. LITTLE: Objection, hearsay as I  
 18 understand this to be Mr. Paul's comments offered for their  
 19 truth.  
 20 PRESIDING OFFICER: Sustained.  
 21 Q. (BY MR. HARDIN) Did you discover at any time that  
 22 Mr. Wynne and Mr. Paul knew the identity of the agent that  
 23 signed the application for the search warrant?  
 24 MR. LITTLE: Objection, hearsay. If  
 25 necessary, I will take this witness on voir dire to establish

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1 that the basis for his knowledge is hearsay.  
 2 PRESIDING OFFICER: Sustained.  
 3 Q. (BY MR. HARDIN) Did you ultimately discover that  
 4 these folks in your meetings knew who had been the applicant  
 5 in a search warrant that was sealed -- application that was  
 6 sealed?  
 7 MR. LITTLE: Same objection, hearsay. And I'm  
 8 happy to take this witness on voir dire --  
 9 MR. HARDIN: I asked --  
 10 MR. LITTLE: -- to establish that.  
 11 MR. HARDIN: I asked if he ever became  
 12 aware.  
 13 PRESIDING OFFICER: It's sustained.  
 14 Q. (BY MR. HARDIN) All right. Now, would anyone be  
 15 able to know the identity of the agent that signed the search  
 16 warrant -- the application for the search warrant if they had  
 17 not had access to a sealed document?  
 18 MR. LITTLE: Objection, assumes facts not in  
 19 this evidence and calls for this witness to speculate on that  
 20 topic.  
 21 Q. (BY MR. HARDIN) Let me ask --  
 22 PRESIDING OFFICER: Sustained.  
 23 Q. (BY MR. HARDIN) Let me ask you this: Did you  
 24 review the grand jury subpoenas that were ultimately served  
 25 by Mr. Cammack?

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1 A. Yes.  
 2 Q. Did you see the name of Agent Sabban on there?  
 3 A. Yes.  
 4 Q. Would Agent Sabban's identity be known to anybody  
 5 that had not seen the sealed document?  
 6 MR. LITTLE: Objection, calls for speculation  
 7 again.  
 8 Q. (BY MR. HARDIN) To your knowledge?  
 9 PRESIDING OFFICER: Sustained.  
 10 Q. (BY MR. HARDIN) Now, do you remember back when the  
 11 presentations -- they were making a PowerPoint presentation  
 12 they brought to that meeting?  
 13 A. Yes.  
 14 Q. And do you recall what that PowerPoint presentation  
 15 was called?  
 16 A. Yes, sir, I do. It was called the Operation  
 17 Longhorn.  
 18 Q. Was that PowerPoint presented to you by Mr. Wynne  
 19 and Mr. Paul?  
 20 A. Yes, Mr. Paul specifically.  
 21 Q. All right.  
 22 MR. HARDIN: Can I have the exhibit number,  
 23 please, of the PowerPoint? It's in evidence. In fact, I  
 24 think it was introduced by the other side.  
 25 PRESIDING OFFICER: It's in evidence.  
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1 MR. HARDIN: Could you put up Exhibit 152,  
 2 please? Now, go to the next page, please.  
 3 Q. (BY MR. HARDIN) Do you recognize this exhibit,  
 4 please?  
 5 A. I do. That's the document Mr. Paul gave me at the  
 6 August 5th meeting.  
 7 Q. Fine.  
 8 PRESIDING OFFICER: One moment, please. Can  
 9 you confirm, Mr. Hardin, that everything has been redacted  
 10 from -- this was the --  
 11 MR. HARDIN: Thank you very much. No, thank  
 12 you very much.  
 13 PRESIDING OFFICER: This was the piece of  
 14 evidence that we paused to redact information. Can you  
 15 confirm that?  
 16 MR. HARDIN: I want to make sure.  
 17 PRESIDING OFFICER: I saw two thumbs up from  
 18 Stacey.  
 19 MR. HARDIN: Two thumbs up says it has been,  
 20 Judge. And I -- we've done that in light of the other  
 21 presentation. Thank you very much.  
 22 Q. (BY MR. HARDIN) In this search warrant, if we  
 23 could -- the search warrant discussion, rather, it talks  
 24 about when it was executed, all right? And it says down at  
 25 the bottom, I'll publish -- I'll read that to you: According  
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1 to the filings with the court in the Western District of  
 2 Texas, each of these forms was signed and issued by Judge  
 3 Mark Lane at 10:00 a.m.  
 4 Is Judge Mark Lane one of the officials they  
 5 wanted investigated?  
 6 A. Yes. He's a federal magistrate judge in Austin,  
 7 and they wanted me to do a criminal investigation on him.  
 8 Q. All right.  
 9 MR. HARDIN: Next page, please.  
 10 Q. (BY MR. HARDIN) Now, this sets out, does it not,  
 11 that they -- they have discovered through their forensic  
 12 analysis of the metadata and what we've been talking about  
 13 before. And it was emailed and given them by Alan Buie to  
 14 the counsels Chuck Meadows and Aaron Borden. Those people  
 15 were -- back in August 14th of '19 were representing Nate  
 16 Paul, correct?  
 17 A. Yes. My understanding was at that time he was  
 18 represented by Austin attorney Gerry Morris and the Dallas  
 19 law firm of Meadows & Collier.  
 20 MR. HARDIN: Next. Next page.  
 21 Q. (BY MR. HARDIN) Now, they point out to you that  
 22 below is pertinent to how we discovered through forensic  
 23 analysis and the document had been mailed by the federal  
 24 prosecutor.  
 25 Alan Buie is the federal prosecutor, right?  
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1 A. Yes, he is.  
 2 Q. Okay. Then they give us the data that they've got  
 3 there as to where this server is located.  
 4 MR. HARDIN: Can I have the next page, please?  
 5 Q. (BY MR. HARDIN) They have the addresses where the  
 6 search warrant was to be executed on, right?  
 7 A. Yes.  
 8 MR. HARDIN: Next page.  
 9 Q. (BY MR. HARDIN) Now, do you have any idea how they  
 10 would have all this information? Now, answer yes or no  
 11 first.  
 12 MR. LITTLE: Objection, calls for speculation.  
 13 A. Do I have any idea?  
 14 MR. LITTLE: Hold on, Mr. Penley.  
 15 MR. HARDIN: I asked -- the question was  
 16 knowledge. I just asked if he had any knowledge of it.  
 17 PRESIDING OFFICER: If you can, answer yes or  
 18 no.  
 19 A. Yes, I have some knowledge.  
 20 MR. HARDIN: Can I have --  
 21 Q. (BY MR. HARDIN) It talks, does it not, about  
 22 Mr. Sabban, does it not?  
 23 A. It does. It mentions his name at the top.  
 24 Q. All right. Do you know if he -- if he appears in  
 25 any of the document of the original search warrant itself?  
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1 Have you looked at that to see of the part that was public if  
 2 his name appears at all?  
 3 MR. LITTLE: Objection, lack of foundation for  
 4 this witness's personal knowledge of that.  
 5 MR. HARDIN: I asked if he has read the search  
 6 warrant --  
 7 PRESIDING OFFICER: Sustained.  
 8 MR. HARDIN: -- that was public. Let me try  
 9 again, Your Honor.  
 10 Q. (BY MR. HARDIN) Have you looked at and reviewed  
 11 the search warrant that was public information is and was the  
 12 search warrant that was ultimately given to the attorneys of  
 13 Mr. Paul after the search?  
 14 A. Yes, sir.  
 15 Q. On -- anywhere on that search warrant does it  
 16 mention the name of Mr. Sabban?  
 17 A. No, sir, it does not.  
 18 MR. HARDIN: Next page.  
 19 Q. (BY MR. HARDIN) It lays out, does it not, the  
 20 things that they're complaining about, right?  
 21 A. It does. And these were things we told them we had  
 22 no jurisdiction over.  
 23 MR. HARDIN: Next page.  
 24 Q. (BY MR. HARDIN) Now, it has people of interest.  
 25 And are these people that they wanted you to investigate?  
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1 A. Yes, they wanted us to investigate each of these  
 2 people.  
 3 Q. Would you go down the list and see why -- and tell  
 4 us what they told you or what -- what these people they were  
 5 requesting to be investigated's roles were?  
 6 A. Yes. Rani Sabban was on the task force. He was at  
 7 the search warrant that was executed at Mr. Paul's residence.  
 8 Mr. Paul stated he had personal conversations with him during  
 9 that search.  
 10 Agent Joy of the FBI, he was mentioned. I  
 11 don't know which location he searched.  
 12 They represented that Ms. Sobrevilla-Dent was  
 13 a courtroom deputy clerk to a United States magistrate  
 14 judge.  
 15 Q. Yeah, can you explain to us why in the world you  
 16 were supposed to investigate a courtroom deputy clerk of a  
 17 federal magistrate?  
 18 A. I have no idea how there's a state interest in  
 19 doing that. The federal authorities have full control over  
 20 the federal district clerk's office, and their law  
 21 enforcement and their Inspector General's Office has the full  
 22 ability to go in and get all the documents needed to do such  
 23 an investigation. We did not.  
 24 Q. All right.  
 25 MR. HARDIN: Now, if I can have the next page  
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1 real quickly and let's move through this.  
 2 Q. (BY MR. HARDIN) They give you information. This  
 3 man that they want you to investigate was actually a member  
 4 of the board of the agency that had brought the charges  
 5 against the Attorney General, correct?  
 6 A. Yes, I became aware of that.  
 7 Q. All right. That's all I need there.  
 8 I -- did it have personal data about him that  
 9 has been extracted from this?  
 10 A. Can I see that page again?  
 11 Q. Yes.  
 12 MR. HARDIN: Do you have the page?  
 13 Q. (BY MR. HARDIN) If you know. If you don't know --  
 14 A. And I'm sorry, could you ask the question again?  
 15 Q. Let's move on.  
 16 MR. HARDIN: You can take that down.  
 17 Q. (BY MR. HARDIN) But there were code words in this  
 18 thing, weren't there?  
 19 A. Yes, there were.  
 20 Q. Well, did you have any idea what they were or what  
 21 they were supposed to represent?  
 22 A. Oh, Operation Longhorn?  
 23 Q. Hold on. Are there -- we're on top of each other.  
 24 PRESIDING OFFICER: Excuse me. Try not to  
 25 talk over each other --  
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1 MR. HARDIN: Absolutely.  
 2 PRESIDING OFFICER: -- for the court reporter.  
 3 MR. HARDIN: Absolutely. Thank you, Judge,  
 4 Your Honor.  
 5 Q. (BY MR. HARDIN) Were there different little code  
 6 names like Longhorn and other things? Do you remember what  
 7 any of them were?  
 8 A. Well, the only one I knew at the time was Operation  
 9 Longhorn. I've learned some since this summer.  
 10 Q. All right. Now, if I can, at the end of the day on  
 11 the 26th when you were talking to him, that Saturday, you've  
 12 talked about an almost two-hour conversation.  
 13 A. Yes.  
 14 Q. Do you recall at the end of the conversation -- do  
 15 you recall anything else that the Attorney General said to  
 16 you in response to your urgings that you've described to the  
 17 jury?  
 18 A. May I review my handwritten notes to refresh my  
 19 recollection? Because there were many other things  
 20 discussed.  
 21 Q. Yes. Don't read from the notes, but you can look  
 22 at them and see if that refreshes you.  
 23 A. All right.  
 24 MR. LITTLE: To be clear, Mr. President, I do  
 25 not know what notes he possesses up at the stand, and I would  
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1 like to at least be able to review those.  
 2 MR. HARDIN: I thought we gave him 214. If we  
 3 did not, could we, please.  
 4 MR. LITTLE: 214 are not notes, Mr. Hardin.  
 5 That is his outline from before the meeting. So if he's  
 6 using that to refresh his recollection, he will be using a  
 7 document that has been --  
 8 MR. HARDIN: Which --  
 9 MR. LITTLE: -- has been overruled as hearsay.  
 10 MR. HARDIN: Which, in more years than I'd  
 11 like to admit, a witness regularly does. So that is not --  
 12 MR. LITTLE: An expert witness.  
 13 MR. HARDIN: Excuse me. That's not a  
 14 legitimate -- this man has brought up his notes. They're not  
 15 in evidence. They've objected to them. He is certainly  
 16 allowed to look at documents not in evidence to refresh his  
 17 memory. He just can't read from them.  
 18 PRESIDING OFFICER: Would you show counsel  
 19 these notes?  
 20 MR. LITTLE: And, Mr. President, what I would  
 21 like to do is take this witness on voir dire to establish  
 22 that -- wait, hold on a second. You said 214. This is 216.  
 23 So you're asking him to review 216? These are his notes, 216  
 24 is.  
 25 MR. HARDIN: Pardon me?

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1 MR. LITTLE: Okay.  
 2 MR. HARDIN: I've got a bunch of voices around  
 3 me.  
 4 MR. LITTLE: You've got a lot of people  
 5 talking to you.  
 6 MR. HARDIN: I'm sorry.  
 7 MR. LITTLE: Are you asking him to review 216?  
 8 MR. HARDIN: We've -- you're right. You're  
 9 right.  
 10 MR. LITTLE: These are his notes.  
 11 MR. HARDIN: Excuse me. Just so the Court  
 12 knows what we're talking about. 214 is the document that he  
 13 planned -- of what he planned to talk about. He's right.  
 14 216 is what I'm asking him to look at and what he was about  
 15 to look at. So I just gave you the wrong number. If you  
 16 want 216 -- well, you have 216 produced --  
 17 MR. LITTLE: No objection to 216. I plan to  
 18 introduce it as well.  
 19 MR. HARDIN: All right. Neither one of them  
 20 to answer your question earlier.  
 21 PRESIDING OFFICER: Have we settled this,  
 22 Counselors? No objection --  
 23 MR. LITTLE: I believe we have.  
 24 PRESIDING OFFICER: -- to what he's going to  
 25 read from? Okay.

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1 Q. (BY MR. HARDIN) All right. Now, have you  
 2 reviewed -- you've reviewed your notes from the day after.  
 3 Did you type up those notes -- write those things by hand  
 4 before or after, during? When did you do it, the meeting?  
 5 A. I wrote these notes when I got home that evening  
 6 after the McKinney meeting, and they're handwritten.  
 7 Q. Have you reviewed them?  
 8 A. No, sir, if I could have a minute. I wanted to be  
 9 sure I had permission to.  
 10 Q. Go ahead.  
 11 A. (Witness reviews notes.)  
 12 Yes, sir, I've reviewed the notes.  
 13 Q. All right. Was there anything else that you  
 14 recall? Does that help refresh your memory as to whether  
 15 there was anything else in your discussion that the Attorney  
 16 General said?  
 17 A. Yes, there were several things. Number one, I  
 18 asked him why he was so interested in this investigation when  
 19 he was not interested in all the other criminal  
 20 investigations and cases we had pending in the office.  
 21 Q. All right. And what was his response?  
 22 A. His response was, I don't know about the other  
 23 cases, but I know about this one, and I'm concerned about  
 24 corrupt law enforcement because of what's happened to me.  
 25 Q. All right. Anything else you recall he said in

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1 that conversation on the 26th?  
 2 A. We discussed the fact that he had taken Nate Paul  
 3 personally to the Travis County District Attorney's Office.  
 4 Q. Did you ask him or did he volunteer that?  
 5 A. I told him I had learned that. By this time I had  
 6 heard that.  
 7 Q. And what was his response?  
 8 A. His response is, Well, I didn't request the  
 9 investigation from them. They had a conflict, and they asked  
 10 me if I wanted it, and I said yes.  
 11 Q. All right. What else?  
 12 A. I -- I told him there was no state basis for  
 13 believing there was any state offense. And he kept bringing  
 14 up Nate Paul and Michael Wynne's complaint that the agents  
 15 hadn't left a copy of this search warrant at the residence or  
 16 the office, allegedly. I don't know if that's true or not.  
 17 Q. Is that something he wanted the Attorney General's  
 18 Office to investigate about?  
 19 A. Apparently he did because he told me that the fact  
 20 that I didn't think that was serious -- which I didn't and I  
 21 explained to him why. That's a Federal Rule of Criminal  
 22 Procedure. That's not even a misdemeanor statute. And  
 23 that's something the magistrate can deal with very easily if  
 24 it's true. But he said that was a red flag to him that  
 25 indicated I was too biased in favor of law enforcement.

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1 Q. How was the tone of this conversation?  
 2 A. He was frustrated and that was the most -- it  
 3 wasn't a hostile conversation, but it was a difficult  
 4 conversation.  
 5 Q. How did the conversation end?  
 6 A. I told him that I was trying to be a loyal  
 7 subordinate and a friend, and I still considered myself a  
 8 friend even up to that very day. And I was trying to walk  
 9 him back from what I thought was a dangerous line he was  
 10 trying to cross. And I told him all my reasons, that he  
 11 could face criminal charges, bribery, other things. It could  
 12 be a media scandal. He could get himself in a lot of  
 13 trouble. He needed to leave this alone, to back away from  
 14 it.  
 15 I explained all the practical investigation  
 16 difficulties, that we shouldn't be trying to investigate the  
 17 feds, and there were many things we couldn't investigate. We  
 18 didn't have the power. We didn't have a way to get at those  
 19 sealed search warrants. And if I'd called the U.S.  
 20 Attorney's Office and said, Can I see your file with the  
 21 original search warrants, they would have laughed and hung up  
 22 the phone and I would have understood why. All that was  
 23 under privilege at the U.S. Attorney's Office. They had an  
 24 active investigation of Mr. Paul.  
 25 Q. So how did the -- when the conversation was over,

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1 what was said between the two of you as you parted?  
 2 A. The way I left it was I made two recommendations,  
 3 which he didn't object to and he didn't disagree with, but  
 4 then I found out later he obviously didn't act on them.  
 5 Number one, I said, Stop Cammack from working  
 6 and talk to Jeff Mateer and figure out how to pay his invoice  
 7 and don't let him work anymore.  
 8 Number two, Let's you and I meet with Jeff  
 9 Mateer. I can explain some options we've got. I don't think  
 10 they're great options. You may want to pursue them, but I  
 11 think they're a risk to the office. One of those options was  
 12 calling the United States Attorney's Office, talking to one  
 13 of the supervisors, see if they would just assuage our  
 14 curiosity and tell us if there were any changes between the  
 15 returned version of the search warrant and the issued  
 16 version.  
 17 Q. And what did he say?  
 18 A. He didn't say anything to that. He just said,  
 19 Well, I've got to go. I've got a dinner to attend.  
 20 Q. All right.  
 21 A. But he didn't agree or disagree.  
 22 Q. After that conversation on the 26th, without going  
 23 into what you said, did you call Jeff Mateer and update him?  
 24 A. Yes, immediately after I left the meeting.  
 25 Q. And then after the 26th, when was your next

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1 involvement with anything having to do with Mr. Paul?  
 2 A. That was on the morning of Tuesday, September 29th.  
 3 Q. And without going into what people told you at this  
 4 time, what happened on the 29th?  
 5 A. Mr. Cammack and Mr. Wynne served a search warrant  
 6 in the name of Brandon Cammack, Special Prosecutor, Office of  
 7 the Attorney General of Texas, on Independent Bank in Round  
 8 Rock.  
 9 Q. What was your reaction to that?  
 10 A. I was apoplectic.  
 11 Q. Why?  
 12 A. Because it appeared to me that Mr. Cammack was  
 13 working on behalf of Nate Paul's civil litigation interests  
 14 and serving a criminal process, a grand jury subpoena on  
 15 either a bank or a party to one of his civil lawsuits. He  
 16 was seeking discovery through using criminal process.  
 17 Q. Had the Attorney General ever said anything to you  
 18 in his conversations that Mr. Cammack was a special  
 19 prosecutor?  
 20 A. No. At this point in time, the only thing he had  
 21 ever told me was that he was working and beginning to gather  
 22 information. He never told me a title.  
 23 Q. All right. What happened on the 29th when you  
 24 found out that there -- a community bank had been served a  
 25 grand jury subpoena?

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1 A. Well, Jeff Mateer called a meeting in his office at  
 2 3:00 o'clock for the deputies involved that became the  
 3 whistleblowers.  
 4 Q. At the end of y'all's conversations, did y'all make  
 5 plans to go to the government?  
 6 A. No, not that day.  
 7 Q. All right. And then what happened on the 30th?  
 8 A. On the 30th in the morning, we got another message  
 9 that a second subpoena had been served, this time on  
 10 Amplified Credit Union in Austin.  
 11 Q. And what was -- how -- what was your reaction to  
 12 that?  
 13 A. I was even more apoplectic. I was furious that  
 14 this was going on and the Attorney General was allowing it.  
 15 Q. And what was wrong with serving a grand jury  
 16 subpoena on Amplified Credit Union?  
 17 A. Because, again, this looked like Nate Paul was  
 18 using the power and authority granted by the people of Texas  
 19 and this legislature, he had turned it over to Nate Paul for  
 20 Nate Paul to go after --  
 21 MR. LITTLE: Object to the narrative.  
 22 A. -- his business opponents.  
 23 MR. HARDIN: I asked -- I asked him what was  
 24 his opinion.  
 25 PRESIDING OFFICER: Sustained.

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1 Q. (BY MR. HARDIN) Did you have -- I believe -- let  
 2 me ask you this: When you were so concerned, what was  
 3 wrong -- in a very succinct way, please. What was wrong with  
 4 what they were doing?  
 5 A. Number one, these banks had nothing to do with  
 6 referral number one, which was the only referral we knew  
 7 about.  
 8 Number two, you can't use criminal process to  
 9 conduct civil discovery, and that's what it appeared was  
 10 going on because Mr. Paul's attorney was with Mr. Cammack at  
 11 both banks.  
 12 Q. In all your years -- first of all, have you been  
 13 involved where the prosecutor was the one serving the grand  
 14 jury subpoena?  
 15 A. No, sir, I haven't heard of that.  
 16 Q. Who was usually the one serving grand jury  
 17 subpoenas?  
 18 A. A deputy, a federal marshal, depending.  
 19 Q. And then have you ever heard of the lawyer for the  
 20 person bringing the complaint, who's also under a federal  
 21 investigation, accompanying the prosecutor serving the  
 22 subpoena?  
 23 A. No. In fact, the Code of Criminal Procedure does  
 24 not --  
 25 MR. LITTLE: Object, nonresponsive.

1 MR. HARDIN: I'll get to that.  
 2 PRESIDING OFFICER: Sustained.  
 3 Q. (BY MR. HARDIN) What is -- what is the law in  
 4 terms as to whether or not a person representing the  
 5 complainant can be involved in that circumstance?  
 6 A. The law says you can't. An interested party cannot  
 7 be involved in serving a grand jury subpoena.  
 8 Q. Now, after this on the 30th, did you as a group  
 9 ultimately go to the grand jury -- go to the FBI?  
 10 A. Yes. After we learned about the second grand jury  
 11 subpoena being served, we were extremely concerned as a  
 12 group. I was extremely concerned personally, and we decided  
 13 we had to go to law enforcement.  
 14 Q. And why did you go to law enforcement?  
 15 A. Because this had to be stopped. The Attorney  
 16 General obviously wasn't listening to anybody. He had turned  
 17 Mr. Cammack loose. We didn't know what Mr. Cammack was going  
 18 to do. It appeared that Mr. Paul was controlling  
 19 this because --  
 20 MR. LITTLE: Object to the narrative and  
 21 speculation.  
 22 MR. HARDIN: I asked him why --  
 23 PRESIDING OFFICER: Sustained.  
 24 MR. HARDIN: I asked him why he went, what was  
 25 in his mind.

1 Q. (BY MR. HARDIN) I -- let me ask you this: What  
 2 did you expect the consequences being of your going to the  
 3 FBI?  
 4 A. I feared we would get fired.  
 5 Q. And was that the sense and mood of the whole group?  
 6 A. I think so. I think we all knew this was an  
 7 incredibly dangerous and unique but outrageous situation. We  
 8 were the only ones that could stop it, and we had to.  
 9 Q. When you went to the FBI, did you take any  
 10 documents?  
 11 A. Did not take any documents.  
 12 Q. Would the documents all have been the property of  
 13 the AG's Office?  
 14 A. Yes.  
 15 Q. So is that why you didn't take any documents? Just  
 16 yes or no.  
 17 MR. LITTLE: Objection, leading.  
 18 Q. (BY MR. HARDIN) Why did you not take any  
 19 documents?  
 20 PRESIDING OFFICER: Sustained?  
 21 MR. HARDIN: Excuse me.  
 22 Q. (BY MR. HARDIN) Why did you not take any  
 23 documents?  
 24 A. I didn't take any because I felt like we were  
 25 making the initial report based on our eyewitness personal

1 knowledge of what we believed at that point to be criminal  
 2 behavior by the Attorney General.  
 3 Q. And so when you went, did you take evidence with  
 4 you?  
 5 A. I took my personal knowledge and the others took  
 6 theirs.  
 7 Q. All right. Is that evidence?  
 8 A. Absolutely. We were eyewitnesses.  
 9 Q. So if a person is the victim of an aggravated  
 10 robbery and reports it to the police, would it quit being  
 11 evidence if just they report it as opposed to taking  
 12 documents?  
 13 MR. LITTLE: Objection, leading and  
 14 relevance.  
 15 A. Their personal experience --  
 16 PRESIDING OFFICER: Hold on. Sustained.  
 17 Q. (BY MR. HARDIN) What did you take with you that --  
 18 would you -- first of all, all of y'all going --  
 19 A. Yes.  
 20 Q. -- did you take evidence in the meaning of  
 21 evidence?  
 22 A. Yes.  
 23 Q. What did you take with you that was evidence?  
 24 A. Our personal eyewitness knowledge, our personal  
 25 experiences, our personal conversations with the Attorney

1 General, our personal -- personal experience of him being --  
2 of him pressuring us to do things that were improper,  
3 unethical, and illegal.

4 Q. In your experience, how often is the initial report  
5 by a citizen of something that they consider criminal  
6 conduct, how often is -- is that where the witnesses come in  
7 without any documents just to tell you what they believe they  
8 saw, they know that they think is improper? How -- how often  
9 is that the way it gets to your desk?

10 MR. LITTLE: Objection, relevance.

11 MR. HARDIN: It's very relevant.

12 PRESIDING OFFICER: Overruled.

13 MR. HARDIN: Thank you.

14 A. That is very common.

15 Q. (BY MR. HARDIN) So if a person walks in to report  
16 what they believe is a criminal offense or improper conduct  
17 that should be investigated, do you send them away if they  
18 don't have paper?

19 A. No, sir.

20 Q. So what is your testimony as to whether or not how  
21 much from how many people evidence was presented to the FBI  
22 with a request for them to investigate?

23 A. The meeting lasted almost four hours. It consisted  
24 of us sitting around the conference table with two FBI  
25 agents, and our attorney Johnny Sutton was present. The FBI

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1 agents asked us to go around the table in turn starting with  
2 Jeff Mateer and tell our entire story. And as I said, it  
3 took almost four hours. That was four hours of eyewitness,  
4 personal knowledge from people directly involved with the  
5 Attorney General, the events I've described and the events  
6 the others were involved in, the others being the  
7 whistleblowers.

8 Q. Mr. Penley, after that meeting, did you, yourself,  
9 file any documents to attempt to or to quash the subpoenas  
10 that you had learned had been filed?

11 A. Yes.

12 Q. Yes or no. That's all I'm asking you.

13 A. Yes.

14 Q. And why was it that you filed a motion to quash  
15 those subpoenas?

16 A. Because those subpoenas were improper and they had  
17 to be stopped.

18 Q. All right. And what was improper about those  
19 subpoenas?

20 A. Number one, Brandon Cammack was not a special  
21 prosecutor, yet that's how he represented himself to the  
22 Travis County DA's Office.

23 Q. Now, at the end of the day after those subpoenas  
24 were quashed, what happened for -- with you in terms of  
25 whether or not you went to the media or anything else? Did

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1 you?

2 A. I've never gone to the media, other than I think  
3 our attorneys filed -- may have written an editorial sometime  
4 earlier this year.

5 Q. Was -- at that time, what was the Attorney  
6 General's response in the media that you folks felt obligated  
7 to respond to?

8 A. The following week, the week of October the 5th,  
9 the Attorney General's Office issued two press releases that  
10 made negative comments about the group of whistleblowers,  
11 claiming that we had impeded an investigation, claimed that  
12 we were rogue employees, and later the Attorney General  
13 claimed we had even committed crimes.

14 Q. What was your -- your group's response to that?

15 A. Well, everybody was outraged.

16 Q. All right. Let me ask you this: Did y'all -- are  
17 you one of the plaintiffs in the whistleblower lawsuit?

18 A. Yes, sir. I'm one of four plaintiffs.

19 Q. Why did you decide to sue?

20 A. I sued because I was damaged by the Office's  
21 actions in violation of the whistleblower statute.

22 Q. And what financial impact did this all have on you?

23 A. It had a big impact. After -- number one, I was  
24 put on investigative leave on October the 2nd by order of the  
25 Attorney General. On November 2nd, a month later, I was

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1 fired illegally under the Whistleblower Act. I was given  
2 ridiculous reasons for the firing.

3 Q. What were the reasons you were given?

4 A. The reasons I recall -- and these came from the new  
5 first assistant who got rid of all eight of us within 45  
6 days. He said I had lost the Attorney General's trust. I  
7 had violated --

8 MR. LITTLE: Objection, hearsay.

9 MR. HARDIN: I asked for the reasons he was  
10 given for firing.

11 PRESIDING OFFICER: Overruled.

12 A. He said I had lost the Attorney General's trust,  
13 number one. Number two, he claimed I used an insubordinate  
14 tone when he demanded to have my cell phone handed over to  
15 him so he could examine it without a search warrant.

16 Q. (BY MR. HARDIN) What -- what is that? What is  
17 that about?

18 A. He claimed there were public information requests  
19 to the Office of the Attorney General, and he demanded to see  
20 my text messages.

21 Q. All right. Now, does that all become part of  
22 litigation later?

23 A. It became part of the litigation.

24 Q. All right.

25 A. And then the third reason was --

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1 Q. What was -- yeah, what was the third reason?  
 2 A. Yeah. Reason number three, he claimed that I had  
 3 violated a direct instruction from the Attorney General when  
 4 I filed the motion to quash and when I sent a cease and  
 5 desist letter to Brandon Cammack, and that is untrue. He  
 6 claimed that on September 16th when the Attorney General  
 7 asked me for information about the documents I wanted from  
 8 Michael Wynne and Nate Paul, at the end of that meeting, the  
 9 Attorney General said, Don't do anymore on this. The context  
 10 was, don't ask --  
 11 Q. That's okay. Hold on. I really, really want to  
 12 finish up here with you to ask you this: After all you've  
 13 been telling the jury about, after all you've been doing  
 14 differently, would you do anything differently?  
 15 A. No, sir. I'd do the same thing all over again  
 16 because it was the right thing to do and the only thing we  
 17 could do, other than stand by silently and let crimes be  
 18 committed. The agency was being abused; the laws were being  
 19 abused. The behavior and the conduct of the Attorney General  
 20 of Texas --  
 21 MR. LITTLE: Object to the narrative.  
 22 A. -- was outrageous.  
 23 MR. LITTLE: Object to the narrative.  
 24 THE COURT: Sustained. Sustained.  
 25 MR. HARDIN: I'll pass the witness.

1 PRESIDING OFFICER: Mr. Little?  
 2 MR. LITTLE: Thank you, Mr. President. Just  
 3 for planning purposes, when do you intend to break? I  
 4 believe it's 11:55.  
 5 PRESIDING OFFICER: Take a break at 12:15.  
 6 MR. LITTLE: Wonderful.  
 7 PRESIDING OFFICER: Does that work? Or  
 8 would you prefer to take the break now and start anew after  
 9 lunch?  
 10 MR. LITTLE: I'd like to take a few minutes  
 11 and get started, if we might.  
 12 PRESIDING OFFICER: Your witness.  
 13 CROSS-EXAMINATION  
 14 BY MR. LITTLE:  
 15 Q. Mr. Penley, I'm going to hand you some of your  
 16 notes here so that you've got them.  
 17 MR. LITTLE: You need something, Rusty? You  
 18 left your cup of water? All right. Documents for you.  
 19 At this time, Mr. President, I'm tendering to  
 20 the witness Exhibits 1009 to 1021. This is a series of notes  
 21 in Mr. Penley's hand. May I approach?  
 22 PRESIDING OFFICER: Yes. Have they already  
 23 been admitted or you're admitting them? Okay.  
 24 Q. (BY MR. LITTLE) Now, Mr. Penley --  
 25 PRESIDING OFFICER: Do they have a copy?

1 MR. LITTLE: They do. I've handed them to  
 2 Mr. Hardin. We move for admission of Exhibits AG 1009 to  
 3 1021.  
 4 PRESIDING OFFICER: Any objection?  
 5 MR. HARDIN: Yes. I think these are -- to  
 6 repeat a famous objection, these are all hearsay, every one  
 7 of them. They're the same kind of thing we offered to  
 8 introduce through him and he objected to as hearsay. If he  
 9 withdraws his objection to the notes of our witness, then  
 10 I'll withdraw my objection to these. Otherwise, sauce for  
 11 the goose and the gander and all that jazz works.  
 12 MR. LITTLE: Mr. President, may I respond?  
 13 PRESIDING OFFICER: Yes, you may.  
 14 MR. LITTLE: These notes -- these notes that  
 15 I've handed to Mr. Penley are notes of his present recorded  
 16 recollection from the meetings with the Attorney General in  
 17 various formats. Mr. Hardin has already offered House 216,  
 18 which is his notes from September 26th. These are all of  
 19 Mr. Penley's notes, and they are extensive.  
 20 MR. HARDIN: I'm sorry, I don't know how  
 21 that's any different than what we just talked about.  
 22 PRESIDING OFFICER: I'm not sure I understood  
 23 your reply.  
 24 MR. LITTLE: Recorded recollection is an  
 25 exception to hearsay, and these are his notes just like House

1 216 which was admitted and offered earlier.  
 2 MR. HARDIN: If I may be heard. I think his  
 3 memory is incorrect. 216 was not admitted. I asked and he  
 4 objected to hearsay.  
 5 PRESIDING OFFICER: I remember he did not  
 6 object. He said they were going to use those notes is my  
 7 recollection. We can check the record.  
 8 MR. LITTLE: That's right, and it was offered  
 9 and admitted.  
 10 PRESIDING OFFICER: Offered and admitted. He  
 11 did not object.  
 12 MR. HARDIN: I think that was 214.  
 13 PRESIDING OFFICER: No. That's when there was  
 14 confusion between 214 and 216.  
 15 MR. HARDIN: Yes.  
 16 PRESIDING OFFICER: So the 214, if my  
 17 recollection is correct, were the outline before the meeting  
 18 and 216 is the recollection after the meeting. And he did  
 19 not object to that.  
 20 MR. HARDIN: I --  
 21 PRESIDING OFFICER: I may have not -- maybe  
 22 the clerk did not admit them into evidence, but you did not  
 23 object. I remember you saying you were going to use those --  
 24 MR. LITTLE: That's right.  
 25 PRESIDING OFFICER: -- in cross.

1 MR. HARDIN: That's fine. If it's admitted,  
 2 then that's great. If he wants to admit these under the same  
 3 theory, then I have no objection.  
 4 MR. LITTLE: Great.  
 5 PRESIDING OFFICER: Okay. These notes are  
 6 admitted under evidence, which the numbers are?  
 7 MR. LITTLE: 1009 to 1021.  
 8 PRESIDING OFFICER: 1009 through 1021.  
 9 (AG Exhibit Nos. 1009 through 1021 were  
 10 admitted.)  
 11 MR. LITTLE: Thank you.  
 12 Q. (BY MR. LITTLE) Now, Mr. Penley, just to be clear,  
 13 we need to clarify something for the ladies and gentlemen of  
 14 the jury, and I -- I'm almost positive you have the answer.  
 15 You conducted an investigation, right?  
 16 A. Yes, I did.  
 17 Q. And it wasn't a review, right? It was an  
 18 investigation.  
 19 A. Technically the office called it a review. I'm  
 20 using the term "investigation" the way I mean the term  
 21 "investigation." We met with the witness. We looked at the  
 22 evidence they gave us. We drew a conclusion, and that was  
 23 the end of it.  
 24 Q. That sounds like an investigation to me. Don't you  
 25 agree?

1 A. I do. It's semantics.  
 2 Q. You just never opened a file, right?  
 3 A. No, I didn't open a file. There was no basis to  
 4 open a file and pursue any charges.  
 5 Q. David Maxwell -- well, you don't -- hold on a  
 6 second. Let's be super clear for the jury. You don't --  
 7 MR. LITTLE: If you could, Mr. Hardin. He's  
 8 beeping over there.  
 9 Q. (BY MR. LITTLE) Let's be clear for the jury. You  
 10 do not need to bring charges to open an investigative file at  
 11 the Office of Attorney General, right?  
 12 A. No.  
 13 Q. And you didn't open a file and David Maxwell did  
 14 not either, did you?  
 15 A. I know I didn't open a file.  
 16 Q. Well, you know David Maxwell didn't open a file  
 17 either, did you?  
 18 A. I've heard that.  
 19 Q. Yes. And to be clear, this was not an inquiry; it  
 20 was not a review. You call it an investigation, yes?  
 21 A. That's my term. David Maxwell's term was review.  
 22 Q. There was nothing illegal about conducting the  
 23 investigation that you conducted, was there?  
 24 A. We didn't take any illegal actions, no.  
 25 MR. LITTLE: Object, nonresponsive, just so I

1 can get a yes, no.  
 2 PRESIDING OFFICER: Sustained.  
 3 Q. (BY MR. LITTLE) There was nothing illegal about  
 4 the investigation you conducted, true?  
 5 A. That I conducted, that's true.  
 6 Q. That anyone at the OAG's office conducted, true?  
 7 A. No.  
 8 Q. Let's be clear about this. Did you see Mr. Maxwell  
 9 break any laws in conducting this investigation?  
 10 A. No, I did not.  
 11 Q. Did you break any laws in conducting this  
 12 investigation?  
 13 A. Absolutely not.  
 14 Q. Were you asked to do anything illegal?  
 15 A. Yes.  
 16 Q. Tell the ladies and gentlemen of the jury about  
 17 that.  
 18 A. We were asked to obstruct a federal investigation.  
 19 That's a federal felony.  
 20 Q. Interesting. Are you aware of Fifth Circuit and  
 21 Ninth Circuit precedent that says you cannot obstruct an FBI  
 22 investigation because it is not an official proceeding,  
 23 Mr. Penley? You're familiar with that authority, aren't you?  
 24 A. No, I'm not familiar with that authority.  
 25 Q. Well, you worked at the U.S. Attorney's Office for

1 17 years. Surely you came across the fact that you cannot  
 2 obstruct an FBI investigation as it is not an official  
 3 proceeding, right?  
 4 A. I'm sorry, I lost your question there. What are  
 5 you asking me?  
 6 Q. Yeah. In your 17 years working at the office of  
 7 the U.S. Attorney in the Northern District of Texas, did you  
 8 ever come across the precedent -- the legal precedent that  
 9 one cannot obstruct an FBI investigation because it is not an  
 10 official proceeding?  
 11 A. I was never presented with that issue. And I was  
 12 there 16 years, not 17, just to be correct.  
 13 Q. Did you ever once, in your 16 years, prosecute  
 14 obstruction of justice relative to an FBI investigation?  
 15 A. No. That was never presented to me as a case.  
 16 Q. Not one time, true?  
 17 A. No. No, I mean, your statement is true. I did not  
 18 do that.  
 19 Q. I want to be clear. You gave us a time line.  
 20 We're going to go back through the time line in detail in a  
 21 minute. But in September, you became concerned that the  
 22 Attorney General might fire you, correct?  
 23 A. I think I became concerned after the August 12th  
 24 meeting when he did a total --  
 25 MR. LITTLE: Objection, nonresponsive.

1 A. -- reversal on me.  
 2 PRESIDING OFFICER: Sustained.  
 3 Q. (BY MR. LITTLE) You testified on direct that in  
 4 September of 2020 you became concerned that the Attorney  
 5 General was going to fire you, true?  
 6 A. I don't agree with the way you're wording the  
 7 question. I was concerned in August and September.  
 8 Q. I'm only asking you about September.  
 9 A. Okay.  
 10 Q. I'm going to ask you about August in a minute.  
 11 In September of 2020, were you concerned the  
 12 Attorney General was going to fire you?  
 13 A. Yes.  
 14 Q. And isn't it interesting that you came up with  
 15 these theories of your boss's criminal escapades after you  
 16 thought he was going to fire you, right?  
 17 A. What theories are you talking about, sir?  
 18 Q. Well, you and David Maxwell got together and you  
 19 asked a series of questions, right? Is Ken Paxton being  
 20 bribed was one of them, true?  
 21 A. Yes, we wondered about that.  
 22 Q. Is Ken Paxton being blackmailed, that was one of  
 23 them, true?  
 24 A. Yes, we discussed that.  
 25 Q. Does Ken Paxton owe Nate Paul any money, true?  
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1 A. I'm sure that's something that came into my mind.  
 2 Q. Does Ken Paxton have -- or does Nate Paul have some  
 3 kind of information on Ken Paxton, that was one of the things  
 4 you talked about, right?  
 5 A. It's certainly something I thought about.  
 6 Q. But you only started talking about those things  
 7 with David Maxwell when you became -- after you became  
 8 concerned that Ken Paxton was going to fire you, true?  
 9 A. No, that's not true.  
 10 PRESIDING OFFICER: Counsel -- do we know  
 11 where this music is coming from, Bailiff?  
 12 MR. LITTLE: The bagpipes?  
 13 PRESIDING OFFICER: Yes.  
 14 MR. LITTLE: It's coming from the rotunda. I  
 15 think now probably would be a good time for a break,  
 16 Mr. President.  
 17 PRESIDING OFFICER: We will take a break now.  
 18 We will return here at 1:00 p.m. sharp.  
 19 (Lunch break recessed at 12:04 p.m.)  
 20  
 21  
 22  
 23  
 24  
 25  
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1 C E R T I F I C A T E  
 2  
 3 THE STATE OF TEXAS )(   
 4 COUNTY OF TRAVIS )(   
 5  
 6 I, Kim Cherry, Certified Shorthand Reporter in and  
 7 for the State of Texas, do hereby certify that the  
 8 above-mentioned matter occurred as hereinbefore set out.  
 9 I further certify that I am neither counsel  
 10 for, related to, nor employed by any of the parties  
 11 or attorneys in the action in which this proceeding was  
 12 taken, and further that I am not financially or  
 13 otherwise interested in the outcome of the action.  
 14 Certified to by me this 11th day of September,  
 15 2023.  
 16  
 17 /s/K im Cherry  
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1 THE SENATE OF THE STATE OF TEXAS  
 2 SITTING AS A HIGH COURT OF IMPEACHMENT  
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 4 THE MATTER OF S  
 5 WARREN KENNETH  
 6 PAXTON, JR.  
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 12 TRIAL  
 13 VOLUME 5 - PM SESSION  
 14 SEPTEMBER 11, 2023  
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 24 Stenographically Reported by  
 25 Lorrie A. Schnoor, CSR, RDR, CRR

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SENATE IMPEACHMENT TRIAL

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PROCEEDINGS  
MONDAY, SEPTEMBER 11, 2023  
(1:00 p.m.)

THE BAILIFF: All rise. The Court of Impeachment of the Texas Senate is now in session.

PRESIDING OFFICER: You may be seated. Court is back in session.

Bailiff, call in the witness, please.

Mr. Little, that's blocking a little bit of their view. If you put it more in the -- do you want the jurors to see it?

MR. LITTLE: I think that would be -- I think probably the best place would be behind the witness stand.

PRESIDING OFFICER: Okay. I don't know if they can see it from there, so you may have to point it out.

Are you going to be referring to it from the podium to here?

MR. LITTLE: I might write on it.

PRESIDING OFFICER: Okay. Can you see from that side?

They cannot see.

MR. LITTLE: Well, then maybe we'll just ditch it.

PRESIDING OFFICER: I think you can put it -- oh.

Mr. Little.

MR. LITTLE: Thank you, Mr. President.

MARK PENLEY,

having been first duly sworn, testified as follows:

CROSS-EXAMINATION (CONTINUED)

BY MR. LITTLE:

Q. Mr. Penley, have you ever testified under oath before today?

A. Yes, I have.

Q. And --

A. Excuse me, I'm sorry.

Yes, I've testified under oath.

Q. Did you testify under oath before the House Board of Managers?

A. No.

Q. Did any of the House Board of Managers Andrew Murr, Jeff Leach, Charlie Geren, any of them put you under oath to provide testimony in connection with the impeachment proceedings in the House?

A. No, I did not testify in the House.

Q. In fact, when you --

A. Not in a proceeding in the House. I did speak with their investigators.

Q. Did you review the video of your meeting with the investigators before testifying here today?

A. No.

Q. And during that proceeding, isn't it true that Ms. Terese Buess, who was hired as one of the investigators, told you that there was a legislative privilege that covered your testimony in that proceeding?

A. I don't know that she told me that. It was my understanding there was a legislative privilege.

Q. Just to be clear, when you testified there on video, did you tell the truth, the whole truth and nothing but the truth, so help you God?

A. Yes, that was my intent.

Q. Yes, and -- it was your intent?

A. Yeah. I mean, I may have gotten a date wrong. I may have gotten an event occurred one day instead of another day, but it was my intention to tell the truth, the whole truth and nothing but the truth, yes, sir.

Q. Of course.

So if we have your statement from that interview that was conducted by the House Board of Managers and their investigators, we can rely on it as being true, correct?

A. I believe so. That was my intention.

1 Q. Okay. All right.  
 2 MR. LITTLE: At this time, Your Honor, I'm  
 3 going to introduce AG Exhibit 68. May I approach the  
 4 witness?  
 5 PRESIDING OFFICER: Yes, you may.  
 6 MR. LITTLE: Thank you.  
 7 PRESIDING OFFICER: It's not on our list,  
 8 so you'll have to submit it at the right time.  
 9 MR. LITTLE: And we move for admission of  
 10 AG Exhibit 68.  
 11 PRESIDING OFFICER: Any objection?  
 12 MR. HARDIN: No objection, Your Honor.  
 13 PRESIDING OFFICER: Admit AG 68 to  
 14 evidence.  
 15 (AG Exhibit 68 admitted)  
 16 MR. LITTLE: Erick, Exhibit 68, if you  
 17 would. Thank you so much.  
 18 Q. (BY MR. LITTLE) All right. To be clear,  
 19 Mr. Penley, this is the referral that came to your  
 20 office from the Travis County District Attorney's Office  
 21 and it was dated June 10 of 2020, correct?  
 22 A. That's correct.  
 23 Q. It was received in your office sometime around  
 24 June 17 of 2020, correct?  
 25 A. That's my understanding, yes.

1 Q. And when you got there, neither David Maxwell  
 2 nor you were excited about the assignment at all and  
 3 neither one of you really wanted to move forward with  
 4 it, correct?  
 5 A. That's true.  
 6 Q. And what Nate Paul was accusing these people  
 7 here, or at least complaining about, if true it was a  
 8 20-year felony. You would agree with that, correct?  
 9 A. An alteration of a federal or a document, yes,  
 10 it would be a 20-year felony.  
 11 Q. And there's a state analogue to the federal  
 12 statute concerning alteration of government documents,  
 13 true?  
 14 A. Yes, I believe that's 37.10.  
 15 Q. So there was a state offense that had been  
 16 alleged in this referral, true?  
 17 A. He was claiming there were state law offenses,  
 18 yes.  
 19 Q. Yes. That's what I said. There is a state  
 20 offense alleged in this referral, true?  
 21 A. Yes, if you believe what Nate Paul was saying.  
 22 Q. Yes. And it wasn't a crime to follow up on  
 23 this. It wasn't obstruction of justice, it wasn't  
 24 interference with an FBI investigation, true?  
 25 A. To a certain point, I agree.

1 Q. Very good.  
 2 In fact, when you were working at the U.S.  
 3 Attorney's Office there was an FBI employee in the U.S.  
 4 Attorney's Office -- or I'm sorry, in the Northern  
 5 District of Texas. His name was Jeffrey Fudge. Do you  
 6 remember that person?  
 7 A. I don't.  
 8 Q. He was an FBI employee who was accused,  
 9 indicted, and convicted of plugging other people's  
 10 information into government databases and letting them  
 11 know if there were investigations about them. You  
 12 familiar with that?  
 13 A. I'm not.  
 14 Q. It happened your first year at the U.S.  
 15 Attorney's Office.  
 16 MR. HARDIN: Pardon -- pardon me, Your  
 17 Honor. We're talking about something he doesn't know  
 18 anything about. Now he's testifying about it, and I  
 19 object to that.  
 20 PRESIDING OFFICER: Overruled. He can ask  
 21 the question, but be careful of your line of  
 22 questioning.  
 23 MR. LITTLE: I certainly will.  
 24 Q. (BY MR. LITTLE) Have you ever heard of an FBI  
 25 employee named Kevin Clinesmith?

1 A. I believe so.  
 2 Q. Yes. At the same time that you were doing this  
 3 investigation, an FBI employee was being investigated  
 4 and subsequently indicted for providing false  
 5 information in pursuit of a FISA warrant, correct?  
 6 A. I've heard that.  
 7 Q. Operation Crossfire Hurricane. You've heard of  
 8 that before, correct?  
 9 A. I have.  
 10 Q. Yes. And so the allegations that are being  
 11 made here, it's not a crime to follow-up on them and a  
 12 state offense is alleged. True?  
 13 A. I felt it was appropriate to do an initial  
 14 review.  
 15 MR. LITTLE: Object. Nonresponsive.  
 16 PRESIDING OFFICER: Sustained.  
 17 Q. (BY MR. LITTLE) True?  
 18 A. Could you ask the question again, please?  
 19 Q. Yes.  
 20 The state offenses that are alleged here,  
 21 it wasn't a crime to follow-up on them, was it?  
 22 A. No, it wasn't a crime to follow-up.  
 23 Q. No. But your testimony earlier was you hoped  
 24 to slow walk it?  
 25 A. Yes.

1 Q. Did you tell Michael Wynne that?  
 2 A. No.  
 3 Q. Did you tell Nate Paul that?  
 4 A. No.  
 5 Q. Did you tell your boss Ken Paxton that?  
 6 A. No.  
 7 Q. And, in fact, between June 17 and July 6, 2020,  
 8 you only talked to David Maxwell about it, right?  
 9 A. Between what dates?  
 10 Q. June 17 and July 6 of 2020, you only talked to  
 11 David Maxwell about it?  
 12 A. That's not correct.  
 13 Q. That was your testimony on direct. Would you  
 14 like to correct it?  
 15 A. I would, if I may.  
 16 Q. Please.  
 17 A. I'm sure I talked to Jeff Mateer as well. In  
 18 fact, we talked to Jeff Mateer when he handed us the  
 19 referral on June the 18th probably.  
 20 Q. We may be talking past one another. You did no  
 21 investigation between June 17 and July 6, true?  
 22 A. We didn't do any, no.  
 23 Q. Didn't do any work, true?  
 24 A. That's true.  
 25 Q. Okay. I'm going show you what's been marked as

1 AG Exhibit 88, or at least a portion of it.  
 2 MR. LITTLE: We move for admission of  
 3 AG 88.  
 4 PRESIDING OFFICER: Any objection,  
 5 Mr. Hardin?  
 6 MR. HARDIN: No, Your Honor.  
 7 PRESIDING OFFICER: It's admitted into  
 8 evidence, AG 88 -- 68 -- I'm sorry. Say that number.  
 9 MR. LITTLE: 88.  
 10 PRESIDING OFFICER: 88. I see it. Thank  
 11 you.  
 12 (AG Exhibit 88 admitted)  
 13 MR. LITTLE: Mr. Arroyo, if you could  
 14 publish AG 88 on Bates page HBOM 181004. And move ahead  
 15 three pages from there. And blow up all the text in  
 16 writing at the top, please.  
 17 Q. (BY MR. LITTLE) These are your notes,  
 18 Mr. Penley, from your meeting with Ken Paxton on July 6  
 19 of 2020, true?  
 20 A. Yes.  
 21 Q. And in that meeting, at the top you write:  
 22 Tampering with docs is a state issue per Mindy of Travis  
 23 County.  
 24 Who is Mindy?  
 25 A. Mindy Montford, the first assistant at the

1 Travis County District Attorney's Office.  
 2 Q. Did she tell you that?  
 3 A. No.  
 4 Q. You didn't know enough state law to know that  
 5 there was a state offense alleged at this point in time,  
 6 did you?  
 7 A. That's incorrect.  
 8 Q. So you knew there was a state offense alleged.  
 9 You didn't need Ken Paxton or Mindy Montford to tell you  
 10 that, true?  
 11 A. I believe I had discussed that with David  
 12 Maxwell.  
 13 Q. You learned it from David Maxwell, right?  
 14 A. I believe so.  
 15 Q. Did you look up the law yourself?  
 16 A. I did.  
 17 Q. Good.  
 18 Next line says: He alleged they changed  
 19 the search warrant.  
 20 The next line after that, if you would,  
 21 read that to the ladies and gentlemen of the jury,  
 22 please.  
 23 A. Ken just wants the truth, period.  
 24 Q. Ken just wants the truth.  
 25 And to be clear, for the ladies and

1 gentlemen of the jury, who is Ken?  
 2 A. That's attorney general Ken Paxton.  
 3 Q. He told you he just wanted the truth, true?  
 4 A. He said he did.  
 5 Q. Yeah. And you believed him at the time, true?  
 6 True?  
 7 A. At the time I believed him, yes.  
 8 Q. Yes. At the time you believed him?  
 9 A. That's right.  
 10 Q. Okay.  
 11 A. Not later.  
 12 Q. And so when you made these notes, you were  
 13 making notes of what Ken Paxton was saying, and he was  
 14 telling you he just wanted the truth?  
 15 A. That's right. I wrote down what he said.  
 16 Q. The truth about what?  
 17 A. About what happened with Nate Paul.  
 18 Q. And did you tell him you would get right on it?  
 19 A. We did. We started trying to schedule a  
 20 meeting.  
 21 Q. I don't think so. Let's move on to our next --  
 22 MR. HARDIN: Object to the sidebar.  
 23 MR. LITTLE: Withdrawn.  
 24 PRESIDING OFFICER: Sustained.  
 25 Q. (BY MR. LITTLE) This is another -- this is

1 another portion of Exhibit AG 88.  
 2 MR. LITTLE: Mr. Arroyo, if you could move  
 3 to the next page 005.  
 4 Q. (BY MR. LITTLE) Mr. Penley, these are your  
 5 notes of a subsequent meeting with your boss Ken Paxton,  
 6 true?  
 7 A. Yes.  
 8 MR. LITTLE: And if you could, Mr. Arroyo,  
 9 blow up the bottom half of that page, please.  
 10 Q. (BY MR. LITTLE) The date of this meeting is on  
 11 or around July 16. Yes?  
 12 A. Well, that's my best belief. I didn't date  
 13 this page, and I don't know specifically when it was.  
 14 But from looking at other information, that's my belief,  
 15 this happened on July 16th.  
 16 Q. And how long had you been working at the  
 17 attorney general's office at this point?  
 18 A. About nine months.  
 19 Q. About nine months. Less than a year certainly,  
 20 true?  
 21 A. Yes, I only worked there a year.  
 22 Q. And you weren't -- you wrote the word "Ken,"  
 23 and you bolded it, correct?  
 24 A. Yes.  
 25 MR. LITTLE: Mr. Arroyo, can you bold

1 that -- can you highlight that for me?  
 2 Q. (BY MR. LITTLE) And to the right of it, you've  
 3 wrote an asterisk. And it says: He's embarrassed?  
 4 A. That's what he said.  
 5 Q. He was embarrassed with you and David Maxwell,  
 6 true?  
 7 A. He was embarrassed at the lack of progress on  
 8 the Nate Paul matter.  
 9 Q. Because you hadn't done anything, true?  
 10 A. That's true.  
 11 Q. Below it says: We've had this for six weeks,  
 12 exclamation point.  
 13 And Ken Paxton was upset with you that in  
 14 six weeks, you and David Maxwell had done donut,  
 15 nothing, true?  
 16 A. Which part of the question --  
 17 Q. Nothing?  
 18 A. -- do you want me to answer first? You asked  
 19 me if we had it for six weeks. That is true. And it's  
 20 also true we had done no investigating in that six  
 21 weeks.  
 22 Q. Ken Paxton was upset that you had done nothing  
 23 for six weeks on a referral from Travis County that he  
 24 was aware of, true?  
 25 A. That's true.

1 Q. Down, if you would, there's some discussion  
 2 about Texas Monthly. Do you see the all caps statement  
 3 that you wrote in your notes?  
 4 A. I do.  
 5 MR. LITTLE: And, Mr. Arroyo, if you would  
 6 highlight that portion. And the portion below it and  
 7 the line below it. You're on it. And below it.  
 8 Q. (BY MR. LITTLE) It says: Seek the truth, two  
 9 exclamation points.  
 10 And that's what your boss Ken Paxton told  
 11 you to do, true?  
 12 A. That's what he said. I wrote down what he  
 13 said.  
 14 Q. And what he said was to tell you to seek the  
 15 truth, yes?  
 16 A. Yes, that's what he said. And that's what we  
 17 did.  
 18 Q. And below that it says: Let results be what  
 19 they are.  
 20 True?  
 21 A. That's what he said, and that's what I wrote  
 22 down, true.  
 23 Q. But at that point in time and that day he did  
 24 not tell you to interfere with an FBI investigation, did  
 25 he?

1 A. Not that day, no.  
 2 Q. He did not tell you to obstruct justice, did  
 3 he?  
 4 A. Not that day, no.  
 5 Q. No, he didn't.  
 6 MR. LITTLE: Mr. Arroyo, if you would,  
 7 please bring up Exhibit 1 -- AG 1009.  
 8 This has already been entered into  
 9 evidence, Mr. President, before the break.  
 10 Q. (BY MR. LITTLE) Exhibit AG 1009 is on the  
 11 screen here, and these are your notes from July 23,  
 12 2020, true?  
 13 A. Correct.  
 14 Q. And these are notes from your review of Nate  
 15 Paul's earlier meeting with David Maxwell of which you  
 16 were not a participant, true?  
 17 A. That's true.  
 18 Q. Yes.  
 19 MR. LITTLE: And in the middle,  
 20 Mr. Arroyo, it says: The agents didn't.  
 21 If you can highlight that portion.  
 22 Q. (BY MR. LITTLE) It says: The agents didn't  
 23 leave search warrants behind.  
 24 Violation of the law, true?  
 25 A. No, it's not a violation of the law.

1 Q. Is the Federal Code of Criminal Procedure the  
2 law or not?  
3 A. It's a procedural code. It's not a statute.  
4 Q. Okay. They broke the law as expressed in the  
5 Code of Criminal Procedure, true?  
6 A. They broke the procedural rules, the Federal  
7 Code of Criminal Procedure, if that was true.  
8 Q. Let's turn the page.  
9 MR. LITTLE: Next page, Mr. Arroyo.  
10 In the middle of the page there's a  
11 section that says: Metadata on PDF. If you could zoom  
12 in on that. It says -- actually, don't zoom in on that  
13 whole thing. Just get the line below that as well --  
14 was created on 9-6.  
15 Q. (BY MR. LITTLE) Can you read that okay,  
16 Mr. Penley?  
17 A. I can. Thank you.  
18 Q. All right. Very good.  
19 It says: Metadata on PDF was created on  
20 9-6?  
21 A. Yes.  
22 Q. If some -- you would agree with me if someone  
23 was manipulating federal search warrants after they had  
24 already been served or after they had already been  
25 created, that is a problem, yes?

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1 A. Could you repeat the question? You said  
2 "manipulated." I don't understand what you mean.  
3 Q. If someone were changing search warrants after  
4 a judge signed them, that would be bad, true?  
5 A. I'd agree if they were changing the text.  
6 Q. Yes. Not just redactions, but changing the  
7 actual text, right?  
8 A. If they were changing the text that the  
9 magistrate judge had approved, that would be a crime.  
10 MR. LITTLE: And the next page, if you  
11 would, Mr. Arroyo. About three-quarters of the way down  
12 there's a paragraph that says "claim" above an asterisk,  
13 if you could zoom in on that for us.  
14 No, above that, please. The next  
15 paragraph above.  
16 Q. (BY MR. LITTLE) Yeah, the allegation here is  
17 that the search warrant for the file storage company  
18 Contego was fabricated after the fact, yes?  
19 A. That was Mr. Paul's allegation, yes.  
20 Q. All right.  
21 MR. LITTLE: Next page, please.  
22 Q. (BY MR. LITTLE) And on the last page you wrote  
23 the notes: Rani Sabban, TFO.  
24 That stands for task force officer, yes?  
25 A. Yes.

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1 Q. State Securities Board, yes?  
2 A. Yes.  
3 Q. How did he get the name Rani Sabban?  
4 A. Well, I know that he met Rani Sabban because he  
5 claimed that Rani Sabban had been executing the search  
6 at his residence, and they spoke to each other.  
7 Q. So what you're saying is -- I don't want to put  
8 words in your mouth -- Nate Paul knew Rani Sabban was  
9 involved with the search warrant because he met him  
10 during the execution of the search warrant, correct?  
11 A. Yes, he had personal knowledge of Rani Sabban  
12 because he met him during the search.  
13 Q. Not because Nate Paul got some secret document  
14 from someone else, true?  
15 A. No, that's absolutely false. And you've  
16 misstated my testimony.  
17 MR. LITTLE: I'll object as nonresponsive  
18 to everything after "no."  
19 PRESIDING OFFICER: Sustained.  
20 Q. (BY MR. LITTLE) Now, we're going to look at AG  
21 Exhibit 110.  
22 MR. LITTLE: Mr. Arroyo, if you would, AG  
23 Exhibit -- I'm sorry not 110, 1010. There we go.  
24 Q. (BY MR. LITTLE) All right. These are your  
25 notes from a meeting with Michael Wynne on July 28th of

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1 2020, true?  
2 A. Those are my notes from a phone call with  
3 Michael Wynne, that's correct.  
4 Q. Yes. A phone call.  
5 And at the top it says: Wants to come to  
6 Austin to explain papers.  
7 Yes?  
8 A. Yes.  
9 Q. And below that, it says: The agents didn't  
10 leave copies at the premises.  
11 But you already knew that, true?  
12 A. I knew that from reviewing the first meeting,  
13 the July 21st meeting video, yes.  
14 Q. Next line down says: Inconsistent signatures  
15 and stamps.  
16 Yes?  
17 A. That's what I wrote down because that's what  
18 Mr. Wynne told me, yes.  
19 Q. Yeah. And these notes are from a phone call in  
20 advance of an August 5, 2020 meeting with Mr. Wynne  
21 (sic) and his lawyer, yes?  
22 A. Correct. We set that meeting date during this  
23 call.  
24 Q. Yes. And by this point in time, Mr. Penley,  
25 had you done any investigating at all?

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1 A. Yes.  
 2 Q. And what did that include?  
 3 A. Well, it included watching the video of the  
 4 July 21st meeting where Mr. Maxwell met with Mr. Wynne  
 5 and Mr. Paul, listened to their complaints, listened to  
 6 their theories, so I had reviewed all that. And he  
 7 wanted to come have a second meeting, and I agreed to  
 8 it.  
 9 Q. All you did was listen to them at this point in  
 10 time, true?  
 11 A. Yes, that was an initial report by --  
 12 MR. LITTLE: Object, nonresponsive to  
 13 everything after "yes."  
 14 MR. HARDIN: Can the witness finish his  
 15 answer, please?  
 16 PRESIDING OFFICER: Sustain the  
 17 objection -- earlier objection.  
 18 Q. (BY MR. LITTLE) I'm going to show you what --  
 19 PRESIDING OFFICER: Please let him have  
 20 time to finish.  
 21 MR. LITTLE: I will do my best.  
 22 Q. (BY MR. LITTLE) Now we're going to look at  
 23 Exhibit 1011, AG Exhibit 1011. And these are your notes  
 24 from a meeting with Nate Paul and Michael Wynne, true?  
 25 A. Yes, that's the August 5th meeting.

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1 Q. And you can see there by your first asterisk --  
 2 hold on -- it says: Thumb drive of docs produced?  
 3 A. That's true.  
 4 Q. They gave you a thumb drive, yes?  
 5 A. They did, yes.  
 6 Q. Now I want you to scroll down. Do you see the  
 7 line that says J. Lane?  
 8 A. Yes, I see that.  
 9 Q. It says: J. Lane said he didn't have the  
 10 original search warrant.  
 11 Yes?  
 12 A. Well, I don't know if he did or he didn't.  
 13 That's what Michael Wynne told me.  
 14 Q. Yes. And so what Michael Wynne told you in  
 15 this meeting is that the magistrate, the federal  
 16 magistrate judge informed them that he did not have the  
 17 original search warrant, true?  
 18 A. That's what Michael Wynne said, true.  
 19 Q. And if that were true, that would be really  
 20 surprising if a federal magistrate, for whatever reason,  
 21 did not have the original search warrant, yes?  
 22 A. Yes, that would surprise me.  
 23 Q. Did you ever look for the original search  
 24 warrant?  
 25 A. How would I do that, sir?

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1 Q. Did you call anyone?  
 2 A. I raised that with the attorney general and the  
 3 first assistant that that was an option.  
 4 MR. LITTLE: Object, nonresponsive.  
 5 Q. (BY MR. LITTLE) That was not my question.  
 6 PRESIDING OFFICER: Sustained.  
 7 Q. (BY MR. LITTLE) Did you call anyone at the  
 8 magistrate's office, a clerk, a deputy clerk, the  
 9 magistrate himself, yes or no?  
 10 A. No, I never called the federal magistrate or  
 11 his staff.  
 12 Q. Did you call Alan Buie, perhaps?  
 13 A. No, I did not.  
 14 Q. Did you call any of his deputies at the U.S.  
 15 Attorney's Office?  
 16 A. I did not.  
 17 Q. How hard would that have been to do?  
 18 A. It would have been problematic, in my view.  
 19 Q. It would have damaged your reputation and the  
 20 office's reputation potentially, true?  
 21 A. Not my reputation. I wasn't concerned about  
 22 that. I was concerned about the reputation of the  
 23 office and our work with the federal authorities in the  
 24 state of Texas.  
 25 Q. For you to call the feds, you would have

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1 worried that that would have harmed the reputation of  
 2 the office?  
 3 A. Not to make a phone call but --  
 4 Q. Then why didn't you do it?  
 5 A. Because a phone call about this seemed to be  
 6 high risk to the functioning of the Office of the  
 7 Attorney General when we needed to work with federal  
 8 authorities or appear in federal court, which our  
 9 attorneys did all the time.  
 10 Q. That would have been high risk to make a phone  
 11 call. You're going to tell these senators it was high  
 12 risk for the Office of the Attorney General, for you to  
 13 pick up the phone and make a phone call, yes?  
 14 A. Not to make a phone call, no. But to make a  
 15 phone call about this, yes.  
 16 Q. Well, why didn't you do it?  
 17 A. The reason I didn't do it is because Nate Paul  
 18 was claiming there was a grand conspiracy between a  
 19 federal judge, two federal prosecutors, at least two  
 20 State Agencies represented as task force officers, and a  
 21 number of FBI agents. Nate Paul filed a civil suit  
 22 against a hundred law enforcement agents in federal  
 23 court in Austin over this, and I thought to call the  
 24 U.S. Attorney's Office and say we have any belief that  
 25 career AUSAs would be altering search warrants is crazy,

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1 especially when they have an ongoing investigation  
 2 that's privileged.  
 3 Q. In any event, you didn't make the phone call,  
 4 true?  
 5 A. I did not. For the reasons state.  
 6 Q. Yeah. Isn't it true that in these videos,  
 7 first in the meeting with David Maxwell and Nate Paul  
 8 and his lawyer and then with you also, Nate Paul's own  
 9 lawyer said: We're not trying to interfere with the FBI  
 10 investigation?  
 11 Didn't he say that?  
 12 A. He may have. I don't have a specific  
 13 recollection.  
 14 Q. Isn't it true that Nate Paul's lawyer Michael  
 15 Wynne also told you: We don't necessarily think that  
 16 these are evil people. It may have been a comedy of  
 17 errors or they may have just made some bad choices and  
 18 not been able to get out of it?  
 19 A. I remember him saying --  
 20 MR. HARDIN: Pardon -- pardon me. Is he  
 21 soliciting hearsay? Surely not.  
 22 MR. LITTLE: If this -- it's testimony  
 23 from the video that you put in evidence about two hours  
 24 ago, Rusty.  
 25 MR. HARDIN: Doesn't matter. I just

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1 simply asked: Are you asking what somebody else said  
 2 out of court? Isn't that what you've been arguing about  
 3 with me for the last week?  
 4 MR. LITTLE: Do you remember the videos  
 5 you put in this morning and the transcripts? It's from  
 6 there. I hope that clarifies it.  
 7 PRESIDING OFFICER: Overruled.  
 8 Q. (BY MR. LITTLE) All right. Now, let's go back  
 9 to Exhibit -- so just to be clear -- hold on.  
 10 A. Which exhibit?  
 11 Q. We're going to go to AG 1012, please.  
 12 MR. LITTLE: If you could, Mr. Arroyo.  
 13 Q. (BY MR. LITTLE) This is a meeting -- and you  
 14 are in this meeting with the criminal investigation  
 15 divisions forensics team, true?  
 16 A. Correct. And David Maxwell.  
 17 Q. And these are your notes, yes?  
 18 A. Yes.  
 19 Q. And you're talking about metadata, true?  
 20 A. Yes.  
 21 Q. And they told you that the results were  
 22 inconclusive, true?  
 23 A. That was their words, yes.  
 24 Q. Yes. They didn't tell you that there was no  
 25 proof of a crime or that no crime had been committed or

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1 that a crime had been committed. They didn't tell you  
 2 any of those things, did they?  
 3 A. They said the metadata was inconclusive.  
 4 Q. And they didn't tell you that a crime had or  
 5 had not been committed, true?  
 6 A. That's right. And I wasn't asking --  
 7 MR. LITTLE: Object, nonresponsive to  
 8 everything after "that's right."  
 9 PRESIDING OFFICER: Sustained.  
 10 Q. (BY MR. LITTLE) Mr. Penley, focus with me.  
 11 Inconclusive means we don't know, doesn't it?  
 12 A. It means it doesn't prove anything. That's  
 13 what it means.  
 14 Q. It doesn't disprove anything either, does it?  
 15 A. That's right.  
 16 Q. It seems like if something is inconclusive it  
 17 might require further investigation, right?  
 18 A. It's possible.  
 19 Q. I'm going to show you what's been marked as  
 20 exhibit AG 88.  
 21 MR. LITTLE: Erick, if you can go back to  
 22 that. I'm going to bring the page to you so you can see  
 23 it.  
 24 If you would, Erick, go to the page ending  
 25 in 7, 007. That -- there, stop right there. Go back.

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1 All right. Blow up all the text at the  
 2 top.  
 3 Q. (BY MR. LITTLE) Mr. Penley, you got out of the  
 4 meeting and you had Tina McCleod who works in IT said  
 5 she sent you an email: Metadata is, quote, data that  
 6 provides information about other data?  
 7 A. Yes. She sent me this email and -- because I  
 8 had sent her one.  
 9 Q. And at the bottom she said: Hope this helps.  
 10 Yes?  
 11 A. That's what she wrote.  
 12 Q. You asked her to send this to you, yes?  
 13 A. I did.  
 14 Q. Because you didn't know what the heck metadata  
 15 was before you walked in to that meeting, right?  
 16 A. That's not correct. I had a general impression  
 17 of what metadata was. Nate Paul is making specific  
 18 allegations that he could understand the metadata, and  
 19 he claimed it proved the search warrants have been  
 20 altered. And I was trying to go to our IT director who  
 21 was at the deputy level and see if I could get a more  
 22 definitive definition of metadata that would help me  
 23 analyze his claim.  
 24 Q. Of course. And so what had happened was on  
 25 this same day you had met with Nate Paul, his lawyers,

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1 and your -- no?  
 2 A. No.  
 3 Q. Okay.  
 4 A. This was August the 6th.  
 5 Q. Yes.  
 6 A. This was the day after the meeting.  
 7 Q. Yes. So you met with your team, your forensic  
 8 team?  
 9 A. On August 6, yes.  
 10 Q. And then you got out of the meeting and said,  
 11 hey, Tina, can you send me a definition of metadata,  
 12 please?  
 13 A. I don't remember if I sent the email before we  
 14 met with the forensics team or after. Metadata was the  
 15 central core of Nate Paul's complaints about the search  
 16 warrant. That was the evidence that he and Mr. Wynne  
 17 pointed to that would prove that state violations had  
 18 occurred in the alleged alteration of a court document.  
 19 Q. And in order for you to assess those claims,  
 20 you needed to know what metadata was, right?  
 21 A. Of course, yes.  
 22 MR. LITTLE: May I approach the witness?  
 23 PRESIDING OFFICER: You may.  
 24 MR. LITTLE: Mr. Arroyo, back to Exhibit  
 25 AG 88, the page ending in 003, please.

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1 Q. (BY MR. LITTLE) What is this list Mr. Penley?  
 2 A. Well, it's a document that apparently --  
 3 PRESIDING OFFICER: Excuse me. We're on  
 4 the wrong page up on the screen.  
 5 MR. LITTLE: Oh, wrong page.  
 6 Mr. Arroyo, 003, please. Other way.  
 7 Q. (BY MR. LITTLE) Okay. What's this list?  
 8 MR. HARDIN: Your Honor, may I inquire if  
 9 he's -- asks the witness if these are his notes or his  
 10 typing.  
 11 MR. LITTLE: No, it's in evidence. It was  
 12 offered, admitted over your objection. No objection,  
 13 actually.  
 14 MR. HARDIN: I don't believe this was  
 15 prepared by him, so I don't know -- if he is going to  
 16 ask him about it, I'd like the record to reflect he's  
 17 not talking to him about something he did not prepare.  
 18 MR. LITTLE: He produced it in response  
 19 to --  
 20 MR. HARDIN: It doesn't matter whether he  
 21 produced it. It matters as to whether this witness had  
 22 anything to do with it.  
 23 MR. LITTLE: I'll try to lay a proper  
 24 predicate.  
 25 MR. HARDIN: It looks to me like we

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1 received it from the attorney general's office.  
 2 PRESIDING OFFICER: Mr. Hardin, you can  
 3 take the witness on voir dire and ask him.  
 4 MR. HARDIN: Yes.  
 5 VOIR DIRE EXAMINATION  
 6 BY MR. HARDIN:  
 7 Q. Mr. Penley, this particular exhibit, did you  
 8 have anything to do with preparing it?  
 9 A. I don't recognize this document. I don't  
 10 recall preparing this. I don't believe it's mine.  
 11 Q. Okay.  
 12 MR. HARDIN: That's all I have, Judge.  
 13 CROSS-EXAMINATION (CONTINUED)  
 14 BY MR. LITTLE:  
 15 Q. Do you remember ever seeing it?  
 16 A. I've seen it in the documents for this trial.  
 17 I've seen it in the discovery.  
 18 Q. You produced it in response to your subpoena,  
 19 yes?  
 20 A. I don't know that --  
 21 MR. HARDIN: He didn't -- he didn't  
 22 produce --  
 23 MR. LITTLE: Hold on. I'm asking the  
 24 question.  
 25 A. I don't know that I did.

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1 Q. (BY MR. LITTLE) Okay. We can go back and  
 2 look.  
 3 A. And if I did, I don't know that I prepared it.  
 4 Perhaps I received it some other way.  
 5 Q. The suggestions on this list are suggestions of  
 6 things that the office might do. Questions it might  
 7 answer in connection with the investigation, right?  
 8 A. I agree with that.  
 9 Q. Yeah. And it says: Can we talk to the AUSA  
 10 Alan Buie.  
 11 Right?  
 12 A. Correct.  
 13 Q. And you've already testified you didn't do  
 14 that, yes?  
 15 A. Right. I did not do that.  
 16 Q. And none of the other questions, how is the  
 17 document created, how is the document encrypted, what  
 18 did he encrypt it with, what application they use, you  
 19 never got the answers to any of those questions, did  
 20 you?  
 21 A. No, I did not.  
 22 Q. Doesn't that seem like important information  
 23 you might want to know?  
 24 A. No, not based on what I learned on August the  
 25 6th.

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1 Q. Okay. So I want to fast forward in your mind  
2 now to August 12th. We're going in chronological order,  
3 if you couldn't tell.  
4 August 12th, you believe, and your  
5 testimony on direct was, you believe Ken Paxton had --  
6 was no longer supporting you, true?  
7 A. That's true.  
8 Q. Yeah. And you came to that conclusion after  
9 the meeting with Nate Paul and his lawyers in which the  
10 attorney general was present, yes?  
11 A. Based on what the attorney general said that  
12 was opposite of what he had told me three or four days  
13 earlier.  
14 MR. LITTLE: And now if you would, let's  
15 take a look, Mr. Arroyo, at AG 1013.  
16 Q. (BY MR. LITTLE) You and the deputies on  
17 August 13th, the day after you say you no longer felt  
18 supported by Ken Paxton, you got in a circle with your  
19 deputies, yes?  
20 A. I didn't get in a circle. I briefed Jeff  
21 Mateer on what had happen the previous day.  
22 Q. When you produced this document in response to  
23 a subpoena, you blacked out -- you whited out the top of  
24 it, right?  
25 A. Yes, because it --

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1 Q. I just need an answer to my question.  
2 A. Yes, I did. I redacted it.  
3 Q. Yes. And we don't know what's under there  
4 because you didn't show us, correct?  
5 A. That's true.  
6 Q. Now we go to the rest of this item. This is --  
7 these are your handwritten notes from a meeting, true?  
8 A. Yes.  
9 MR. LITTLE: And below that, Mr. Arroyo,  
10 if you can blow up the text to the right below that.  
11 Q. (BY MR. LITTLE) It says: Call Dan Cogdell?  
12 A. Yes.  
13 Q. That's what you wrote, right?  
14 A. Absolutely.  
15 Q. We're talking about that guy?  
16 A. Yes, the guy in the good-looking sport coat  
17 over here.  
18 Q. It says: Ask him if Maxwell and I say go no  
19 further with this.  
20 Did you call Dan Cogdell?  
21 A. No, we did not, but we considered it.  
22 MR. LITTLE: Object, nonresponsive to  
23 anything after "no."  
24 PRESIDING OFFICER: Sustained.  
25 Q. (BY MR. LITTLE) Below that --

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1 MR. LITTLE: Mr. Arroyo, if you could  
2 highlight that --  
3 Q. (BY MR. LITTLE) -- it says: Possible bribery?  
4 A. Yes, I wrote that.  
5 Q. On August 13th of 2020, you had absolutely no  
6 evidence, physical, documentary, eyewitness, or  
7 circumstantial that Ken Paxton was being bribed by  
8 anyone, did you?  
9 A. I disagree with your statement. I had  
10 circumstantial evidence.  
11 Q. Oh, you had circumstantial evidence?  
12 A. Yes.  
13 Q. Well, at some point on August 13th, did you go  
14 to your boss Ken Paxton and say, attorney general, I'm  
15 concerned. I have circumstantial evidence that you've  
16 taken a bribe. Did you do that?  
17 A. Not on the 13th of August. I did it later.  
18 Q. You didn't do that because you knew you would  
19 get fired, right?  
20 A. I said possible bribery. I didn't have  
21 evidence to confront him with. Not at that time.  
22 Q. Oh, but you just told the ladies and gentlemen  
23 of the jury you had circumstantial evidence?  
24 A. Yeah.  
25 Q. So did you confront him with the circumstantial

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1 evidence?  
2 A. No. The circumstantial evidence --  
3 MR. LITTLE: Object, nonresponsive to  
4 everything after "no."  
5 MR. HARDIN: Please be allowed to respond.  
6 PRESIDING OFFICER: Sustained, your  
7 objections.  
8 MR. LITTLE: Thank you.  
9 Q. (BY MR. LITTLE) Mr. Penley, below that it  
10 says --  
11 MR. LITTLE: If you can zoom back out,  
12 Mr. Arroyo.  
13 Q. (BY MR. LITTLE) -- he's using OAG/playing KP.  
14 Did you tell your boss you thought that  
15 Nate Paul was playing him?  
16 A. Not on August the 13th.  
17 Q. Why not on that day?  
18 You had his phone number, right?  
19 A. I'm sorry?  
20 Q. You had Ken Paxton's phone number, right?  
21 A. Yes, I did.  
22 Q. Why didn't you confront Ken Paxton with your  
23 circumstantial evidence of bribery and the idea that  
24 Nate Paul was playing him on August 13?  
25 A. Because I was trying to find a way to convince

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1 him to listen to reason and get away from this  
 2 investigation which I thought was highly dangerous to  
 3 him and harmful to the office and injurious to the  
 4 respect for the law in the state of Texas.  
 5 Q. But also because if you had done that you  
 6 should expect to get fired, don't you think?  
 7 A. I could have been. And I was concerned about  
 8 getting fired ever since Ken Paxton did a 180 and turned  
 9 against me in the August 12th meeting all the way to the  
 10 end.  
 11 Q. Okay. So just to be clear, for the ladies and  
 12 gentlemen of the jury, your concerns about bribery did  
 13 not arrive until you thought Ken Paxton might fire you,  
 14 yes?  
 15 A. No, that's not correct. You're misstating what  
 16 I thought.  
 17 Q. I have your notes here.  
 18 A. Yes.  
 19 Q. This is the first document I've ever seen where  
 20 you've written the words "possible bribery." Will you  
 21 agree?  
 22 A. I don't have all the documents I've written.  
 23 I've written a lot, so I can't agree to that unless you  
 24 want to show me all the documents.  
 25 I began to be very concerned about what

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1 was going on in his mind when on about August the 8th,  
 2 more or less, I told him I recommended closing the  
 3 investigation. He looked me in the eye and said, okay,  
 4 fine, all I ask you to do is meet with them and tell  
 5 them. And then two days later he told me he wanted to  
 6 attend the meeting. And then in the meeting when I  
 7 announced to Mr. Paul and Mr. Wynne, I recommended we  
 8 close the investigation because the metadata theory  
 9 didn't prove a crime, Ken Paxton began making negative  
 10 comments to me.  
 11 MR. LITTLE: I'm going to object to the  
 12 narrative.  
 13 PRESIDING OFFICER: Sustained.  
 14 Q. (BY MR. LITTLE) Appreciate your answer,  
 15 Mr. Penley, but my question was a little bit different.  
 16 On August -- by August 12, you thought,  
 17 This guy might fire me, yeah?  
 18 A. I did.  
 19 Q. On August 13th, you wrote down, Maybe he's  
 20 being bribed, yeah?  
 21 A. Yes, because I thought that.  
 22 Q. And you didn't confront him that day because to  
 23 do so probably would have resulted in you being fired,  
 24 yes?  
 25 A. Could be.

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1 Q. The safer strategy is to wait a month and go to  
 2 the FBI with whatever circumstantial evidence you have  
 3 and adopt whistleblower status for the same information,  
 4 right?  
 5 A. No, I don't agree with your characterization.  
 6 Q. Okay. In any event, in this memo, you say that  
 7 the metadata is inconclusive, right?  
 8 A. I'm sorry. Where are you pointing me to?  
 9 MR. LITTLE: Zoom back out, Erick, if you  
 10 would, please.  
 11 Q. (BY MR. LITTLE) Yeah, metadata is  
 12 inconclusive. No proof of crime. No disproof of crime  
 13 either. Right?  
 14 A. I wrote down: Metadata is inconclusive. No  
 15 proof of crime.  
 16 And that was my belief at that time, and  
 17 it still is.  
 18 Q. In any event, I think you can tell the jury,  
 19 and they will agree, you didn't do any investigating  
 20 after that, right?  
 21 A. No, that's not true. I tried to investigate.  
 22 I tried to get the rest of the documents that Nate Paul  
 23 and Michael Wynne had told me they had on August 5th.  
 24 They told me they had gotten a bunch of documents from  
 25 Judge Lane, and I never felt like they'd given me all

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1 the documents.  
 2 Q. You had already told Nate Paul and his lawyer  
 3 the day before that you were going to close the  
 4 investigation before you had those documents, true?  
 5 A. That's true.  
 6 And the attorney general didn't accept it.  
 7 MR. LITTLE: Object, nonresponsive to  
 8 anything after "true."  
 9 PRESIDING OFFICER: Sustained.  
 10 Q. (BY MR. LITTLE) All right. I'm going to show  
 11 you what's marked as Exhibit AG 1014, please.  
 12 We're going to move ahead in time from  
 13 August 13th of 2020 to September 4th of 2020. Can you  
 14 see this document in front of you on the screen or in  
 15 your hand, you've got a copy of it physically?  
 16 A. Yes, I think I can see it better on the screen  
 17 if you'll blow it up. Thank you.  
 18 Q. This is an email from general counsel -- this  
 19 is Lesley French at the OAG. And she's sending it to  
 20 FLD contracts. It says: FLD, please see the  
 21 attached -- please see the attached partially executed  
 22 contract and disclosures for Mr. Cammack. I have  
 23 reviewed the disclosure statement of Brandon Cammack and  
 24 am satisfied with the choice of outside counsel for this  
 25 matter.

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1 Do you see that?

2 A. I do see that.

3 Q. Okay. And on September 4th, you got the

4 DocuSign that day. Yes?

5 A. I've said in writing that I got it that day,

6 but now that I've reviewed a lot more evidence, I think

7 I made a mistake, and I believe I've got it for the

8 first time on September the 16th is when it reached my

9 email inbox.

10 Q. Well, that's not what you testified to under

11 oath before the House Board of Managers, is it?

12 A. That's why I said I made a mistake.

13 Q. Yeah.

14 A. You're correct.

15 Q. And when you -- and I think you'll agree -- I'm

16 not going to have to pull your transcript out -- you

17 testified to the House Board of Managers and their

18 investigators that you got it on September 4th and then

19 you went on vacation and said, I'll take care of that

20 when I get back. That's what you told them, yes? And

21 now you're telling a different story, yes?

22 A. Well, you've asked two questions at least.

23 I'll answer it this way, if I may.

24 Yes, I told the house managers I thought

25 the date I first received the executive approval

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1 memorandum was on September the 3rd or 4th, whatever

2 date is in the transcript. I don't argue with that. I

3 now believe I first received it on September the 16th,

4 so I'm correcting my testimony.

5 Q. You're correcting your testimony that you gave

6 to the house impeachment board's investigators, yes?

7 A. Yes, that's true.

8 Q. We should believe what you're saying today and

9 not then, yes?

10 A. Yes.

11 Q. Okay. Our next exhibit in time, if you would,

12 we're going to go back to Exhibit AG 88. And I'm going

13 to show you the next page.

14 MR. HARDIN: Your Honor, and because it

15 was -- if I may, because this was a group offer, they're

16 all, of course, Exhibit 88. If counsel could on each

17 one of those pages where he does it for us, give it some

18 type of identifying so we can know and be able to pull

19 back up later.

20 MR. LITTLE: Well, they're already in.

21 I'll identify by Bates number, if that's okay.

22 So, Mr. Arroyo, if you'll go to the Bates

23 ending in 008.

24 MR. HARDIN: I realize they're in

25 evidence. What I would like is a Bates number each time

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1 so I know which one to look for.

2 PRESIDING OFFICER: Would you accommodate

3 him, please?

4 MR. LITTLE: We'll do our best, yes.

5 Mr. Arroyo, go to page ending in 008.

6 Give me all the text, Erick, if you would.

7 Q. (BY MR. LITTLE) This email is sent from Mark

8 Penley to Brittany Hornsey copying Drew Wicker.

9 Hi Brittany, I received a voice mail from

10 the General today. He's requesting that all documents I

11 have on the Nathan Paul matter be copied and given to

12 Elise.

13 Did I read that correctly?

14 A. You did.

15 Q. The attorney general just sent you to the

16 showers, didn't he?

17 A. I'm sorry?

18 Q. He just came to the mound and took the ball out

19 of your hand, said, "Give me the file. I'll take it

20 from here," yes?

21 A. He didn't say that.

22 Q. That's what you should have inferred from that,

23 right? The attorney general came and got the file from

24 you, yes?

25 A. You're asking me to speculate. I don't know

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1 what was in his mind. I know I got a voice mail from

2 him while I was on vacation asking me to get the file to

3 one of the executive assistants on the executive floor,

4 which I did.

5 Q. You knew that was not a good sign, right?

6 A. No. I had been given a warning that he was

7 working up an outside counsel contract, and that was

8 consistent with the idea that he was going around me and

9 David Maxwell and trying to hire outside counsel.

10 Q. He's taken the ball out of your hands, yes?

11 A. That's your phrase. I'll accept it if you want

12 me to.

13 Q. Okay. I do. You going to accept it? I --

14 A. I'll accept that he was trying to take the case

15 out of my hands. There was no ball.

16 Q. Very good.

17 Let's move to Exhibit AG 1015, if you

18 would.

19 And these are your notes from a side

20 huddle with Jeff Mateer, Blake Brickman, and Ryan

21 Bangert, yes?

22 A. Yes, that's correct.

23 Q. And at the bottom you -- we've got more

24 redactions, yes?

25 A. Yes. They were irrelevant topics that came up

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1 in a meeting that had nothing to do with this case.  
 2 Q. Well, I guess we'll have to take your word for  
 3 it, won't we?  
 4 A. Well, yeah.  
 5 Q. Below that it says: NP file returned Joe  
 6 Brown, Cliff Stricklin, outside counsel contract.  
 7 So you knew about it?  
 8 A. Yes. The purpose of the meeting with Jeff was  
 9 so he could update me on things that had gone on during  
 10 the week I was gone. And he told me that the attorney  
 11 general had considered hiring Joe Brown, a former United  
 12 States attorney and former district attorney in Sherman,  
 13 he'd been the U.S. attorney in the Eastern District of  
 14 Texas. He also, I believe, had conducted a phone  
 15 interview with Cliff Stricklin, an attorney in Denver.  
 16 Q. All right. Let's move ahead in time a little  
 17 bit.  
 18 MR. LITTLE: May I approach the witness,  
 19 Your Honor?  
 20 Q. (BY MR. LITTLE) Mr. Penley, I'm showing you  
 21 what's been marked as Exhibit AG 124.  
 22 MR. LITTLE: Erick, would you bring that  
 23 up, please.  
 24 Q. (BY MR. LITTLE) This is the second referral  
 25 from the Travis County District Attorney's Office to

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1 Brandon Cammack on September 23rd of 2020, yes?  
 2 A. Yes.  
 3 Q. And when you made your report to the FBI, you  
 4 didn't know about this, true?  
 5 A. That's true.  
 6 Q. And when you -- I believe the word you used on  
 7 direct was "apoplectic"?  
 8 A. Yes.  
 9 Q. When you were apoplectic about the grand jury  
 10 subpoenas being served by Brandon Cammack, it was  
 11 because you believed they were being used for civil  
 12 discovery in a criminal matter, true?  
 13 A. That's true.  
 14 Q. But, in fact, they were related to this second  
 15 referral in a bid rigging investigation that had been  
 16 referred to the Travis County DA's Office over to  
 17 Brandon Cammack?  
 18 A. You lost me on the second question. Could you  
 19 repeat that, please?  
 20 Q. Yeah, let me try again.  
 21 The grand jury subpoenas Mr. Cammack was  
 22 serving were relating to this referral in a bid rigging  
 23 investigation that had been made from Travis County  
 24 District Attorney's Office to Brandon Cammack, true?  
 25 A. That's not completely true. It's partially

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1 true.  
 2 Q. It's a lot true, isn't it?  
 3 A. It's partially true. I'll explain if you want  
 4 me to.  
 5 Q. You can do that on redirect, I bet. We'll try.  
 6 But here's what I want you to understand and want you to  
 7 appreciate and agree with me on. You didn't know about  
 8 this and the subpoenas that Mr. Cammack was serving were  
 9 related to this referral, yes?  
 10 A. A, I didn't know about this. I agree.  
 11 B, all of the 39 grand jury subpoenas he  
 12 obtained from Travis County did not relate to referral  
 13 No. 2. Part of them referred to referral No. 1.  
 14 Q. Thank you.  
 15 Going to move to Exhibit AG 92.  
 16 PRESIDING OFFICER: I do not believe 124  
 17 was admitted previously.  
 18 MR. LITTLE: We move for admission of  
 19 AG 124.  
 20 PRESIDING OFFICER: Any objection?  
 21 That's the document, Mr. Hardin, he had  
 22 been working from before that one you were just handed.  
 23 MR. LITTLE: He has seen 124, and this is  
 24 92.  
 25 MR. HARDIN: I have no objection.

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1 PRESIDING OFFICER: I show that  
 2 Exhibit 124 is admitted into evidence.  
 3 (AG Exhibit 124 admitted)  
 4 PRESIDING OFFICER: Now are you offering  
 5 another?  
 6 MR. LITTLE: AG 92, Mr. President.  
 7 PRESIDING OFFICER: Any objection on this  
 8 one, Mr. Hardin?  
 9 MR. HARDIN: No, Your Honor.  
 10 PRESIDING OFFICER: I show that Exhibit 92  
 11 be admitted into evidence.  
 12 (AG Exhibit 92 admitted)  
 13 PRESIDING OFFICER: Continue.  
 14 Q. (BY MR. LITTLE) Mr. Penley, after ten days  
 15 here in Exhibit AG 92, you admit -- or you finally  
 16 state: I'm not signing the outside counsel contract.  
 17 Yeah?  
 18 A. You said after ten days? What -- you lost me  
 19 at ten days.  
 20 Q. Well, your testimony today was that you got the  
 21 outside counsel contract DocuSign on September 14th.  
 22 You told them you got it on September 4th. Whether  
 23 you've had it for ten days or 20 days, you are now  
 24 finally telling someone I'm not signing it, yes?  
 25 A. I received it on September the 16th, as I

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1 previously stated, so eight days later. After the  
 2 attorney general called me and asked me to sign the  
 3 outside counsel contract, I told him I could not and I  
 4 would not, and I gave him all the reasons why. He told  
 5 me to talk to Jeff Mateer and to forward this contract  
 6 to Jeff Mateer.  
 7 Q. All right.  
 8 A. Which I did.  
 9 MR. LITTLE: Let's move to Exhibit AG  
 10 1017, Erick.  
 11 Q. (BY MR. LITTLE) These are the notes that have  
 12 already been entered into evidence, I guess on both  
 13 sides, but these are your notes from September 26,  
 14 right?  
 15 A. Yes, these are my after meeting notes on  
 16 September 26 from McKinney.  
 17 Q. Okay. This is discussion about hiring outside  
 18 counsel, at least in part, yes?  
 19 A. Yes, that was discussed.  
 20 Q. Okay.  
 21 MR. LITTLE: Erick, about -- give me  
 22 the -- zoom in on the last half of the page, please.  
 23 Higher. There you go, stop.  
 24 Q. (BY MR. LITTLE) Do you see the line about four  
 25 lines down it says: I said.

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1 Do you see that?  
 2 A. Yes.  
 3 Q. It says: I said I don't need him, and we  
 4 shouldn't be spending money on him when we can't give  
 5 raises to our employees?  
 6 A. Yes, I see that.  
 7 Q. You said that, didn't you?  
 8 A. I did.  
 9 Q. None of that is your business or decision or  
 10 authority at the Office of the Attorney General, is it?  
 11 A. I don't totally agree with you. I don't have  
 12 the ultimate authority, but I have a duty to tell him  
 13 about things going on in my area of responsibility. We  
 14 couldn't give raises to our people. I felt like he was  
 15 wasting money on outside counsel on an improper  
 16 investigation, and I was trying to express that to him.  
 17 Q. Do you understand that there are 900 outside  
 18 counsel contracts every two years at the Office of the  
 19 Attorney General?  
 20 A. I didn't know that, but I'll take your word for  
 21 it.  
 22 Q. And your explanation here for one reason Ken  
 23 Paxton shouldn't hire Brandon Cammack is I don't need  
 24 him, we shouldn't be spending money on him when we can't  
 25 give raises to our employees. That was what you said,

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1 yeah?  
 2 A. That's what I said.  
 3 Q. And Ken Paxton got upset and he said: So  
 4 you're going to exercise veto powers over the budget for  
 5 the agency?  
 6 A. He said that, yes.  
 7 Q. That was his response to you, yes?  
 8 A. Yes, it was.  
 9 Q. At the bottom, it says there's a chance of  
 10 media exposure, second line from the bottom?  
 11 A. Yeah.  
 12 Q. You expressed you were worried about that,  
 13 right?  
 14 A. I was worried for his sake, yes. And I warned  
 15 him.  
 16 MR. LITTLE: Go to the third page, if you  
 17 would, Erick.  
 18 Q. (BY MR. LITTLE) Again, we see on the third  
 19 page the word "inconclusive." The theory advanced by NP  
 20 was inconclusive, yes?  
 21 A. I'm sorry. Could you tell me -- can you direct  
 22 me to the part of the page you're looking at?  
 23 PRESIDING OFFICER: Yes. Can you  
 24 highlight that for the jurors?  
 25 MR. LITTLE: Yes, it's about

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1 three-quarters of the way down. You see the word  
 2 "inconclusive"? Says "theory advanced by" at the  
 3 beginning of the line.  
 4 Lower, Erick. Right there.  
 5 Q. (BY MR. LITTLE) About third of the way down  
 6 the --  
 7 A. Yes.  
 8 Q. -- theory advanced by NP was inconclusive, yes?  
 9 You see that?  
 10 A. Give me -- if I may have just a moment to read  
 11 the paper.  
 12 Q. Yeah, take your time.  
 13 A. Yes, I wrote that.  
 14 Q. And toward the bottom of the page --  
 15 MR. LITTLE: And just leave it there,  
 16 Erick.  
 17 Q. (BY MR. LITTLE) -- it says: I'm willing to  
 18 hit the reset button and start fresh if they will  
 19 produce docs, right?  
 20 A. Yes, I told him that.  
 21 Q. You're three months into this referral, yes,  
 22 and you're now telling your boss I'm willing to hit the  
 23 reset button, General Paxton?  
 24 A. That's what I told him on September the 26th,  
 25 yes. After repeated requests for all the documents.

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1 Q. Turn the page, if you would.  
 2 MR. LITTLE: Erick, give me the bottom  
 3 half.  
 4 Q. (BY MR. LITTLE) You said: I told him this is  
 5 a dangerous case, a dim DA or U.S. attorney could charge  
 6 him with a play-for-pay scheme if they learned about the  
 7 investigation since Nate Paul is a campaign donor.  
 8 Yes?  
 9 A. Yes, I wrote that.  
 10 Q. Okay. You don't have any evidence that Nate  
 11 Paul ever paid any type of bribe to Ken Paxton, do you?  
 12 A. I disagree with your statement.  
 13 Q. Tell the ladies and gentlemen of the jury what  
 14 evidence you have that Nate Paul paid Ken Paxton any  
 15 type of bribe. Go.  
 16 A. I've read the evidence that was filed in  
 17 response to the motion for summary judgment that your  
 18 team filed. I've read --  
 19 Q. Hold on a second. This is legal analysis based  
 20 on what you've read, is that right?  
 21 A. You asked me if I had any evidence. I'm trying  
 22 to answer the question, sir, yes.  
 23 Q. You're analyzing what's -- evidence other  
 24 people are offering in this case.  
 25 On September 26, did you have any physical

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1 evidence, documentary evidence, eyewitness evidence, or  
 2 circumstantial evidence that Ken Paxton had committed or  
 3 been bribed by Nate Paul?  
 4 A. I had circumstantial evidence.  
 5 Q. Anything else?  
 6 A. I had his behavior.  
 7 Q. Anything else?  
 8 A. The campaign donation.  
 9 Q. Anything else?  
 10 A. His absolute refusal to listen to common sense  
 11 and reasoned legal positions. He wouldn't listen to  
 12 anybody on the executive staff.  
 13 Q. Anything else?  
 14 A. There's 4,000 pages filed in response to the  
 15 summary judgment. There's stuff in there.  
 16 Q. Did you have any of them?  
 17 A. I didn't have it on September 26. I know about  
 18 it today.  
 19 Q. The bottom portion of that bottom paragraph  
 20 says: I gave him the scenario that NP, if indicted,  
 21 could make up a story and throw him under the bus to the  
 22 feds.  
 23 That's what you told him, right?  
 24 A. I did.  
 25 Q. You told him the risk was Nate Paul would

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1 manufacture false information that could harm Ken  
 2 Paxton, yes?  
 3 A. That's the way I phrased it, yes.  
 4 Q. That's what you said, and that's what you  
 5 wrote, yes?  
 6 A. Yes.  
 7 Q. We get to September 30th -- or 29th and 30th  
 8 your head explodes, yes?  
 9 A. That's true. Figuratively speaking, I hope.  
 10 Q. That's what you said under the -- that's what  
 11 you said to the House Board of Managers, right?  
 12 A. I did. And I was extremely upset when I found  
 13 out about the grand jury subpoenas, yes.  
 14 Q. I'm going to show you what's marked as Exhibit  
 15 AG 50.  
 16 MR. LITTLE: May I approach,  
 17 Mr. President?  
 18 PRESIDING OFFICER: Yes.  
 19 MR. LITTLE: Mr. President, we move for  
 20 admission of AG 50.  
 21 PRESIDING OFFICER: Any objection,  
 22 Mr. Hardin?  
 23 MR. HARDIN: No objection.  
 24 MR. LITTLE: Erick, if you would put  
 25 that --

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1 PRESIDING OFFICER: Admitted to evidence,  
 2 please, AG 50.  
 3 (AG Exhibit 50 admitted)  
 4 Q. (BY MR. LITTLE) You signed this, yes?  
 5 A. I did, yes.  
 6 Q. It says: We have a good-faith belief that the  
 7 attorney general is violating federal and/or state law.  
 8 Yes?  
 9 A. Correct.  
 10 Q. You had a good-faith belief on October 1st,  
 11 2020, yes?  
 12 A. Yes.  
 13 Q. Did you bring any documentary evidence or  
 14 physical evidence to the FBI?  
 15 A. No documents, no physical evidence.  
 16 Q. And just to be clear, your testimony on direct  
 17 was one of the reasons you thought Nate Paul had no  
 18 credibility was he didn't give you any documentary  
 19 evidence, true?  
 20 A. Based on his theory, there was nothing to back  
 21 up his theory, correct.  
 22 Q. Yeah. And so it's fair to say if you had had  
 23 documentary evidence of any crimes by Ken Paxton, you  
 24 would have brought them to the FBI when you visited with  
 25 them prior to this letter, true?

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1 A. I disagree with you.  
 2 Q. Oh so, you would have sat on it?  
 3 A. No.  
 4 Q. If you had any documentary evidence of a crime  
 5 by Ken Paxton, you would have brought it to the FBI,  
 6 yes?  
 7 A. No.  
 8 Q. No, you wouldn't have?  
 9 A. No. This was an initial report by  
 10 eyewitnesses. And it happened in a hurry.  
 11 Q. I agree with that. How much of a hurry did it  
 12 happen in?  
 13 A. Well, in one sense it had gone on for three  
 14 months, but what really took this to a crisis level was  
 15 learning that Brandon Cammack -- or Cammack, I don't  
 16 know the exact pronunciation -- was serving grand jury  
 17 subpoenas --  
 18 Q. You've --  
 19 A. -- that were designed to help Nate Paul in his  
 20 civil litigation against his business adversaries.  
 21 Q. You've testified about that.  
 22 MR. LITTLE: May I approach, Your Honor?  
 23 PRESIDING OFFICER: Yes.  
 24 MR. LITTLE: We move for admission of  
 25 Exhibit AG 97, please.

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1 PRESIDING OFFICER: When you have time to  
 2 respond, Mr. Hardin.  
 3 MR. HARDIN: No objection, Your Honor.  
 4 PRESIDING OFFICER: Admit AG Exhibit 97  
 5 into evidence.  
 6 (AG Exhibit 97 admitted)  
 7 Q. (BY MR. LITTLE) From your office email you  
 8 forwarded grand jury subpoenas that were supposed to be  
 9 secret to your counsel Johnny Sutton, correct?  
 10 A. That's partially correct, yes.  
 11 Q. And to be clear, you've never paid Johnny  
 12 Sutton a dime, have you?  
 13 A. Not yet.  
 14 Q. You have some type of pro bono deal with him?  
 15 A. No.  
 16 Q. Who's paying for him?  
 17 A. We haven't agreed on a fee arrangement yet.  
 18 We've agreed to discuss that in the future.  
 19 Q. Let's let that sink in for a second. This man  
 20 who's a former assistant U.S. attorney with the Ashcroft  
 21 Law Firm, I believe, it's in multiple states, he's  
 22 represented you for three years and you haven't agreed  
 23 on a fee arrangement yet? I want to make sure I  
 24 understand.  
 25 A. That's right.

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1 Q. Haven't paid him anything?  
 2 A. Haven't paid him anything.  
 3 Q. He's never sent you a bill?  
 4 A. No, sir.  
 5 Q. Sounds like a great guy.  
 6 A. He is. And he's a former United States  
 7 attorney, not an AUSA.  
 8 Q. Some point in time you get placed on  
 9 investigative leave, true?  
 10 A. On October the 2nd, correct, by the attorney  
 11 general himself.  
 12 Q. And by that point in time, there was still no  
 13 file related to your investigation at the OAG, yes?  
 14 A. I'm sorry. I didn't hear the full question.  
 15 Could you repeat?  
 16 Q. There was no file at the time that you were  
 17 placed on investigative leave in the OAG system related  
 18 to the Nate Paul investigation, true?  
 19 A. I had a file with my personal notes on the  
 20 case, but we had not officially opened an investigation  
 21 file.  
 22 MR. LITTLE: If you would, Mr. Arroyo,  
 23 bring up Exhibit AG 1020, please.  
 24 Q. (BY MR. LITTLE) October 10 of 2020, these are  
 25 your notes from a conversation with David Maxwell,

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1 correct?  
 2 A. Yes.  
 3 MR. LITTLE: Blow up the bottom portion  
 4 and highlight it, Mr. Arroyo. Highlight that bottom  
 5 asterisk.  
 6 Q. (BY MR. LITTLE) Your plan while you were still  
 7 at the Office of the Attorney General on  
 8 investigative -- you're on investigative leave on  
 9 October 10, right?  
 10 A. That's true.  
 11 Q. Your plan is to cook up bar complaints on  
 12 Brandon Cammack, Michael Wynne, and Ken Paxton, isn't  
 13 it?  
 14 A. That was not my plan.  
 15 Q. It was David Maxwell's plan?  
 16 A. I wrote down -- I write down what people say --  
 17 (Simultaneous discussion)  
 18 MR. LITTLE: Object, nonresponsive.  
 19 A. I wrote that down.  
 20 MR. HARDIN: Pardon me, Your Honor. He  
 21 can't --  
 22 PRESIDING OFFICER: Let's back up. Let's  
 23 slow down. Let him finish his answer, then you can  
 24 object.  
 25 Go ahead.

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1 Q. (BY MR. LITTLE) Time is at a premium,  
2 Mr. Penley.  
3 It was David Maxwell's plan as of  
4 October 10 of 2020 to cook up bar complaints against  
5 Brandon Cammack and Mike Wynne and Ken Paxton, yes?  
6 A. No, I don't agree with that. He said that. I  
7 wrote it down. That's what it means.  
8 Q. And you wrote it down because -- well, why  
9 don't you tell these people what he actually said?  
10 A. The best recollection -- well, I have no  
11 independent recollection of these notes, so I wrote down  
12 the word "cook up." We never did anything with it. We  
13 never even called the bar.  
14 Q. But the two of you talked about it, yes?  
15 A. That comment was made on that date, and I wrote  
16 it down on October the 10th. Yes, I wrote that down.  
17 Q. And at -- toward the top it says: Look at the  
18 defense fund. May need a grand jury subpoena. Right?  
19 A. Right.  
20 Q. That was part of your plan, wasn't it?  
21 A. No, that was part of our conversation, and we  
22 were trying to find more links between Nate Paul and Ken  
23 Paxton.  
24 MR. LITTLE: If you would, Mr. Arroyo,  
25 Exhibit AG 1021.

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1 Q. (BY MR. LITTLE) These are your notes. Let's  
2 work from the top.  
3 When did you write this?  
4 A. Hold on just a second. I guess I don't have a  
5 paper copy.  
6 It was sometime after I was placed on  
7 investigative leave. I don't know the exact date.  
8 Q. At the top it says: Google KP's defense funds?  
9 MR. LITTLE: Erick, if you could zoom in  
10 on that. See if we can access that document.  
11 Q. (BY MR. LITTLE) Who is "we," by the way?  
12 A. Some of the whistleblowers. I can't name  
13 anybody other than myself.  
14 Q. You guys are trying to dig for dirt on Ken  
15 Paxton, right?  
16 A. We're trying to find evidence to defend  
17 ourselves because we were being unjustly treated.  
18 MR. LITTLE: Next paragraph, Mr. Arroyo.  
19 Q. (BY MR. LITTLE) At the top you write: Missy  
20 told him he could sign the contract and hire outside  
21 counsel.  
22 Yes?  
23 A. I wrote that down, yes.  
24 Q. That's Missy Cary, the chief of staff of the  
25 Office of the Attorney General, yes?

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1 A. That's correct.  
2 Q. And your notes, your recollections from this  
3 meeting, were that you were all discussing it and the  
4 chief of staff said: Ken, you can sign that contract.  
5 Yes?  
6 A. Well, I don't know this was from a meeting. I  
7 believe it was from a phone call.  
8 MR. LITTLE: Let's go to the bottom two  
9 lines on that page, if you would, Mr. Arroyo.  
10 Q. (BY MR. LITTLE) The bottom you wrote: KP must  
11 be indicted by spring break.  
12 You wrote that, right?  
13 A. Yes.  
14 Q. That was what you wanted, wasn't it?  
15 A. At that point, yes, because I believed he'd  
16 broken the law.  
17 Q. Of what year?  
18 A. I'm sorry?  
19 Q. Of what year?  
20 A. The law of what year?  
21 MR. LITTLE: I'll pass the witness.  
22 PRESIDING OFFICER: Mr. Hardin, redirect.  
23 MR. HARDIN: Thank you, Your Honor.  
24 Thank you. Thanks a lot.  
25

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1 REDIRECT EXAMINATION  
2 BY MR. HARDIN:  
3 Q. Mr. Penley, I'll just take a few minutes with  
4 you. Just a few things I want to mention real quickly.  
5 But what is your testimony as to whether  
6 or not at the time all of this was happening, you had  
7 seen the referral that is called the second referral.  
8 MR. HARDIN: And if we could, put up the  
9 front page of AG Exhibit 124, please, Stacey.  
10 That's okay. Thanks a lot.  
11 Now, Stacey, if we could, put the --  
12 isolate the date there.  
13 Q. (BY MR. HARDIN) So September the 23rd,  
14 correct?  
15 A. Correct.  
16 Q. But you're really -- only everything blew up,  
17 we can all agree, can we not, on September the 30th,  
18 with y'all going to the FBI and so?  
19 A. I'd say September 29th, the day before with the  
20 first grand jury subpoena being reported.  
21 Q. Okay. But you went to the FBI on the -- on  
22 what date?  
23 A. On the 30th.  
24 Q. All right. Now, this is just one week before  
25 that is my point, is it not?

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1 A. Yes, sir.  
 2 Q. And had -- were you ever -- during any of the  
 3 time this was going on, were you informed that after  
 4 filing the complaint back in June, the referral, that  
 5 Mr. -- now after things are -- you've been looking at  
 6 one referral?  
 7 A. Yes.  
 8 Q. Is your testimony throughout this case y'all  
 9 were only concerned with one referral?  
 10 A. Right. I only knew of one referral all the way  
 11 to the point when I got put on investigative leave.  
 12 Q. All right. Did -- have you since reviewed  
 13 after this was all over, after you were terminated --  
 14 well, back up.  
 15 Had you seen this referral number two from  
 16 this gentleman before you were terminated?  
 17 A. I think I saw it between the time I was put on  
 18 leave and terminated, which was a month. I think I saw  
 19 it in between that time.  
 20 Q. And at the time -- now did that -- that lessen  
 21 your view or change your view of Mr. Paul or did it  
 22 increase the view you already had reached?  
 23 A. It increased my anger at the attorney general.  
 24 Q. All right. Hold on a second.  
 25 A. For doing all this.

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1 Q. Hold on a second.  
 2 I want to move you now to --  
 3 MR. HARDIN: Stacey, Bates stamp -- I  
 4 think it's one -- yes, Bates stamp 2443, please, Stacey.  
 5 Q. (BY MR. HARDIN) Now, you've heard on cross,  
 6 you've been asked questions about when y'all met with  
 7 the investigative committee that you weren't under oath,  
 8 right?  
 9 A. Yes, I recall that.  
 10 Q. And I'm going to look at this. Does this page  
 11 show -- or -- all right.  
 12 Do you see whether or not Mr. Paul, once  
 13 again, had a choice of whether or not to swear to the  
 14 allegations he was making?  
 15 A. Yes, I know that on both referral number one  
 16 and number two, those forms from Travis County have a  
 17 line for a Notary signature and a swearing that  
 18 everything is true.  
 19 Q. Now, what is your opinion as to whether when he  
 20 goes to the district attorney's office to file a  
 21 complaint and has a chance to make his allegations, did  
 22 he swear to those allegations?  
 23 A. He did not swear to either complaint in  
 24 referral one or referral two.  
 25 Q. And when he didn't swear to the complaint, did

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1 you -- once you found out about it, while you were, you  
 2 say, on leave before you officially terminated, did you  
 3 look at the allegations this guy was making this time?  
 4 A. I looked at the allegations with that combined  
 5 with everything else that had occurred, made me look in  
 6 a highly skeptical way at his claims.  
 7 Q. Well, let me ask you this: Did you look at  
 8 this referral number two and say -- and see that now he  
 9 wants a federal bankruptcy judge investigated?  
 10 A. Right. That makes two federal judges he wants  
 11 the state of Texas to investigate even though we told  
 12 him he needed to go to the United States Department of  
 13 Justice Inspector General's Office to take these claims.  
 14 Q. And to take him seriously?  
 15 A. He wanted us to take him seriously, I agree.  
 16 MR. HARDIN: Go to Bates stamp, if you  
 17 can, Stacey, 124 -- or that's the exhibit, excuse me.  
 18 Bates stamp 2445.  
 19 Q. (BY MR. HARDIN) I want you to look at how many  
 20 people now does he want an investigation of. For  
 21 instance, look at -- on Page 2445, let's scroll down.  
 22 Will you just read out the names of the people he now  
 23 wants y'all to investigate in addition to the people he  
 24 wanted you to investigate in the original referral?  
 25 A. Yes, sir. Bryan Hardeman, Will --

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1 Q. Do you know who -- slow down.  
 2 Do you know who Bryan Hardeman is one way  
 3 or the other?  
 4 A. I do not.  
 5 Q. Next one.  
 6 A. Will Hardeman.  
 7 Q. Do you know who he is?  
 8 A. I've read that's Bryan Hardeman's son.  
 9 Q. Do you know who Christopher Dodson is?  
 10 A. No.  
 11 Q. Are you aware that's opposing counsel in a case  
 12 that he's in litigation with?  
 13 A. No, but I'm not surprised.  
 14 Q. Stephen Benesh, do you know who that is?  
 15 A. I do not.  
 16 Q. Do you know who Jason Cohen is?  
 17 A. I do not.  
 18 Q. Do you know who Mark Riley is?  
 19 A. I don't.  
 20 Q. Do you know that Mark Riley is engaged in a  
 21 civil lawsuit with him?  
 22 PRESIDING OFFICER: One moment, Counselor.  
 23 MR. HARDIN: Yes, sir.  
 24 PRESIDING OFFICER: Can we take out that  
 25 information, please, addresses?

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1 MR. HARDIN: Pardon me?  
 2 MR. LITTLE: Just very briefly,  
 3 Mr. President, assuming facts not in evidence.  
 4 PRESIDING OFFICER: I didn't hear what you  
 5 said. I'm sorry.  
 6 MR. LITTLE: I'm saying assuming facts not  
 7 in evidence. Mr. Hardin is saying that these people are  
 8 certain things, and the witness has no knowledge of it.  
 9 PRESIDING OFFICER: Sustained.  
 10 Q. (BY MR. HARDIN) Do you know who Justin Bayne  
 11 is?  
 12 A. I don't know him.  
 13 Q. Do you know whether Tony M. Davis is a federal  
 14 bankruptcy judge?  
 15 A. Yes, I understand that he is a United States  
 16 bankruptcy judge in the Western District of Texas in  
 17 Austin.  
 18 Q. And do you know who Ray Chester is?  
 19 A. He is the trustee for the Mitte Foundation,  
 20 which is involved in a lawsuit with Nate Paul.  
 21 Q. Is Ray Chester a trustee or is he opposing  
 22 counsel representing the Mitte Foundation?  
 23 A. My understanding is he's an attorney, but he's  
 24 also the trustee represented by counsel.  
 25 Q. Do you know whether -- who Mr. Milligan is

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1 Gregory Milligan?  
 2 A. I believe he's an attorney in Austin somehow  
 3 involved in that litigation.  
 4 Q. At the end of the day when you read this  
 5 particular referral, is there any way, any way on God's  
 6 green earth you would ever want to support a criminal  
 7 investigation based on this guy?  
 8 A. Absolutely not.  
 9 MR. HARDIN: I have no further questions.  
 10 PRESIDING OFFICER: Recross, Mr. Little.  
 11 MR. LITTLE: No recross, Mr. President.  
 12 May I have a moment to collect all my  
 13 goods from up there?  
 14 PRESIDING OFFICER: You may.  
 15 Mr. Hardin, Mr. Little, may this witness  
 16 be excused?  
 17 MR. HARDIN: I would hope so, Your Honor.  
 18 MR. LITTLE: Subject to potential recall,  
 19 of course, but yes.  
 20 MR. COGDELL: Mr. President, could I have  
 21 one minute to talk with his counsel?  
 22 PRESIDING OFFICER: Yes.  
 23 MR. COGDELL: We're good, Your Honor.  
 24 Thank you.  
 25 PRESIDING OFFICER: You may step down.

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1 Thank you.  
 2 Don't take all those. Leave those here  
 3 for us. Thank you. Thank you, sir.  
 4 Who's the next witness?  
 5 MS. BUESS: Mr. President.  
 6 PRESIDING OFFICER: Yes.  
 7 MS. BUESS: The House Board of Managers  
 8 call --  
 9 PRESIDING OFFICER: Hit that. We can't  
 10 hear. There you go.  
 11 MS. BUESS: There we go.  
 12 Mr. President, the House Board of Managers  
 13 calls Katherine "Missy" Cary.  
 14 PRESIDING OFFICER: Bailiff, will you  
 15 bring in Missy Cary.  
 16 (The following oath was given to the  
 17 witness.)  
 18 PRESIDING OFFICER: Would you raise your  
 19 right hand, take the following oath: I do solemnly  
 20 swear that I -- or affirm that the evidence I give upon  
 21 this hearing by the Senate of Texas of impeachment  
 22 charges against Warren Kenneth Paxton, Jr. shall be the  
 23 truth, the whole truth, and nothing but the truth, so  
 24 help you God.  
 25 THE WITNESS: I swear.

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1 PRESIDING OFFICER: Please be seated.  
 2 Counsel, will you give your name for the  
 3 record?  
 4 MS. BUESS: My name is Terese Buess.  
 5 PRESIDING OFFICER: You may begin.  
 6 MS. BUESS: Thank you, Mr. President.  
 7 KATHERINE "MISSY" CARY,  
 8 having been first duly sworn, testified as follows:  
 9 DIRECT EXAMINATION  
 10 BY MS. BUESS:  
 11 Q. Good afternoon.  
 12 A. Good afternoon.  
 13 Q. Would you please state your full name --  
 14 PRESIDING OFFICER: Hold on. Both of you  
 15 are going to have to get much closer to the mic and  
 16 speak a -- speak up a little bit more. Yeah. No, no,  
 17 it's -- the acoustics are not good in here.  
 18 THE WITNESS: Yes, sir. Is that better?  
 19 Q. (BY MS. BUESS) I can hear you. It's a big  
 20 room. Can you hear me?  
 21 A. Yes, ma'am.  
 22 Q. All right. Would you please state your full  
 23 name?  
 24 A. My name is Katherine Minter Cary, although I  
 25 sometimes go by Missy.

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1 Q. Is that a name your parents gave you?  
 2 A. It's a nickname. My sister and I were Missy  
 3 and Prissy growing up, and, you know, I got the better  
 4 end of that deal, so...  
 5 Q. So which name do you go by?  
 6 A. I think everyone here would know me by Missy.  
 7 Q. All right. Okay if I call you Missy?  
 8 A. It is.  
 9 Q. All right, Missy. Where did you grow up?  
 10 A. I grew up here in Austin.  
 11 Q. And what is your mom -- what did your mom do?  
 12 A. She was a school teacher and a stay-home mom.  
 13 Q. How about your dad?  
 14 A. My father is an attorney.  
 15 Q. And where did he work?  
 16 A. Actually his first job was he was an assistant  
 17 attorney general at the attorney general's office from  
 18 1965 when I was born to 1971. And then he had a private  
 19 practice in a law firm here in Austin.  
 20 Q. Was he a role model for you?  
 21 A. He is a role model for me, yes.  
 22 Q. Is he why you became a lawyer?  
 23 A. He is.  
 24 Q. How about the attorney general's office?  
 25 A. Just, you know, when I was a kid he would take

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1 me up there. I was probably kindergarten or first  
 2 grade, and it was like the scene from Mad Men, if you  
 3 know the TV show. It was a cool place, and it was what  
 4 I always wanted to be.  
 5 Q. So where did you go for undergrad?  
 6 A. I started at Hollins College, which is a girls  
 7 school in Virginia, and then I transferred to Texas A&M  
 8 where I graduated.  
 9 Q. What's your degree in?  
 10 A. In political science.  
 11 Q. Where did you go after that?  
 12 A. I went to law school at St. Mary's in San  
 13 Antonio.  
 14 Q. And were you licensed to practice law?  
 15 A. I am. I'm licensed in Texas in 1990.  
 16 Q. After you got your license, where did you go to  
 17 work?  
 18 A. My first job was here at the General Land  
 19 Office. I was a staff -- first, I started out --  
 20 because I didn't have my bar results, and I learned  
 21 quick that the appropriations act says you have to have  
 22 a license to be a lawyer, so I started actually as a  
 23 legal secretary or law clerk. And then when I got my  
 24 results, I became a staff attorney there for five years.  
 25 Q. And when you got promoted to staff attorney,

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1 what kind of things were you handling?  
 2 A. I did employment law. I wrote legislation. I  
 3 worked on the Open Beaches Act, the open -- the oil  
 4 spill response act. I did a little bit of collections  
 5 for the permanent school fund. Different things like  
 6 that.  
 7 Q. At the end of your five years, where did you  
 8 move to?  
 9 A. I moved for the first time to the Office of the  
 10 Attorney General.  
 11 Q. Okay. And which department were you assigned  
 12 to work in?  
 13 A. In the administrative law division.  
 14 Q. And what kind of things did you handle?  
 15 A. So I -- part of the time I was a litigator in  
 16 administrative law, represented the state in court. The  
 17 other duties were general counsel to various state  
 18 agencies that didn't have their own general counsels. I  
 19 did open records, open meetings. I drafted rules, tried  
 20 cases about the Administrative Procedures Act, did some  
 21 employment law.  
 22 Q. Sounds like all kinds of things?  
 23 A. Kind of the division that does a little bit of  
 24 everything government oriented.  
 25 Q. Okay. Did you leave the attorney general's

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1 office?  
 2 A. I did. I left the attorney general's office  
 3 short -- for a while in 1997, and I was conscripted, so  
 4 to speak, to work at the Texas Lottery Commission for  
 5 Harriet Miers, Anthony Sadberry, and Judge Hill, John  
 6 Hill, to work on a matter with the executive director at  
 7 the time that was kind of well-known in the press.  
 8 Q. Okay.  
 9 A. So...  
 10 Q. Was there a scandal?  
 11 A. There was.  
 12 Q. And did it all have to get cleaned up?  
 13 A. It did.  
 14 Q. And did you assist with that?  
 15 A. I did.  
 16 Q. All right. After that work got done, where did  
 17 you go?  
 18 A. After that work got done, I was asked by  
 19 incoming attorney general, now senator, John Cornyn to  
 20 come and be the attorney general's office's public  
 21 information coordinator, so I came back to the attorney  
 22 general's office in 1999. And I did the coordinator  
 23 position for a year, and then I was given the division  
 24 chief of the open records division next. And I think I  
 25 held that position about six or seven years.

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1 Q. And at the end of that, where did you go?  
 2 A. I was promoted to the general counsel position  
 3 for the Office of the Attorney General, I think in 2006.  
 4 I was the agency's general counsel.  
 5 Q. And after that?  
 6 A. After that, I was promoted by Governor Abbott  
 7 when he was still attorney general to be the deputy for  
 8 administration for the Office of the Attorney General,  
 9 and I remained in that position when General Paxton came  
 10 in. And did the same basic job for both of them.  
 11 Q. Tell us how many attorney generals you've  
 12 worked for.  
 13 A. As attorney general, I've worked for four, and  
 14 then John Hill at the Lottery Commission.  
 15 Q. Okay.  
 16 A. So five.  
 17 Q. Tell us the names.  
 18 A. So Dan Morales, John Cornyn, Greg Abbott, Ken  
 19 Paxton, Attorney General Hill when he was on the Lottery  
 20 Commission. And I also worked at the land office for  
 21 Garry Mauro who was a statewide elected official.  
 22 Q. In 2014 when Ken Paxton became the attorney  
 23 general, did you receive a promotion?  
 24 A. I did.  
 25 Q. And what were you promoted to?

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1 A. I was the first female chief of staff of the  
 2 Office of the Attorney General and the first person that  
 3 worked their way all the way up from a line lawyer to a  
 4 position that high in the agency.  
 5 Q. And who did you report to in that position?  
 6 A. I reported to Jeff Mateer who was the first  
 7 assistant -- well, actually, probably it was Chip Roy  
 8 first -- I can't remember. It was the first assistant,  
 9 whichever one was there first.  
 10 Q. And eventually to Jeff Mateer as the first  
 11 assistant?  
 12 A. I think Jeff was their chief of staff, yes.  
 13 Q. Okay.  
 14 MS. BUESS: May I have Exhibit 553,  
 15 please?  
 16 It's not in evidence. It was used, I  
 17 think, with the very first witness. And I'll offer it  
 18 into evidence. It's an organizational chart.  
 19 PRESIDING OFFICER: Any objection?  
 20 MR. BUZBEE: No objection, Your Honor.  
 21 PRESIDING OFFICER: Enter -- I don't have  
 22 a copy, but what's the number?  
 23 MS. BUESS: It's 553.  
 24 PRESIDING OFFICER: 553 into evidence.  
 25 (HBOM Exhibit 553 admitted)

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1 PRESIDING OFFICER: In the future, if  
 2 y'all can give us a copy, thank you.  
 3 Q. (BY MS. BUESS) Can you see the chart, 553?  
 4 A. I can.  
 5 Q. Okay. And what year is this chart reflecting?  
 6 A. This chart, even though it's dated  
 7 September 2020, I think reflects the organization as of  
 8 September of 2019.  
 9 Q. Okay. And are the names -- have the names  
 10 changed a little bit during your -- the time that you  
 11 were there? I'm interested, actually, in the divisions  
 12 and the deputies, the slots. Can you -- looking at the  
 13 far left of the line of executives, can you tell us as  
 14 chief of staff who you worked with during the period of  
 15 time that you were working with Ken Paxton as your  
 16 assistant -- as your attorney general? Start at the  
 17 left, if you would?  
 18 A. So there's a different org chart that's now  
 19 come up on the screen. This organizational chart is the  
 20 chart from 2019, for September 1st, 2019. And I'm happy  
 21 to answer the question. I'm just not sure which chart  
 22 you want me to answer the question for.  
 23 MS. BUESS: Are we on 553?  
 24 Q. (BY MS. BUESS) I'm interested in the  
 25 divisions.

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1 A. I understand.  
 2 Q. Can you --  
 3 A. Which chart are you interested in the divisions  
 4 on? There's two organizational charts, and there --  
 5 it's different, actually.  
 6 Q. How about the one that we're looking at right  
 7 now. Does that help?  
 8 A. That helps.  
 9 Q. Yes?  
 10 A. Yes.  
 11 Q. All right. Let's start at the far left of the  
 12 chart.  
 13 A. Okay.  
 14 Q. And can you tell us which divisions you  
 15 supervised and spent the most time with?  
 16 A. The first assistant supervised all of the  
 17 deputies. However, Mr. Starr and I sort of split the  
 18 deputies by areas of our expertise to assist Jeff in his  
 19 management of the deputies. So for me, I was most  
 20 involved with the deputy attorney general for child  
 21 support and the IV-D director, the chief information  
 22 officer, which is the IT department, the deputy for  
 23 administration, the deputy attorney general for criminal  
 24 justice, the director of law enforcement.  
 25 And if you could shift it over a little

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1 bit.

2 And that would be all there. And then if

3 you look above, directly reporting to me was the

4 agency's public information coordinator who I oversaw.

5 And then I also helped the first assistant with the

6 ombuds person and the internal auditor.

7 Q. When you retired, how many years had you spent

8 with the attorney general's office?

9 A. Just the attorney general's office, somewhere

10 over 20.

11 Q. Okay.

12 A. 25 probably, 20, 20 -- well, probably 20.

13 Q. And during the time that you were there would

14 you say you developed certain areas of expertise?

15 A. I did over my career develop certain areas of

16 expertise, yes.

17 Q. And those particular areas, do you actually

18 teach -- you teach other people about them?

19 A. I have taught other people in the past, yes,

20 about my areas of expertise.

21 Q. What kind of places have you taught at?

22 A. I mean, I've taught at CLEs. I've taught at

23 the National Association of Attorneys General. I was

24 one of their instructor faculty. I've taught about how

25 to run an attorney general's office, how to fund an

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1 attorney general's office, what the attorney generals

2 do. I've consulted with other attorney generals across

3 the country about their attorney generals offices, I've

4 taught ethics, I've taught contracting, I've taught

5 administrative law, I've taught open records many times,

6 open meetings. Administrative law in general.

7 Q. And how about writing? Have you published any

8 publications?

9 A. I have. I published law review articles and

10 other writings.

11 Q. Okay.

12 A. Both unemployment law, procurement law,

13 administrative law. I'm board certified in

14 administrative law.

15 Q. I'd like to go forward to 2018, if you would?

16 A. All right.

17 Q. Okay. What building were you officing in at

18 that time?

19 A. My office in 2018 was in the Price Daniel

20 building, which is attached to the Supreme Court on this

21 side of the street.

22 Q. What floor?

23 A. The eighth floor.

24 Q. And who officed around you?

25 A. It -- I mean, my office was directly next to

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1 the first assistants, with his assistant in between us.

2 And on the other side was the conference room and then

3 the attorney general.

4 Q. So it would be fair to say the people around

5 you were the executive team?

6 A. Correct.

7 Q. Was it all of the executive team or part of

8 them?

9 A. It was part of the executive team. For

10 example, the trial support division has its own building

11 out on Oltorf, and the child support IV-D director

12 always had an office in each place. The director of law

13 enforcement and the head prosecutor also had two

14 offices, as did the director of IT. But it was intended

15 to be the executive staff on the eighth floor.

16 Q. So in 2018, can you tell us a little bit about

17 the quality of the executives that were around you, who

18 were they and what did you think of them?

19 A. Well, I mean --

20 MR. BUZBEE: Your Honor, objection.

21 Relevance. It doesn't matter what she thinks of them.

22 It has nothing to do with this.

23 PRESIDING OFFICER: Sustained.

24 Q. (BY MS. BUESS) Can you tell us, please, the

25 people that worked with you, did they mirror the policy

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1 choices of Attorney General Paxton?

2 MR. BUZBEE: Your Honor, again, relevance.

3 Object.

4 PRESIDING OFFICER: Overrule this time.

5 A. They did. The executive team was created in

6 order to further General Paxton or any attorney

7 general's agenda and desires of where they want the

8 office to go. And they did so.

9 Q. (BY MS. BUESS) And during the period from 2018

10 up to 2020, were you aware of how they were perceived by

11 people outside of the office, other professionals?

12 MR. BUZBEE: Objection, Your Honor. That

13 calls for speculation. How can she know what people

14 outside the office thought about these people?

15 MS. BUESS: I can qualify.

16 PRESIDING OFFICER: Sustained.

17 Q. (BY MS. BUESS) Are you familiar with how the

18 executive group within your office was perceived by

19 people outside of the office, for example, other

20 professionals in Texas and even outside of Texas?

21 MR. BUZBEE: Objection, Your Honor.

22 Personal knowledge. She doesn't have it. And to the

23 extent she has any, it would be hearsay.

24 PRESIDING OFFICER: Sustained.

25 Q. (BY MS. BUESS) Do you know what the general

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1 opinion was of the office from 2018 to 2020?  
 2 MR. BUZBEE: Objection, again, Your Honor.  
 3 The general opinion of who? I mean, there could be -- I  
 4 mean, there's almost 30 million Texans. It could be  
 5 30 million opinions.  
 6 PRESIDING OFFICER: Sustained.  
 7 Q. (BY MS. BUESS) Did the executive team meet  
 8 regularly with Jim Mateer?  
 9 A. With Jeff Mateer, yes.  
 10 Q. Sorry.  
 11 And at those meetings, would y'all catch  
 12 up on what was going on with each other's departments?  
 13 A. We had a Thursday executive meeting that  
 14 included at times General Paxton and Mr. Mateer and the  
 15 deputies, and we caught each other up on what was going  
 16 on, yes.  
 17 Q. Can you tell us what General Paxton's  
 18 involvement with the day-to-day operation of the office  
 19 was?  
 20 A. His involvement was similar to most other  
 21 attorneys general. Most attorneys general set the high  
 22 level policy and high level direction of where they want  
 23 the executive staff to go and then depend on the  
 24 executive staff to complete those tasks and to follow  
 25 that direction.

1 Q. So, Missy, you had worked in the office for a  
 2 very long time at that point. As you looked around you  
 3 at the people that you were working with, how would you  
 4 describe them?  
 5 MR. BUZBEE: Objection, Your Honor. Vague  
 6 and irrelevant.  
 7 PRESIDING OFFICER: Sustained.  
 8 Q. (BY MS. BUESS) What kind of group were they?  
 9 MR. BUZBEE: Again, I don't -- I have no  
 10 idea what that means, what kind of group were they. It  
 11 could be anything. Vague.  
 12 PRESIDING OFFICER: Could you be more  
 13 specific? Thank you.  
 14 MS. BUESS: Yes.  
 15 Q. (BY MS. BUESS) Was there a description that  
 16 you used for the people that you were working with? Did  
 17 you call them something?  
 18 MR. BUZBEE: I'm sorry to interrupt again,  
 19 Your Honor. It's the same objection.  
 20 PRESIDING OFFICER: I have to sustain.  
 21 Q. (BY MS. BUESS) Of all of the people that you  
 22 worked with at the attorney general's office -- and,  
 23 again, I know they're like children, right, we don't  
 24 like to say which ones are our favorite -- but as a  
 25 group, can you qualify, quantify them for us from 2018

1 to 2020?  
 2 MR. BUZBEE: Your Honor, again, I hate to  
 3 slow this down, but that question is vague and as best I  
 4 could tell irrelevant.  
 5 PRESIDING OFFICER: Sustained.  
 6 Q. (BY MS. BUESS) Describe your office for us in  
 7 2018.  
 8 MR. BUZBEE: Is she -- again, vague. Is  
 9 she talking about the building? I'm not sure what she's  
 10 talking about. Vague.  
 11 PRESIDING OFFICER: Yes, Counselor, can  
 12 you be very specific?  
 13 MS. BUESS: Yes.  
 14 Q. (BY MS. BUESS) Can you tell me a little bit  
 15 about the people who worked around you from 2018 to  
 16 2020, your executive team?  
 17 MR. BUZBEE: It's a compound question.  
 18 Objection. She's asking about multiple people. We  
 19 don't know who she's talking about, but to the extent  
 20 it's more than one, compound.  
 21 MS. BUESS: I can go one by one. If  
 22 counsel wants me to do that, we can do that.  
 23 MR. BUZBEE: You're on the clock. Yes, I  
 24 want you to do that. Ask a specific question.  
 25 PRESIDING OFFICER: Okay. Sustained. Be

1 specific.  
 2 Q. (BY MS. BUESS) Did you have an opinion about  
 3 the people that you were working with, your executive  
 4 team during that time period?  
 5 A. Yes.  
 6 Q. Tell us what that opinion was.  
 7 MR. BUZBEE: Objection, Your Honor.  
 8 Vague. Which person is she referring to?  
 9 MS. BUESS: I'm referring to the entire  
 10 executive team that we've talked about.  
 11 MR. BUZBEE: Again, I'm sorry to do this,  
 12 but she can ask what's your opinion of Mateer to the  
 13 extent that's even relevant. Probably not. But this is  
 14 very vague. And to the extent it's not vague, it's  
 15 compound.  
 16 PRESIDING OFFICER: I'm going to overrule.  
 17 You can ask the question.  
 18 You can answer what your opinion was of  
 19 the overall team.  
 20 Q. (BY MS. BUESS) You can answer the question.  
 21 A. My opinion of the overall executive team was  
 22 that they were incredibly professional. They were  
 23 committed to General Paxton's agenda. And it -- all in  
 24 all, it was a credible set of legal minds.  
 25 Q. Is part of your responsibilities working with

1 and supervising the security detail group?  
 2 A. Yes and no.  
 3 Q. Uh-huh.  
 4 A. I did not supervise the security detail because  
 5 they worked for the Department of Public Safety, but I  
 6 did liaison with the security detail as one of their  
 7 points of contact myself and Jeff Mateer.  
 8 Q. Okay. How about the scheduler?  
 9 A. The scheduler did not report to me, reported to  
 10 Jeff. But I did help at times with questions and things  
 11 with the schedule.  
 12 Q. I want to talk with you specifically about  
 13 spring of 2018. Okay?  
 14 A. Yes.  
 15 Q. All right. Was there an incident that caused  
 16 you some concern?  
 17 A. Yes.  
 18 Q. I want to talk about that. Can you tell us  
 19 where you were when it happened?  
 20 A. I believe you're referring to an incident at  
 21 the Galaxy Cafe.  
 22 Q. I am.  
 23 A. In spring of 2018, I was at the Galaxy Cafe on  
 24 West Lynn eating lunch by myself. They have very small  
 25 tables that sit two by two. Very close to the person

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1 who's sitting next to you.  
 2 I was alone eating lunch, and there was a  
 3 man and a woman that's sitting to the table directly  
 4 next to me. Probably within 3 feet away. And they were  
 5 having a conversation, and the woman of the group was  
 6 sharing what I perceived to be --  
 7 MR. BUZBEE: Objection, I'm sorry. She's  
 8 about to repeat hearsay. I object to that.  
 9 PRESIDING OFFICER: Sustained.  
 10 Q. (BY MS. BUESS) As you sat and listened to the  
 11 conversation, did you overhear some information that you  
 12 felt was inappropriate?  
 13 MR. BUZBEE: This question calls for  
 14 speculation and also hearsay. I object.  
 15 PRESIDING OFFICER: Sustained.  
 16 Q. (BY MS. BUESS) As you sat and listened to the  
 17 conversation, how did you feel?  
 18 MR. BUZBEE: Objection, relevance.  
 19 Doesn't matter how she felt. I mean, it has nothing to  
 20 do with this case.  
 21 PRESIDING OFFICER: Sustained.  
 22 Q. (BY MS. BUESS) As you sat and listened to the  
 23 conversation, did you decide to do something?  
 24 MR. BUZBEE: Objection, vague. I'm not  
 25 sure what that means, Your Honor.

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1 PRESIDING OFFICER: Overrule.  
 2 Q. (BY MS. BUESS) What did you do?  
 3 A. After listening to the conversation, I took a  
 4 photograph of this person and took it back directly to  
 5 Attorney General Paxton.  
 6 Q. And why did you do that?  
 7 PRESIDING OFFICER: Excuse me. Can you  
 8 move closer to the mic?  
 9 THE WITNESS: Yes.  
 10 PRESIDING OFFICER: Thank you. Thank you,  
 11 Ms. Cary.  
 12 Q. (BY MS. BUESS) And why did you do that?  
 13 A. Because I felt the conversation was --  
 14 MR. BUZBEE: Objection, hearsay.  
 15 Q. (BY MS. BUESS) I'm not asking for hearsay I'm  
 16 asking what her concern was.  
 17 MR. BUZBEE: That's not what the question  
 18 was, Your Honor.  
 19 MS. BUESS: I asked her --  
 20 PRESIDING OFFICER: Would you repeat the  
 21 question?  
 22 MS. BUESS: Yes.  
 23 Q. (BY MS. BUESS) You took a picture of the  
 24 woman. Why did you do that?  
 25 A. I wanted to talk to General Paxton about the --

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1 what I saw.  
 2 Q. Is security of the attorney general something  
 3 that you as an employee were very concerned with?  
 4 A. Always.  
 5 Q. Was the conversation that you overheard causing  
 6 you concern about safety for the attorney general?  
 7 A. No.  
 8 Q. What was it causing you concern about?  
 9 MR. BUZBEE: Objection. She hasn't said  
 10 that she was caused concern. I mean, it assumes that  
 11 she was concerned, and she hasn't told us that yet.  
 12 PRESIDING OFFICER: Sustained.  
 13 You can ask that question.  
 14 Q. (BY MS. BUESS) Were you concerned?  
 15 A. Yes.  
 16 Q. What were you concerned about?  
 17 A. The level of personal detail being shared in a  
 18 public space.  
 19 Q. And was it directed to the Attorney General Ken  
 20 Paxton?  
 21 A. No.  
 22 Q. Who was it directed to?  
 23 A. It was directed to a man who I did not  
 24 recognize at her lunch table.  
 25 Q. Okay. The woman that was speaking, did you

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1 recognize her?  
 2 A. No.  
 3 Q. Did you do anything further before you left the  
 4 restaurant?  
 5 A. No.  
 6 Q. Did you monitor the woman as she was leaving  
 7 the restaurant?  
 8 MR. BUZBEE: Objection, leading.  
 9 PRESIDING OFFICER: Sustained.  
 10 Q. (BY MS. BUESS) What did you do?  
 11 MR. BUZBEE: She's already said she did  
 12 nothing else, Your Honor. Asked and answered.  
 13 PRESIDING OFFICER: Can you rephrase that  
 14 a little bit?  
 15 MS. BUESS: I can.  
 16 Q. (BY MS. BUESS) Before you left the restaurant  
 17 did you try to get any additional information about the  
 18 woman?  
 19 A. I looked at the car she was driving when we  
 20 were leaving at the same time.  
 21 Q. And what kind of information did you get about  
 22 the car?  
 23 A. I noticed that the car -- I noticed the kind of  
 24 car it was, the color and that it was a car purchased in  
 25 San Antonio.

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1 Q. Okay. You had the picture in your phone, you  
 2 had the car information. What did you do with that?  
 3 A. I waited for a time when I could talk to  
 4 General Paxton privately, and I talked to him privately  
 5 about what I had witnessed.  
 6 Q. Okay. Tell us what you told him.  
 7 MR. BUZBEE: Objection, hearsay.  
 8 MS. BUESS: It's not offered for the truth  
 9 of the matter asserted, Mr. President. It's to show the  
 10 effect on this witness and the actions that she took as  
 11 a result of it.  
 12 PRESIDING OFFICER: Overruled.  
 13 Q. (BY MS. BUESS) What did you tell General  
 14 Paxton about what you heard?  
 15 A. Basically what I just told the Court. And I  
 16 asked him if he knew who she was.  
 17 Q. What information did you relay to him about  
 18 what you had heard?  
 19 A. I relayed to him that I was sitting at lunch  
 20 alone in the Galaxy Cafe, and I overheard loudly a  
 21 conversation between two people and that the details  
 22 that were provided by this person were surprising to me  
 23 and of concern, and I wanted him to know about it.  
 24 Q. Specifically what details were you concerned  
 25 about?

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1 MR. BUZBEE: This is hearsay, Your Honor.  
 2 You've already ruled on that.  
 3 PRESIDING OFFICER: Sustain.  
 4 MS. BUESS: I'm not offering it for the  
 5 truth of the matter asserted. I'm trying to show why  
 6 she's doing what she's doing.  
 7 MR. BUZBEE: If it's not offered for the  
 8 truth, then it's irrelevant.  
 9 PRESIDING OFFICER: Sustained.  
 10 Q. (BY MS. BUESS) When you talked with General  
 11 Paxton, what -- how did he respond?  
 12 A. Told me that I had taken a picture of his  
 13 realtor who was trying to sell his condo on Enfield and  
 14 that he would talk to her.  
 15 Q. Did you believe that?  
 16 A. Absolutely.  
 17 Q. Was he concerned that someone was talking about  
 18 his personal business in a restaurant out loud?  
 19 A. No.  
 20 Q. Did you believe him when he said it was his  
 21 realtor?  
 22 A. Yes.  
 23 MR. BUZBEE: Objection. Asked and  
 24 answered.  
 25 PRESIDING OFFICER: Overruled.

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1 Q. (BY MS. BUESS) Did he provide a name for that  
 2 person?  
 3 A. No, he did not.  
 4 Q. All right. Let's come forward now to May of  
 5 2018.  
 6 Did you have an occasion to go to an  
 7 official function in San Antonio?  
 8 A. Yes.  
 9 Q. And did you see someone there that you  
 10 recognized?  
 11 A. Yes.  
 12 Q. And who was -- who was it that you recognized?  
 13 A. Same lady I had seen in Galaxy Cafe.  
 14 Q. Okay. A realtor at an official function. What  
 15 kind of function were you at?  
 16 A. I was at a National Association of Attorney  
 17 Generals' reception, a happy hour cocktail hour.  
 18 Q. Okay. Did you get the name of that person?  
 19 A. She was wearing a nametag.  
 20 Q. And what was the name?  
 21 A. Laura Olson.  
 22 Q. Okay. During the course of the spring and  
 23 summer of 2018, did you come to learn what the  
 24 relationship was between Laura Olson and the attorney  
 25 general?

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1 A. I did.  
 2 MR. BUZBEE: Objection, Your Honor. I'd  
 3 like to lay a predicate for that. Otherwise, it's based  
 4 on hearsay.  
 5 PRESIDING OFFICER: Sustained.  
 6 Q. (BY MS. BUESS) How did you come to learn about  
 7 the relationship?  
 8 A. The attorney general told me about it. I was  
 9 also told by the security detail and the travel aides.  
 10 Q. And did you confirm that it was the named Laura  
 11 Olson, same person?  
 12 A. I did.  
 13 Q. How did that make you feel about him telling  
 14 you that she was a realtor?  
 15 A. Surprised.  
 16 Q. That he had lied to you?  
 17 A. Yes.  
 18 MS. BUESS: May I have House Exhibit 623,  
 19 please.  
 20 Offer State's Exhibit 623 into evidence,  
 21 Mr. President. It's a public record.  
 22 MR. BUZBEE: Your Honor --  
 23 PRESIDING OFFICER: We need to redact any  
 24 of this?  
 25 MR. BUZBEE: I would think so, Your Honor.

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1 I mean, this is like a speeding ticket or something.  
 2 MS. BUESS: The information that's going  
 3 to be put up is going to be redacted. It has been  
 4 redacted.  
 5 MR. BUZBEE: Not my copy.  
 6 PRESIDING OFFICER: Yeah, nor on mine.  
 7 MR. BUZBEE: I don't think we should be  
 8 using this private personal information about anybody  
 9 talked about in this trial.  
 10 MS. BUESS: The hard copy will be  
 11 redacted. What's going to be shown has been redacted.  
 12 MR. BUZBEE: I don't know what they're  
 13 going to show.  
 14 PRESIDING OFFICER: Can you show us the  
 15 redacted copy? Because ours is not redacted, nor  
 16 counsel.  
 17 We'll break in 15 minutes. We're going to  
 18 continue till the top of the hour.  
 19 MS. BUESS: Thank you.  
 20 PRESIDING OFFICER: I'm sorry, no, we're  
 21 not -- I said we're going to break in 15 minutes at the  
 22 top of the hour. You may stretch your legs if you like,  
 23 Senators, but we're going till the top of the hour.  
 24 MS. BUESS: If I may, I'm going to move  
 25 on, and we'll come back to this exhibit.

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1 PRESIDING OFFICER: Okay. We'll come back  
 2 to that exhibit.  
 3 Continue.  
 4 Q. (BY MS. BUESS) During the spring and summer of  
 5 2018, were there some things that were happening within  
 6 the office concerning Laura Olson that you were having  
 7 to deal with?  
 8 A. Yes.  
 9 Q. Specifically, were there problems with morale?  
 10 A. Yes.  
 11 Q. In which areas of the office were you having  
 12 difficulty?  
 13 A. Travel aides, security detail, Mr. Mateer.  
 14 Q. How about the scheduler?  
 15 PRESIDING OFFICER: To the witness, can  
 16 you repeat that? We couldn't hear you clearly.  
 17 THE WITNESS: The travel aides, the  
 18 security detail, and Mr. Mateer was my answer, Your  
 19 Honor.  
 20 Q. (BY MS. BUESS) Let's talk about the travel  
 21 detail. What kind of problems were you having to deal  
 22 with?  
 23 A. The travel detail was calling about the hours  
 24 they were working, the places they were being required  
 25 to go. And they were concerned about the general's

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1 behavior.  
 2 Q. Okay. How about the bag man, what is a bag  
 3 man?  
 4 A. It's a travel aide, and the travel aide is the  
 5 employee of the Office of the Attorney General that's  
 6 generally assigned to the attorney general, does things  
 7 like make sure they're on time, has their speeches, make  
 8 sure you get to the venue on time, keeps time -- sort of  
 9 time management, holds on to those -- it's a close aide.  
 10 Q. Were there --  
 11 A. Personal aide.  
 12 Q. Were there problems with the bag man as well?  
 13 A. Yes.  
 14 Q. What kind of problems?  
 15 A. Complaining about the hours worked, the hours  
 16 worked that weren't state business, expressing those  
 17 concerns to me because I approved their leave or require  
 18 them to take particular kinds of leave for nonstate  
 19 business events.  
 20 Q. What kind of complaints were coming about the  
 21 hours?  
 22 A. Too long hours, no vacation, odd hours.  
 23 Q. Okay. Were there complaints about security  
 24 concerns?  
 25 MR. BUZBEE: Your Honor, I'm sorry to

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1 interrupt. We're talking about 2018?  
 2 MS. BUESS: We are.  
 3 MR. BUZBEE: So complaints in the office  
 4 from 2018 that have nothing to do with the -- any of the  
 5 articles of impeachment. I would object to be  
 6 irrelevant.  
 7 PRESIDING OFFICER: Overruled.  
 8 Q. (BY MS. BUESS) Complaints concerning security,  
 9 what were the worries?  
 10 A. Similar concerns.  
 11 Q. Which were what?  
 12 A. Hours worked, nonstate business,  
 13 disorganization, and changes to the schedule.  
 14 Q. Issues concerning not state business, what kind  
 15 of things?  
 16 A. I mean, I think the affair was one of the  
 17 concerns that was not state business. So were some of  
 18 the different switches in the schedule between campaign  
 19 events and state business.  
 20 Q. Who is JB Skees?  
 21 A. He was General Paxton's travel aide at the  
 22 time.  
 23 Q. And for the court reporter, it's S-K-E-E-S, is  
 24 that correct?  
 25 A. That's correct.

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1 Q. All right. And what kind of problems did you  
 2 have with him, if any?  
 3 A. I personally didn't have problems with JB. JB  
 4 quit unexpectedly and refused to tell me or Mr. Mateer  
 5 why.  
 6 Q. You ever had that happen before?  
 7 A. I have not.  
 8 Q. Were there issues with the attorney general's  
 9 wife that you were having to deal with as well?  
 10 A. Some point in time, Mrs. Paxton was calling the  
 11 office asking about the schedule or asking where he was,  
 12 and the staff was uncomfortable sometimes answering  
 13 those questions. And they were complaining about that.  
 14 Q. Why would they be uncomfortable?  
 15 MR. BUZBEE: Objection, speculation.  
 16 PRESIDING OFFICER: Sustained.  
 17 Q. (BY MS. BUESS) Do you know what caused them to  
 18 be uncomfortable?  
 19 A. Only what I was told.  
 20 Q. And what was your understanding?  
 21 MR. BUZBEE: This question is going to be  
 22 related to hearsay, which she just set it up as hearsay,  
 23 so I object, hearsay.  
 24 PRESIDING OFFICER: Sustained.  
 25 Q. (BY MS. BUESS) With a problem like that --

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1 with the problems that you were having concerning  
 2 morale, what did you do?  
 3 A. 2018?  
 4 Q. Yes.  
 5 A. I talked to Mr. Mateer. He and I talked about  
 6 it. I also had a conversation with General Paxton  
 7 directly by myself about it.  
 8 Q. Okay. Let's stop and talk about that. Do you  
 9 recall when that was?  
 10 A. I cannot be precise, no.  
 11 Q. Do you recall what time of year it was?  
 12 A. It would have been the summer of 2018.  
 13 Q. All right. Where did you have that  
 14 conversation?  
 15 A. In my office.  
 16 Q. Okay. And what did you talk about?  
 17 MR. BUZBEE: Objection to the extent she's  
 18 going to relate what she said. That would be hearsay.  
 19 MS. BUESS: She's here for  
 20 cross-examination.  
 21 PRESIDING OFFICER: Sustained. Sustained.  
 22 Q. (BY MS. BUESS) What was the topic of  
 23 conversation?  
 24 MR. BUZBEE: Objection, asked and  
 25 answered. She's already told us what the topic was.

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1 PRESIDING OFFICER: Overruled.  
 2 Q. (BY MS. BUESS) What was the topic?  
 3 A. The topic was the ethical implications of a  
 4 secret affair.  
 5 Q. Were you able to relay your concerns?  
 6 A. Yes.  
 7 Q. Did he confirm that he, in fact, was having an  
 8 extramarital affair?  
 9 A. Yes.  
 10 Q. And did he tell you that that was with Laura  
 11 Olson?  
 12 A. No.  
 13 Q. Not at that time?  
 14 A. No.  
 15 Q. All right. What was his attitude when you told  
 16 him that things were not good within the office because  
 17 of that?  
 18 A. He was contrite, and he listened to what I had  
 19 to say very carefully.  
 20 Q. Did you get the feeling that he thought it was  
 21 none of your business?  
 22 A. Maybe. But we had a good conversation.  
 23 Q. Okay.  
 24 A. A productive conversation.  
 25 Q. Were you able to help him understand why it was

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1 affecting the life of the office itself?  
 2 A. I tried to do that.  
 3 Q. How did you do that?  
 4 A. We talked about what had happened, previous  
 5 public officials that I had counseled in similar  
 6 situations. We talked about previous public officials  
 7 and what happened to them in similar situations. We  
 8 talked about the risk involved in secrets of this  
 9 magnitude that began to bleed over into the work of the  
 10 Office of the Attorney General.  
 11 Q. What kind of risks are there?  
 12 A. I mean, there's ethical risks. There's  
 13 political risks. There's legal risks.  
 14 Q. What kind of legal?  
 15 A. These things can open one up to bribery, misuse  
 16 of office, misuse of state time, things like that.  
 17 Q. How did he receive that information?  
 18 A. Well --  
 19 Q. Okay. Did you make a request of him to tell  
 20 his wife Angela?  
 21 A. I did.  
 22 Q. How did that conversation end?  
 23 A. Contemplatively. And he -- and then he left my  
 24 office.  
 25 Q. Were voices ever raised during this

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1 conversation?  
 2 A. Not in this conversation, no.  
 3 Q. All right. Based on what you know of him in  
 4 your experience working with him, how does Attorney  
 5 General Paxton react to confrontation?  
 6 A. Generally very patient. And he listens well,  
 7 and he takes in information. So I would say he reacts  
 8 well to confrontation.  
 9 Q. Let's come forward to October of 2018. Was  
 10 there an occasion that you went to the campaign  
 11 headquarters?  
 12 A. I did.  
 13 Q. All right.  
 14 A. I think that was actually September of 2018.  
 15 Q. Okay. And who is -- who is present at that  
 16 time?  
 17 A. Jordan Berry, Jeff Mateer, Brantley Starr, Ben  
 18 Williams, Marc Rylander, I think perhaps, myself. And  
 19 I'm not sure, I could be leaving somebody out, but  
 20 that's the ones that stand out.  
 21 Q. Okay. And what was the occasion?  
 22 A. We were invited to meet with General Paxton and  
 23 Senator Paxton to talk about this matter.  
 24 Q. "This matter" being what?  
 25 A. The -- the affair.

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1 Q. Okay. Would it be fair to say that General  
 2 Paxton confessed the affair to all of you?  
 3 A. I think that would be a fair characterization.  
 4 Q. Okay. Did he apologize to all of you as a  
 5 group?  
 6 A. He did.  
 7 Q. Okay. Describe that experience very briefly,  
 8 if you would, please.  
 9 A. It's an uncomfortable experience. It's an  
 10 experience I had not had before in my life. Somber.  
 11 Q. Okay.  
 12 A. Be a word I'd use.  
 13 Q. How did General Paxton's wife take it? How was  
 14 she responding?  
 15 A. She was sad and embarrassed, I believe. That  
 16 was my impression.  
 17 Q. Was she crying?  
 18 A. She was.  
 19 Q. All right. When you saw that, what did you do?  
 20 A. My heart broke for her.  
 21 Q. And what did you do?  
 22 A. After the meeting had concluded, I think I  
 23 hugged her, and I think I told her that I was sorry this  
 24 had happened to her.  
 25 Q. And what happened after that?

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1 A. We broke up and went home.  
 2 Q. Okay.  
 3 A. Went back to work.  
 4 Q. In September of 2018 after that meeting, did  
 5 you believe that Laura Olson was out of his life for  
 6 good?  
 7 A. Again, at that point, I didn't know her name,  
 8 but I thought that this type of behavior was out of his  
 9 life for good, yes.  
 10 Q. Let's talk about August 1st of 2019 coming  
 11 forward now in time. Was there a change in your duties?  
 12 A. Yes.  
 13 Q. What happened?  
 14 A. Judge Starr was being promoted to the federal  
 15 bench, so there was a vacancy. And the deputy first  
 16 assistant position, which was equal to mine, both  
 17 reporting to Jeff and helping manage the deputies and  
 18 the way I described in the exhibit.  
 19 I -- I was told that that was going to  
 20 change. And when the new deputy first assistant came  
 21 in, who was Ryan Bangert, that my duties would be  
 22 changed and I would be reporting only directly to  
 23 Mr. Mateer.  
 24 Q. Okay. Did you receive an explanation as to why  
 25 those changes were being made?

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1 A. It was my understanding that those changes were  
2 being made at the general's request because I had said  
3 no to him too many times is what I was led to believe.  
4 Q. Let's talk about that. What kind of things  
5 would you say --  
6 PRESIDING OFFICER: Counselor, excuse me.  
7 I -- the jurors have been here for two hours. Can we  
8 break?  
9 MS. BUESS: Yes.  
10 PRESIDING OFFICER: That's fine.  
11 MS. BUESS: Certainly.  
12 PRESIDING OFFICER: Members, come back at  
13 3:20, 20-minute break.  
14 (Recess: 2:58 p.m. to 3:22 p.m.)  
15 PRESIDING OFFICER: Bailiff, will you  
16 bring the witness back, please.  
17 (Witness enters)  
18 PRESIDING OFFICER: You have the witness.  
19 MS. BUESS: Thank you, Mr. President.  
20 Q. (BY MS. BUESS) Are you ready, Lacey (sic)?  
21 A. I -- can you hear me?  
22 Q. I can hear you.  
23 A. Okay.  
24 Q. Do you have an exhibit in front of you, Lacey?  
25 A. I do not have an exhibit in front of me. The

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1 screen is blank.  
2 Q. Defense has it.  
3 MS. BUESS: 623.  
4 Q. (BY MS. BUESS) Missy, can you give me the  
5 number on there, please?  
6 A. Exhibit No. 623.  
7 Q. Do you recognize the person on there?  
8 A. I recognize the name, yes.  
9 Q. Do you recognize the photograph that's on that  
10 exhibit?  
11 A. I recognize the photograph to be Ms. Laura  
12 Olson, yes.  
13 Q. Is that the person you saw at the Galaxy Cafe?  
14 A. To the best of my belief, yes.  
15 Q. Is that the person that you know to have been  
16 having an affair with Ken Paxton?  
17 A. Yes.  
18 Q. All right.  
19 MS. BUESS: Your Honor, at this time I  
20 would offer into evidence No. 623.  
21 PRESIDING OFFICER: I don't have a copy of  
22 the redacted one. Or do we? No. I'm not sure if we --  
23 is it four pages?  
24 MR. DONNELLY: Yes, Your Honor, the  
25 section is redacted on there.

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1 PRESIDING OFFICER: Okay, thank you.  
2 Is there any objection?  
3 MR. BUZBEE: No, Your Honor.  
4 PRESIDING OFFICER: Admit Exhibit No. 623  
5 into evidence.  
6 (HBOM Exhibit 623 admitted)  
7 MS. BUESS: Thank you.  
8 Q. (BY MS. BUESS) The photograph that you took in  
9 your phone of the woman at the Galaxy that we now know  
10 to be Laura Olson, what did you do with it?  
11 A. I deleted the photograph at the general's  
12 request.  
13 Q. Did he ask you to do that when you first talked  
14 with him about the woman?  
15 A. He did.  
16 Q. When he told you it was his realtor?  
17 A. He did.  
18 Q. All right. I want to come forward now to the  
19 summer of 2019.  
20 Were there continuing to be problems  
21 within the office, the type that we had talked about  
22 already?  
23 A. Those problems began again, yes.  
24 Q. Okay. Who were you hearing from? I'm not  
25 asking you what they told you, but what people within

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1 the office were talking with you?  
2 A. Travel aides, Mr. Mateer, the security detail.  
3 Q. Were there problems that were happening outside  
4 of Austin?  
5 A. Yes.  
6 Q. All right. Was there a further conversation  
7 that you had with Ken Paxton concerning the affair?  
8 A. Yes.  
9 Q. Did you learn that the affair was continuing?  
10 A. From --  
11 MR. BUZBEE: Objection. Speculation, Your  
12 Honor.  
13 PRESIDING OFFICER: Sustained.  
14 MS. BUESS: She can -- thank you.  
15 Q. (BY MS. BUESS) Did you learn that it was  
16 continuing?  
17 MR. BUZBEE: Objection. Speculation, Your  
18 Honor. Anything that she has learned let --  
19 MS. BUESS: It's been ruled.  
20 MR. BUZBEE: Let me finish, please.  
21 MS. BUESS: It's been ruled.  
22 PRESIDING OFFICER: Excuse me.  
23 MR. BUZBEE: Anything she might have  
24 learned would be based on hearsay or speculation.  
25 PRESIDING OFFICER: Sustained.

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1 Q. (BY MS. BUESS) Did you have a conversation  
 2 with Ken Paxton during that time period?  
 3 A. I did.  
 4 Q. That would be the summer of 2019?  
 5 A. Correct.  
 6 Q. Let's talk about that conversation. Where did  
 7 it happen?  
 8 A. In my office on the eighth floor.  
 9 Q. Did you initiate it or did he?  
 10 A. He did.  
 11 Q. And what did y'all talk about?  
 12 A. We talked about Ms. Olson again.  
 13 Q. And did you learn that the affair was  
 14 continuing?  
 15 A. Yes.  
 16 Q. Did he tell you that?  
 17 A. Yes.  
 18 Q. How did he tell you that? What kind of voice  
 19 was he using?  
 20 A. He was frantically upset.  
 21 Q. At who?  
 22 A. I think he was frustrated, and he wanted to  
 23 express to me that he was frustrated with me and that  
 24 he -- I didn't understand what he was trying to tell me.  
 25 And he was trying to tell me -- he came in and said he

1 was frustrated and that he -- I didn't understand he  
 2 still loved Ms. Olson, and I -- you know, he wanted --  
 3 he wanted to work it out with me.  
 4 Q. What did you take that to mean?  
 5 A. For me to be more accommodating as far as the  
 6 security detail, the travel aides, the -- any of his  
 7 requests.  
 8 Q. So in your very first conversation when he  
 9 first told you he was having an affair, had you given  
 10 him some advice, some professional advice?  
 11 A. I did. I gave him ethics advice.  
 12 Q. And what was that advice?  
 13 A. The ethics advice in 2018 was that when you try  
 14 to keep things secret and you're a statewide elected  
 15 official who is running for office, that it could be  
 16 both ethically, legally, and morally challenging and  
 17 that it was beginning to bleed over into the office.  
 18 Q. And is that what you were seeing?  
 19 A. Yes.  
 20 Q. All right. Your second conversation in the  
 21 summer of 2019, did you give him some similar advice?  
 22 A. I gave him identical advice.  
 23 Q. All right. Did you tell him that he needed to  
 24 get his life in order so that the office could get back  
 25 on track?

1 MR. BUZBEE: Objection.  
 2 A. I did.  
 3 MR. BUZBEE: Leading and hearsay.  
 4 PRESIDING OFFICER: Sustained.  
 5 Q. (BY MS. BUESS) What did you tell him he should  
 6 do?  
 7 MR. BUZBEE: Objection, hearsay.  
 8 MS. BUESS: It's not hearsay, Your Honor.  
 9 She's the declarant, and Mr. Buzbee knows she's  
 10 available for cross. He can have time with her when I'm  
 11 done.  
 12 PRESIDING OFFICER: Overruled.  
 13 Q. (BY MS. BUESS) You can answer.  
 14 A. I told General Paxton quite bluntly that it  
 15 wasn't my business who he was sleeping with but that  
 16 when things boiled over into the office and into the  
 17 state work that it become my business and that I was  
 18 having concerns about how the time and the effort of  
 19 the -- of the travel aides, the security detail, and  
 20 myself was being spent.  
 21 Q. And I want you to tell us what his demeanor was  
 22 when you told him that.  
 23 A. He was angry with me.  
 24 Q. How could you tell?  
 25 A. He raised his voice loud enough that it was

1 heard outside my office even though the door was shut.  
 2 He was -- you know, his hands were waving, he was red in  
 3 the face. He was upset with me.  
 4 Q. How did that conversation end?  
 5 A. He stormed off out of my office. He ended the  
 6 conversation.  
 7 Q. And you mentioned that your duties had changed.  
 8 Were you still managing all those different departments?  
 9 A. I was until September 1st of 2019. So at that  
 10 time of the conversation I did -- was still helping  
 11 manage those departments.  
 12 Q. Okay. I want to talk a little bit now about  
 13 outside counsel contracts. Is that an area of your  
 14 expertise?  
 15 A. It is. When I was the general counsel of the  
 16 Office of Attorney General it was my duty to process  
 17 those, read them, approve them. I wrote the  
 18 administrative rules regarding those contracts. I wrote  
 19 the contract form, so I'm very familiar with the outside  
 20 counsel contract process.  
 21 Q. In your time at the attorney general's office,  
 22 have you approved and actually evaluated a few or many  
 23 of those contracts?  
 24 A. Thousands of those contracts.  
 25 Q. All right. So you're very familiar with them?

1 A. I am.  
 2 Q. Do people come and talk to you and ask  
 3 questions about outside counsel contracts?  
 4 A. They do.  
 5 Q. They ask you about a lot of things in that  
 6 office, don't they?  
 7 A. They do.  
 8 Q. All right. All right. Want to talk a little  
 9 bit about the rules because there are rules within the  
 10 Office of Attorney General, are there not, for approving  
 11 those contracts?  
 12 A. There's a procedure that's published on the  
 13 agency's website, and there's also the administrative  
 14 code, Texas Administrative Code 1 TAC Chapter 57 is  
 15 related to outside counsel.  
 16 Q. Let's talk just a minute about the procedure.  
 17 Within the Office of Attorney General when  
 18 one of those contracts is being drafted up, how --  
 19 what's the approval process? Very quickly.  
 20 A. For the -- for a contract for the Office of the  
 21 Attorney General?  
 22 Q. Yes.  
 23 A. Those contracts are generally initiated by the  
 24 deputy that's interested in having the contract. It's  
 25 routed through a -- sort of an audit procedure, which is

1 called executive approval memo. Down in the general  
 2 counsel division, the form is filled out with  
 3 appurtenant information. There's a contract number  
 4 that's established, it's put into a computer system, and  
 5 its reviewed for the requirements of the appropriations  
 6 act and the rules.  
 7 Q. Is there a requirement that there's some kind  
 8 of finding concerning the best interest of the state?  
 9 A. I think what you're referring to is in the  
 10 appropriations act, Article IX, Section 16.01(a).  
 11 There's a requirement before you can spend appropriated  
 12 funds on an outside counsel for the state, a  
 13 determination needs to be sent in writing to the  
 14 controller that the contract is in the best interest of  
 15 the state and it can be paid.  
 16 Q. Is there also a requirement that the attorney  
 17 who's being hired be qualified?  
 18 A. There is.  
 19 Q. For the particular job at hand?  
 20 A. There is.  
 21 Q. And do you have to have money allotted for the  
 22 contract?  
 23 A. Yes. It's --  
 24 Q. That's the procedure --  
 25 A. It helps to have money allotted for the

1 contract, yes.  
 2 Q. All right. So --  
 3 A. Unless the attorney is working for free, but...  
 4 Q. The forms that were used within the attorney  
 5 general's office during this time period, are they the  
 6 forms that you designed?  
 7 A. They are.  
 8 Q. And the procedure where everyone has to sign  
 9 off all the different levels, was that something that  
 10 you worked up?  
 11 A. It's something I was involved in working up,  
 12 yes.  
 13 Q. Okay. And it's computerized now. Is it always  
 14 that way?  
 15 A. It was not. It used to be in paper with a  
 16 routing sheet on top.  
 17 Q. All right. Are applications for those types of  
 18 contracts given identifying numbers when they're going  
 19 through the process?  
 20 A. They are.  
 21 Q. And is that important?  
 22 A. It's an important tracking mechanism to track  
 23 the contract, and it's in the system, and then it's  
 24 approved. And it also allows the accounting division  
 25 and the budget division to know which funds to pay that

1 contract -- which funds to direct the controller to pay  
 2 the contract out of.  
 3 Q. Missy, can you tell us when you first heard the  
 4 name Nate Paul?  
 5 A. Not with precision.  
 6 Q. Ballpark?  
 7 A. Probably 2019. And I heard that name come up  
 8 in the weekly updates from David Maxwell and Mark  
 9 Penley.  
 10 Q. Were those at the meetings of all the deputy  
 11 chiefs?  
 12 A. At times. And there were also private meetings  
 13 at a regularly scheduled time with Mr. Mateer and myself  
 14 and that particular deputy.  
 15 Q. And what was the context of hearing that name?  
 16 What was going on?  
 17 A. I was aware that at first --  
 18 MR. BUZZBEE: Objection. I'm sorry, Your  
 19 Honor, to interrupt. This is based on hearsay.  
 20 Objection, hearsay.  
 21 MS. BUESS: I'm not offering it for the  
 22 truth of the --  
 23 PRESIDING OFFICER: Sustained.  
 24 Q. (BY MS. BUESS) Missy, when you heard the name  
 25 Nate Paul, what was it in context to? Was it --

1 MR. BUZBEE: Your Honor --  
 2 Q. (BY MS. BUESS) -- related to?  
 3 MR. BUZBEE: Can I finish, please?  
 4 It's the same question, hearsay.  
 5 Objection.  
 6 MS. BUESS: I'm not offering it for the  
 7 truth of the matter asserted. I'm trying to show the  
 8 context in which she's known that name.  
 9 MR. BUZBEE: That's not an exception to  
 10 the hearsay rule, Your Honor.  
 11 PRESIDING OFFICER: Sustained.  
 12 Q. (BY MS. BUESS) When you heard the name of Nate  
 13 Paul, did you do anything? Were you involved at all?  
 14 A. No, I was just listening.  
 15 Q. Okay.  
 16 A. To that --  
 17 Q. At some point, did you become aware of a  
 18 contract?  
 19 MR. BUZBEE: Objection, Your Honor.  
 20 Hearsay.  
 21 MS. BUESS: I'll reword it.  
 22 MR. BUZBEE: She just said she wasn't  
 23 involved and she heard about it, so everything she knows  
 24 about it, somebody told her.  
 25 PRESIDING OFFICER: Sustained.

1 MS. BUESS: I'll reword it.  
 2 Q. (BY MS. BUESS) At some point, did you become  
 3 aware of a contract that had been set aside for Brandon  
 4 Cammack?  
 5 A. Yes.  
 6 Q. When did you learn about that?  
 7 A. I recall being told --  
 8 MR. BUZBEE: Objection. I'm sorry, Missy.  
 9 Your Honor, she's telling us right now  
 10 that everything she knows is hearsay.  
 11 MS. BUESS: I'll reword it.  
 12 PRESIDING OFFICER: Sustain.  
 13 Q. (BY MS. BUESS) Without telling us what  
 14 somebody said, tell us, first of all, the time frame of  
 15 when you became aware of it?  
 16 A. I'm just not sure I can tell you the exact time  
 17 frame.  
 18 Q. Okay. Ballpark is fine.  
 19 MR. BUZBEE: No it's not, Your Honor.  
 20 That's pure speculation. Ballpark is not good enough  
 21 under oath in court.  
 22 PRESIDING OFFICER: Sustained.  
 23 Q. (BY MS. BUESS) Did you get a phone call from  
 24 General Paxton about a contract for Brandon Cammack?  
 25 A. I did.

1 Q. When did that happen?  
 2 A. September 28th of 2020.  
 3 Q. All right. Where were you?  
 4 A. I was at my ranch in Mason, Texas. I got a  
 5 call on my cell phone.  
 6 Q. Okay. Was this COVID? Were you at home?  
 7 A. I was.  
 8 Q. Working from home?  
 9 A. I was.  
 10 Q. All right. The first contact you had, what was  
 11 it from the General?  
 12 A. The attorney general called and asked me for  
 13 some advice given my experience in the outside counsel  
 14 world about an outside counsel contract he was  
 15 interested in entering into with Brandon Cammack. And  
 16 so he called and asked me how the process worked.  
 17 Q. And what did you tell him?  
 18 A. I told him how the process worked. We talked  
 19 about the statute. We talked about the rules. We  
 20 talked about the internal procedure of how it worked.  
 21 He was interested in pursuing an outside counsel  
 22 contract with him.  
 23 Q. On September 28, did he make you aware that  
 24 there had been a problem with the contract that had --  
 25 was going through the office for signature for approval?

1 A. He did.  
 2 Q. Did he tell you who was holding it up?  
 3 A. He did.  
 4 Q. Who did he tell you?  
 5 A. Mark Penley.  
 6 Q. And did he ask you how to get that contract in  
 7 effect without that signature from Mark Penley?  
 8 A. He did.  
 9 Q. What did you tell him?  
 10 A. I told General Paxton that I believed given my  
 11 experience that he as the attorney general could sign an  
 12 outside counsel contract with Mr. Cammack if he followed  
 13 certain procedures that weren't able to be waived.  
 14 Q. Okay.  
 15 A. Which is the best interest standard in order to  
 16 pay him. Then I also told him he could waive in writing  
 17 based on one Texas Administrative Code Section 52.7(c),  
 18 that if the attorney general or the first assistant  
 19 waives the internal procedures in writing then they can  
 20 all be waived. The ones that aren't statutory are  
 21 required by the appropriations act.  
 22 Q. So the waiver can happen by the attorney  
 23 general or first assistant, but it has to be in writing,  
 24 is that correct?  
 25 A. That's what the administrative rule says.



1 Q. All right. You also mentioned that -- that  
 2 despite that, the standards of whether or not that  
 3 contract is in the best interest of the state still  
 4 applied, is that correct?  
 5 A. Standard of whether the contract met the best  
 6 interest of the state in order to be funded still  
 7 applied, yes.  
 8 Q. All right. So he can sign a contract on his  
 9 own as long as he provides a written waiver.  
 10 How about funding?  
 11 A. So at the Office of the Attorney General there  
 12 isn't an account set aside for outside counsel  
 13 contracts. The money has to be moved from what is  
 14 called the first assistants reserve, which is a -- some  
 15 funding that's at the first assistant's discretion.  
 16 That money can be moved by -- in writing to the budget  
 17 people and set aside, the money. Then the money is  
 18 coded and applied to the outside counsel contract.  
 19 Q. So can be done but should be done. Are those  
 20 two different questions?  
 21 A. They are.  
 22 Q. Did you talk with him about the -- whether or  
 23 not it should be done?  
 24 A. I did.  
 25 Q. What did you tell him?

1 A. I -- since he had already told me that Mark  
 2 Penley was refusing to sign, we talked about why that  
 3 could be that Mark Penley did not want to sign and why  
 4 Jeff also did not want to sign and that it was going to  
 5 be really hard to get over the best interest standard  
 6 till we resolved that, which is the funding part, not  
 7 whether or not it was legal for the attorney general to  
 8 sign his own outside counsel contract.  
 9 Q. Okay. How did he respond when you told him  
 10 that?  
 11 A. He was very appreciative of the advice. He  
 12 asked me if I could text him the statutes and the rules  
 13 and the procedure so he could see what we were talking  
 14 about. And I did that.  
 15 Q. Before you hung up with him, did you tell him  
 16 this was ill-advised?  
 17 A. I did.  
 18 MR. BUZBEE: Objection, leading.  
 19 PRESIDING OFFICER: Sustained.  
 20 Q. (BY MS. BUESS) What did you mean by  
 21 "ill-advised"? In your opinion, what does that mean?  
 22 MR. BUZBEE: Your Honor, if I could,  
 23 obviously you sustained the objection and now she's  
 24 going right back at it and now testifying herself.  
 25 PRESIDING OFFICER: Would you --

1 sustained. And would you --  
 2 MS. BUESS: I'll reword it.  
 3 PRESIDING OFFICER: Reword it.  
 4 Q. (BY MS. BUESS) When you advise someone that a  
 5 contract shouldn't be done, can be done but shouldn't be  
 6 done, how did you tell him?  
 7 A. I would have used the word "ill-advised."  
 8 That's just kind of a word I use.  
 9 Q. And did you tell him why it was ill-advised?  
 10 A. I did.  
 11 Q. What did you tell him?  
 12 A. Told him that his senior staff felt like that  
 13 this contract was a problem and they didn't want him to  
 14 do it and that we needed to resolve that and be on the  
 15 same page.  
 16 Q. Okay. Were there continued -- was there  
 17 continued contact from Ken Paxton concerning this  
 18 contract?  
 19 A. He emailed me back the next morning after I  
 20 sent him the stuff in writing and said he appreciated  
 21 it. He did call me back again the next day a couple of  
 22 hours later, and we had -- we had a conversation again.  
 23 We talked about all these same things again. And I --  
 24 then I think he might have reached out to me on October  
 25 the 1st, but I did not return that call.

1 Q. Okay. That last phone call you had with him,  
 2 what was the content of it?  
 3 A. It was very similar to the first -- the content  
 4 of the first conversation.  
 5 Q. So he wanted to know what was -- how he could  
 6 do it?  
 7 A. Follow-up questions about now didn't you say  
 8 that I could do it this way or that way. And we went  
 9 through that again and how the funding worked again and  
 10 how to -- how to make it happen.  
 11 Q. That last phone call that you had with him  
 12 about how to make it happen, did you talk with him again  
 13 about why he shouldn't make it happen?  
 14 A. I -- my recollection is I was much firmer on  
 15 how strongly the executive team felt that it was  
 16 ill-advised.  
 17 Q. Okay. I want to talk about his demeanor on the  
 18 telephone during that particular phone call. Would you  
 19 describe it?  
 20 A. The second phone call?  
 21 Q. Yes.  
 22 A. His demeanor -- it was like I was on  
 23 speakerphone and somebody else was listening, which  
 24 concerned me.  
 25 Q. Why did you think that?

1 MR. BUZBEE: Your Honor, I'm sorry. I'm  
 2 going to have to object. This is rank speculation, and  
 3 I object under 602.  
 4 PRESIDING OFFICER: Overruled.  
 5 Q. (BY MS. BUESS) You've known him for how many  
 6 years?  
 7 A. Since 2015.  
 8 Q. You've known him through good times and bad  
 9 times?  
 10 A. I have.  
 11 Q. Tell us, based on your knowledge of him, what  
 12 your impressions were of that phone call of his  
 13 demeanor.  
 14 A. It was unusual. It was like I was speaking to  
 15 somebody besides him because he's very bright and he  
 16 knew exactly what we had talked about the day before,  
 17 and it was repeating the same thing like it was playing  
 18 to an audience.  
 19 Q. Did you think that it was a phone call where it  
 20 was a private phone call, like telephone to ear?  
 21 MR. BUZBEE: Objection. Again, Your  
 22 Honor, this is speculation. She doesn't know if anybody  
 23 was there with him, and she's just speculating.  
 24 MS. BUESS: I'll ask it a little  
 25 differently.

1 PRESIDING OFFICER: Yes, rephrase.  
 2 Q. (BY MS. BUESS) Did you have an impression that  
 3 you were not on a direct private telephone line with Ken  
 4 Paxton at that time?  
 5 A. I was concerned about that, yes.  
 6 Q. What did you think?  
 7 MR. BUZBEE: Again, Your Honor, what she  
 8 thought is irrelevant. And it's also speculation.  
 9 PRESIDING OFFICER: Sustained.  
 10 Q. (BY MS. BUESS) That phone call obviously made  
 11 you very uncomfortable. You've said that. What about  
 12 it made you uncomfortable?  
 13 A. General Paxton's persistence to do this knowing  
 14 his senior staff objected, which was very unusual. And  
 15 it was also unusual to me that he chose to call me and  
 16 talk to me about it since we were not on the best of  
 17 terms.  
 18 Q. Let's talk a little bit -- a little bit about  
 19 these types of contracts.  
 20 To create a contract and assign  
 21 responsibility to an outside attorney, are there certain  
 22 parameters and limitations?  
 23 A. So the outside counsel process was designed in  
 24 order to protect and preserve the attorney general's  
 25 office's constitutional and statutory duties to

1 represent the state. So necessarily a grant of an  
 2 outside counsel approval is a granting that in the first  
 3 instance, those activities would have been within the  
 4 course and scope of something the attorney general's  
 5 office could do. If that makes sense.  
 6 Q. And are the scope of duties of the attorney  
 7 general's office lined up with civil law? In other  
 8 words, are they civil properties?  
 9 A. I mean, it's civil. There are civil parts of  
 10 it. There's also the ability of the attorney general's  
 11 office to assist prosecutors on requests.  
 12 Q. Okay.  
 13 A. If that's what you're asking.  
 14 Q. That's what I'm asking.  
 15 A. Okay.  
 16 Q. So talk with me for just a minute about how we  
 17 get to prosecution. What has to happen? What has to  
 18 happen for the attorney general's office to be able to  
 19 prosecute legally?  
 20 A. Well, if the attorney general's office wasn't  
 21 provided statutory authority by the legislature to have  
 22 sole prosecutorial authority in the area, those sorts of  
 23 questions are ones that come from a request by a  
 24 constitutional district attorney or county attorney for  
 25 assistance as a general rule.

1 Q. Okay. So can the district attorney limit the  
 2 scope of the ability of the office to do that kind of  
 3 work?  
 4 A. I'm sure they can. They pick and choose what  
 5 they decide to send over and what they ask for.  
 6 Q. During all the years you were at the AG's  
 7 office, have you ever seen the Office of the Attorney  
 8 General hire outside counsel to handle a criminal item?  
 9 A. I don't recall hiring outside counsel to handle  
 10 a criminal item.  
 11 Q. Are those large divisions within the office?  
 12 A. Some of them are larger than others, but we do  
 13 have -- we have prosecutors on staff, we have peace  
 14 officers on staff.  
 15 Q. Okay. So there are qualified people within the  
 16 attorney general's office to handle those types of  
 17 things?  
 18 A. There's -- yes.  
 19 Q. Okay. I want to talk about the contract in  
 20 particular, the Cammack contract. Have you seen it?  
 21 Have you been able to look at it?  
 22 A. I have seen it.  
 23 Q. All right. I want to talk about the contents  
 24 of that. The limitations were provided on that  
 25 contract, were they not?

1 A. Yes.  
 2 Q. Was there an addendum A?  
 3 A. The addendum A is generally the scope of work  
 4 that the outside counsel is being requested. That's how  
 5 it's set up in the form.  
 6 Q. Okay. And based on your research, what did  
 7 that addendum A track? What language was that?  
 8 A. Can you show it to me, please, ma'am?  
 9 MS. BUESS: Stacey, 227, please. It's in  
 10 evidence.  
 11 THE WITNESS: If I could see addendum A,  
 12 please, ma'am.  
 13 MS. BUESS: We need addendum A, please.  
 14 Oops. Thank you. There we go.  
 15 Q. (BY MS. BUESS) Do you recall looking at that  
 16 language?  
 17 A. I have read this language before, yes, ma'am.  
 18 Q. And was that language tracked from the Travis  
 19 County District Attorney's Office referral letter? Did  
 20 you take a look at that?  
 21 A. It appears to be very similar.  
 22 Q. Okay. And is it a limiting type of language?  
 23 A. Meaning by its nature all scope of services are  
 24 limiting in their language.  
 25 Q. This particular contract, though, does it

1 give --  
 2 MR. BUZBEE: Your Honor, object. Can we  
 3 get some foundation here? This is -- she was not  
 4 involved in this other than the phone call she just  
 5 talked about. And we heard Ryan Vassar who drafted  
 6 this. So this is all something she learned later, and  
 7 she shouldn't be up there testifying about it.  
 8 Q. (BY MS. BUESS) Missy, do you have a lot of  
 9 experience --  
 10 PRESIDING OFFICER: Sustained.  
 11 Q. (BY MS. BUESS) -- in these contracts?  
 12 MR. BUZBEE: I'm talking about this  
 13 particular contract, Your Honor. She just asked it  
 14 again. This witness was not involved in the drafting of  
 15 this contract.  
 16 MS. BUESS: This witness does not have to  
 17 be involved in the drafting of the contract to give an  
 18 opinion concerning it or to talk about it. That's not  
 19 required under the law.  
 20 MR. BUZBEE: Moreover -- thank you for  
 21 that.  
 22 Moreover, Your Honor, now she's asking her  
 23 to give some sort of legal opinion, which certainly  
 24 she's not been proffered as an expert. They don't have  
 25 any experts in this case.

1 MS. BUESS: She's a person who teaches.  
 2 This is an area of her expertise. She's talked about  
 3 the thousands of contracts that she's looked at and  
 4 approved.  
 5 PRESIDING OFFICER: Let me settle this.  
 6 I'm going to overrule.  
 7 Continue.  
 8 MS. BUESS: Thank you, Mr. President.  
 9 A. Can you repeat that question?  
 10 Q. (BY MS. BUESS) Can you look at addendum A, and  
 11 there's a limitation in there concerning the ability to  
 12 do what? What is it authorizing Brandon Cammack to do?  
 13 A. Let me take a second to review it, please.  
 14 Q. Certainly.  
 15 A. The contract provides that pursuant to a  
 16 request basically from the Travis County District  
 17 Attorney's Office that the outside counsel will conduct  
 18 an investigation under the authority of the attorney  
 19 general's office of the criminal allegations contained  
 20 in the complaint.  
 21 Q. Okay. It says to conduct a review, does it  
 22 not, in the very --  
 23 A. It does.  
 24 Q. -- first paragraph?  
 25 A. It does. A review and then --

1 Q. Of the allegations?  
 2 A. A review of the allegations. And then the  
 3 third paragraph, conduct an investigation.  
 4 Q. Okay. Does that particular contract authorize  
 5 prosecution of a case?  
 6 A. The last sentence in the contract: Exclude  
 7 legal services relating to post-investigation activities  
 8 including but not limited to indictment and prosecution.  
 9 Q. So it excludes that?  
 10 A. Correct.  
 11 Q. All right. I want to talk about this contract,  
 12 this contract that you were consulted about by Ken  
 13 Paxton himself. Is there a problem with Ken Paxton  
 14 authorizing signing a contract like this to provide  
 15 services when he's authorized him at least two weeks  
 16 ahead of time to start providing those services?  
 17 A. I have never been made personally aware of when  
 18 Ken Paxton signed this contract, so I don't think I can  
 19 answer your question.  
 20 Q. So what I'm asking you is: If he had  
 21 authorized Brandon Cammack --  
 22 MR. BUZBEE: Your Honor --  
 23 Q. (BY MS. BUESS) -- two weeks earlier --  
 24 MR. BUZBEE: I'm sorry.  
 25 MS. BUESS: Let me finish my question,

1 please.

2 MR. BUZBEE: There's no reason to yell.

3 Your Honor, I'm sorry. I have to object

4 that counsel is putting facts that are not in evidence.

5 The witness has already told us she has no personal

6 knowledge. This is completely improper and I object.

7 MS. BUESS: She is an employee who's

8 familiar with the procedures and whether or not things

9 are proper or not. In fact, she's being consulted about

10 it, so I think I'm entitled to ask her.

11 PRESIDING OFFICER: Overruled. Overruled.

12 MS. BUESS: Thank you.

13 A. Can you repeat the question, please?

14 Q. (BY MS. BUESS) Is there a problem if the

15 contract was signed by Ken Paxton and he had authorized

16 the services to be performed weeks ahead of time before

17 that date of signature?

18 A. The contract should have an -- in the first

19 pages an effective date of the contract. And I don't

20 have in front of me what those effective dates were, but

21 the effective dates need to line up. It's not the time

22 of signature, it's the effective date of the contract.

23 But there's still the problem of the funding. It's

24 unresolved.

25 Q. What if there's no date at all because it's not

1 been put on there?

2 A. Then I would be speculating as to whether or

3 not the contract was signed before the date of the

4 effective date of the work.

5 Q. Okay. Assuming that your advice to General

6 Paxton about his ability to sign it under that little

7 provision --

8 A. Uh-huh.

9 Q. -- would it be properly done if he did not

10 provide a written waiver?

11 A. If he did not provide the written waiver

12 required by the rules, then the procedures should have

13 been followed.

14 Q. Okay. So you either follow the procedures or

15 you have to sign it and give a written waiver as the

16 attorney general, is that correct?

17 A. That's the process.

18 Q. All right. So without that written waiver,

19 where are we?

20 A. It's nearly a violation of the process. It

21 doesn't make it illegal; it just makes it a violation of

22 the process.

23 Q. How about funding it, what does it do to that?

24 A. Without the proper written indicators to the

25 controller, they're not going to pay the invoices.

1 Q. Okay.

2 A. Even if the money is there.

3 Q. The addendum A talks about a referral from the

4 Travis County District Attorney's Office. If General

5 Paxton had added a second referral and told Brandon

6 Cammack just do the whole job, is there a problem with

7 that, with a contract that's not authorizing the work to

8 be done?

9 A. I don't know that I'm comfortable speculating

10 to that.

11 Q. Uh-huh.

12 MR. BUZBEE: Then I object, Your Honor.

13 The witness has admitted, thank you, that this would be

14 all speculation.

15 PRESIDING OFFICER: Sustained.

16 Q. (BY MS. BUESS) What are your thoughts on that?

17 MR. BUZBEE: Your Honor --

18 MS. BUESS: I'd like you -- I'd like to

19 let her finish the thought, as far as she's not

20 rendering an opinion, but I'd like her thoughts on it.

21 MR. BUZBEE: Again, Your Honor, she just

22 said this would be mere speculation, so this is

23 improper.

24 PRESIDING OFFICER: Sustained. Sustained.

25 Q. (BY MS. BUESS) Are you familiar with the

1 attorney applicants who applied for this particular

2 contract?

3 A. I'm familiar with their names.

4 Q. Okay.

5 A. Do not know them.

6 Q. Was Brandon Cammack the qualified candidate?

7 A. I don't think I was ever asked to weigh in to

8 that question.

9 Q. I'm not asking you that.

10 Having looked at all these contracts and

11 you've said you have to have a qualified candidate for

12 the job, looking at those two, was Brandon Cammack the

13 qualified applicant for it? Was he the best choice?

14 A. It was not my decision to make who the best

15 choice was.

16 Q. I'm not asking that. I'm asking your opinion.

17 As you sit here today --

18 PRESIDING OFFICER: Asked and answered, I

19 think.

20 Q. (BY MS. BUESS) Would it ever be in the best

21 interest of the state to pay for a free investigation to

22 a private citizen when there's no state interest

23 involved?

24 A. You're hypothetically asking me if it's --

25 Q. I am.

1 A. -- proper to execute an outside counsel at zero  
 2 dollars for an investigation where there's no state  
 3 interest involved at all?  
 4 Q. Correct.  
 5 A. I'm not sure it's possible to execute an  
 6 outside counsel contract where there's no state interest  
 7 involved because the ability to contract with outside  
 8 counsel derives from the ability of the attorney  
 9 general's office to represent a particular client in a  
 10 particular matter.  
 11 Q. We're talking about a cost, right? We're  
 12 paying somebody other than an in-house attorney from the  
 13 OAG to do the work requested, correct?  
 14 A. Statute -- the Government Code at 402-0212 that  
 15 describes outside counsel talks about the full-time  
 16 employees of the agency don't count against as being  
 17 outside counsel. It's when you hire a counsel that's  
 18 not employed by the state.  
 19 Q. So my question is: When you're paying someone  
 20 like Brandon Cammack outside of the state to provide  
 21 services that benefit only one individual for a job that  
 22 is not in the best interest of the state, do we have a  
 23 good contract?  
 24 MR. BUZBEE: I'm sorry, Your Honor.  
 25 Objection. Vague. The question is completely vague.

1 PRESIDING OFFICER: Sustained.  
 2 Q. (BY MS. BUESS) You said that in order for a  
 3 contract to be approved and signed from the office of  
 4 attorney general for an outside counsel, the whole  
 5 contract has to be in the best interest of the state,  
 6 right?  
 7 A. Yes. I mean, that would be ideal. It's not  
 8 because that comes from the appropriations act, but it  
 9 is -- the state should not perform acts with taxpayer  
 10 dollars that are not in the best interest of the state,  
 11 in my opinion.  
 12 Q. Right. And so if it's -- if it's a job that's  
 13 only going to benefit a citizen and has nothing grounded  
 14 within a state interest, that's not a contract that  
 15 should be approved, is it?  
 16 MR. BUZBEE: Objection, leading.  
 17 PRESIDING OFFICER: Sustained.  
 18 Q. (BY MS. BUESS) Is that the type of contract  
 19 that we want?  
 20 MR. BUZBEE: Objection.  
 21 Q. (BY MS. BUESS) That we should be approving?  
 22 MR. BUZBEE: I'm sorry. I don't know who  
 23 "we" is, but objection. Vague.  
 24 PRESIDING OFFICER: Sustained.  
 25 Q. (BY MS. BUESS) Let's talk about

1 September 28th. That afternoon after you spoke with Ken  
 2 Paxton about this contract, did your phone start blowing  
 3 up?  
 4 A. I talked to General Paxton, I believe -- I  
 5 believe those phone calls were in the evening on the  
 6 28th, not in the morning.  
 7 Q. And who --  
 8 A. And so --  
 9 Q. Who were you getting the phone calls from?  
 10 A. So when General Paxton called me, because he  
 11 hadn't looped me into his world in a while, I did call  
 12 Jeff Mateer before I called him back, and Jeff  
 13 relayed --  
 14 MR. BUZBEE: Objection, hearsay.  
 15 PRESIDING OFFICER: Sustained.  
 16 Q. (BY MS. BUESS) Later on that evening, who did  
 17 you speak with?  
 18 A. Mr. Mateer.  
 19 Q. Did you speak with anyone else other than him?  
 20 A. After I spoke to General Paxton, I don't  
 21 believe so. It was late.  
 22 Q. Okay. Following day, did you receive some  
 23 phone calls from other people within the office?  
 24 A. I did.  
 25 Q. Who did you hear from?

1 A. I think there was sort of a all -- there was  
 2 all involved deputies call with a number of the deputies  
 3 that's been previously reported on that I was on the  
 4 telephone for.  
 5 Q. Okay. And how long were you on the phone?  
 6 What --  
 7 A. Hours.  
 8 Q. -- time frame?  
 9 All right. How many of you were on that  
 10 call?  
 11 A. I mean, I would -- I would say six to eight of  
 12 us at various times, sometimes up to ten. And people  
 13 were in and out of the call.  
 14 Q. What was going on?  
 15 A. There had been some subpoenas issued by  
 16 Mr. Cammack that some of the staff had known about and  
 17 reported, and the deputies were getting together with  
 18 Mr. Mateer to discuss those facts and the circumstances  
 19 around what was happening at the time.  
 20 Q. Okay.  
 21 A. With him.  
 22 Q. Was Nate Paul at the center of that  
 23 conversation?  
 24 MR. BUZBEE: Objection, hearsay.  
 25 MS. BUESS: Topic -- I'm not asking her to

1 repeat what was said.  
 2 PRESIDING OFFICER: Overruled.  
 3 Q. (BY MS. BUESS) Was Nate Paul the topic?  
 4 A. Yes.  
 5 Q. Did you learn about several things that had  
 6 been going on in the office?  
 7 A. Yes.  
 8 Q. Any idea why you were not aware of those things  
 9 before that date?  
 10 A. I believe that due to COVID, everyone being  
 11 home and not on the same floor working together and  
 12 people coming in and out on different days of the office  
 13 in the middle of the pandemic, we were not -- we were  
 14 not all together at that time as a team in the same  
 15 place at the same time. And so there wasn't complete  
 16 awareness like there usually would have been of what  
 17 each deputy was working on with relation to Mr. Paul and  
 18 General Paxton.  
 19 Q. So as a result of that long phone call with the  
 20 group, did you come to -- I'm not asking you to repeat,  
 21 but did you come to learn about those things that had  
 22 been happening within the office?  
 23 A. I did.  
 24 Q. And what was the connecting theme of those  
 25 things?

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1 A. Mr. Paul.  
 2 Q. All right. As a person who's spent so many  
 3 years worrying about ethics and how things should be  
 4 managed within a government office, what were your  
 5 thoughts about what was going on?  
 6 A. I was surprised at the level of involvement  
 7 from the attorney general with one particular person  
 8 that reached across so many levels of the executive  
 9 staff all related to one person.  
 10 Q. In the course of your career, have you ever  
 11 experienced something like that before?  
 12 A. Not related to a particular person as opposed  
 13 to a particular topic.  
 14 Q. Okay. Tell us what your concern was ethically  
 15 with what had happened.  
 16 A. I learned that the contract was executed even  
 17 though the conversations I was having with General  
 18 Paxton, he never told me that the contract was already  
 19 executed. We were approaching the conversations as if  
 20 it was not a fait accompli and had not been done. So I  
 21 was very surprised by that, and I was surprised by how  
 22 many different things related back to a use of resources  
 23 by the agency for one person.  
 24 Q. So what's the big deal with that? Who cares?  
 25 MR. BUZBEE: Objection, Your Honor. I

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1 mean --  
 2 Q. (BY MS. BUESS) What's the deal?  
 3 MR. BUZBEE: -- I don't know what that is.  
 4 That's not a question. That's not a proper question. I  
 5 object to it.  
 6 PRESIDING OFFICER: Sustained.  
 7 Q. (BY MS. BUESS) What's the problem with all of  
 8 those resources going to one person?  
 9 A. Besides it being unusual, it was unusual, and  
 10 there was a lot of speculation about the underlying  
 11 reasons during that phone call.  
 12 Q. Okay. Was there any resolution with that phone  
 13 call? Was there a decision to do something?  
 14 A. On the 29th?  
 15 Q. Yes.  
 16 A. There was not.  
 17 Q. How about the 30th, the next day?  
 18 A. There was.  
 19 Q. And what did you decide to do? What did the  
 20 group decide to do?  
 21 A. The group felt like some of the group felt like  
 22 they had an obligation to report to law enforcement.  
 23 Q. Why would they do that? What was -- what was  
 24 the problem --  
 25 MR. BUZBEE: Objection, speculation.

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1 She's asking about people we've already heard from tell  
 2 us what they were thinking. We've heard from them.  
 3 MS. BUESS: I'll reword it.  
 4 PRESIDING OFFICER: Sustained.  
 5 MS. BUESS: I'll reword it.  
 6 Q. (BY MS. BUESS) And at this point in time, what  
 7 was the problem with what had been going on? What was  
 8 the concern in your mind?  
 9 A. The concern in my mind was the immense amount  
 10 of effort that was being put to the problems of one  
 11 particular individual when so many of the executive  
 12 staff disagreed with that. And I'm a consensus builder,  
 13 and there was not consensus on how to move forward on  
 14 these things.  
 15 Q. Was it the degree of that --  
 16 MR. BUZBEE: Objection, leading.  
 17 PRESIDING OFFICER: Sustained.  
 18 Q. (BY MS. BUESS) When you looked at all of the  
 19 events that you learned about and you looked at the  
 20 people that had been involved with it, did you, in your  
 21 mind, figure out how much of the office had actually  
 22 been dedicated to doing work for Nate Paul's benefit?  
 23 A. I did.  
 24 Q. What kind of number did you come up with? How  
 25 did you -- how did you describe it?

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1 A. I think at the time I mentally came up it was  
 2 six -- more than 50 percent of the deputies' time of our  
 3 entire executive staff.  
 4 Q. Have you ever seen anything like that in your  
 5 career?  
 6 A. I had not.  
 7 Q. All for the benefit of who?  
 8 A. I think -- I don't know that I can answer who  
 9 it was for the benefit of. What I can answer is the  
 10 commonality --  
 11 MR. BUZBEE: Objection.  
 12 A. -- and the thread --  
 13 MR. BUZBEE: Sorry, ma'am. The witness  
 14 just told us she can't answer the question. Next  
 15 question.  
 16 Q. (BY MS. BUESS) And what was --  
 17 PRESIDING OFFICER: Sustained. Sustained.  
 18 Q. (BY MS. BUESS) What was the commonality of it  
 19 that you were about to talk about?  
 20 A. Nate Paul was the commonality.  
 21 Q. All right. And the other -- the other  
 22 commonality would be who directed it. And who was that?  
 23 A. Attorney General Paxton.  
 24 Q. When the attorney general's office does  
 25 something that totally violates it's long-time policy,

1 for example, something like open records and not  
 2 disclosing information for pending law enforcement, you  
 3 know, honoring the law enforcement exception, and not  
 4 releasing documents that have to do with ongoing  
 5 criminal investigations, what's the effect? What kind  
 6 of things happen to the office and to the public?  
 7 MR. BUZBEE: Your Honor, that is a  
 8 completely improper question. This person is not even  
 9 involved in public information at the office. Moreover,  
 10 it's -- the question -- it is three or four different  
 11 questions.  
 12 PRESIDING OFFICER: Sustained.  
 13 MR. BUZBEE: It's improper.  
 14 Q. (BY MS. BUESS) Do you have experience in open  
 15 records?  
 16 A. I do. I've -- I was the public information  
 17 coordinator for the Office of the Attorney General. I  
 18 was the division chief of the division. And at the time  
 19 that you're asking about, I was the supervisor of the  
 20 public information officer for the Office of the  
 21 Attorney General who had briefed that particular ruling  
 22 to the open records division.  
 23 Q. So when you violate the policy, the  
 24 long-standing policy to protect that type of  
 25 information, what does it do?

1 MR. BUZBEE: Your Honor, that assumes --  
 2 she just said she approved this, and now her -- the  
 3 lawyer is saying that she violated some policy. That's  
 4 improper.  
 5 MS. BUESS: That's incorrect. I've not  
 6 said anything like that.  
 7 PRESIDING OFFICER: Overruled.  
 8 Q. (BY MS. BUESS) What's the long-term effect?  
 9 What happens? What's the concern?  
 10 A. The open records division changes long-standing  
 11 precedent in their rulings, it can create confusion and  
 12 it is a proactive statement of precedent on other  
 13 rulings in that area.  
 14 Q. And when it's broken, what does that mean, that  
 15 precedence gone?  
 16 A. All the governmental agencies have to adapt to  
 17 that new precedent across the board with every request  
 18 that's similar.  
 19 Q. Did you go with the others to the FBI?  
 20 A. I did not.  
 21 Q. Why not?  
 22 A. I had retired, and so I did not. I was invited  
 23 to the meeting, and I was three hours away, and the  
 24 meeting -- I was told that unless you came in person,  
 25 don't come.

1 Q. Did you have an occasion later on to go talk  
 2 with the FBI about your observations?  
 3 A. I was subpoenaed by the grand jury to talk  
 4 about my observations in 2021.  
 5 Q. Okay. And did you do that?  
 6 A. I did.  
 7 Q. Did you cooperate?  
 8 A. I complied with a lawful subpoena.  
 9 Q. And your name is not on the whistleblower  
 10 letter, is that correct?  
 11 A. I am not a whistleblower.  
 12 Q. Why is that? Why did you not sign the letter?  
 13 A. Because I had -- the time all this was  
 14 happening, I had already submitted my notice to retire  
 15 and my retirement was imminent. So for lack of a better  
 16 word, I was a quitter. I had quit.  
 17 MS. BUESS: Pass the witness.  
 18 PRESIDING OFFICER: Mr. Buzbee, your  
 19 witness.  
 20 MR. BUZBEE: Yes, Your Honor. Thank you.  
 21 CROSS-EXAMINATION  
 22 BY MR. BUZBEE:  
 23 Q. Hello, ma'am.  
 24 A. Mr. Buzbee.  
 25 Q. You look like you're a little nervous.

1 A. I'm not nervous.  
 2 Q. Feeling good?  
 3 A. You know, I don't think anybody particularly  
 4 wants to be here, Mr. Buzbee.  
 5 Q. Let me ask you something. You said you  
 6 appeared in front of the grand jury?  
 7 A. I was subpoenaed to appear at the grand jury.  
 8 Q. And that was in 2021?  
 9 A. Yes, sir.  
 10 Q. And it's 2023 now?  
 11 A. Yes, sir.  
 12 Q. And that you told them everything you told us  
 13 here?  
 14 A. I answered the questions --  
 15 MS. BUCESS: I object. If she's appeared  
 16 before grand jury, she cannot talk with us about what  
 17 she testified to.  
 18 MR. BUZZBEE: She can tell me that if  
 19 that's the case.  
 20 PRESIDING OFFICER: Sustain.  
 21 Q. (BY MR. BUZZBEE) So suffice it to say your  
 22 story hasn't changed since 2021, right?  
 23 A. Can you explain to me what story I'm talking  
 24 about?  
 25 Q. I'm wondering why the so-called whistleblowers

1 who reported this to the Travis County DA's Office and  
 2 to the FBI and maybe others and you who spoke to  
 3 apparently the FBI or the grand jury at some point, why  
 4 nothing's happened even though every single thing that  
 5 we've heard in this impeachment has already been fully  
 6 vetted. Can you tell me, has there been an indictment  
 7 of our attorney general?  
 8 A. So your question is --  
 9 Q. Has there been an indictment of our attorney  
 10 general?  
 11 A. Not that I'm aware of.  
 12 Q. Okay. You think that Laura Olson drives a red  
 13 car. Is that what you told us?  
 14 A. I did not say that. I said the person at the  
 15 Galaxy Cafe that I saw drove a red car. I've never said  
 16 it was Laura Olson for sure.  
 17 Q. Why are you even telling us about somebody that  
 18 drives a red car at the Galaxy Cafe when Laura Olson  
 19 never owned a red car?  
 20 MS. BUCESS: Objection. That assumes facts  
 21 that are not in evidence.  
 22 PRESIDING OFFICER: Sustained.  
 23 Q. (BY MR. BUZZBEE) Do you know whether Laura  
 24 Olson has ever owned a red car?  
 25 A. Do not.

1 Q. Do you know what kind of car Laura Olson would  
 2 have been driving back in that time frame?  
 3 A. I do not.  
 4 Q. Okay. So you just got up here in front of all  
 5 these people, people watching at home, our distinguished  
 6 jury and was telling us about some unknown person  
 7 driving a red car at Galaxy Cafe and you don't even know  
 8 who that was, do you?  
 9 A. That would be correct.  
 10 Q. Why the devil are we even hearing about the  
 11 Galaxy Cafe? You didn't know who that person was?  
 12 A. I never said that I did.  
 13 Q. How long did you work with these people over  
 14 here to prepare yourself for your testimony?  
 15 A. I didn't work with them. I was asked to go in  
 16 front of the house managers and interviewed as well as  
 17 talk to you and your staff.  
 18 Q. There was -- was there -- are you sure there  
 19 was some sort of attorney general's conference in San  
 20 Antonio in that time frame?  
 21 A. The best of my recollection.  
 22 Q. There wasn't. I guess I'm trying to figure out  
 23 how good is your memory?  
 24 A. Is that a question?  
 25 Q. Yeah. Not very good, is it?

1 A. No, sir, it's not.  
 2 Q. That's what I thought.  
 3 Ken Paxton was your boss before you  
 4 retired, right?  
 5 A. Yes, sir.  
 6 Q. Your -- you told us about all this teaching  
 7 you've done and CLEs, continuing legal educations,  
 8 right?  
 9 A. Yes, sir.  
 10 Q. You -- you've taught students, you've taught  
 11 other lawyers, right?  
 12 A. Yes, sir.  
 13 Q. And you sat up here and you were trying to  
 14 explain to us contracts and how the process works,  
 15 right?  
 16 A. Yes, sir.  
 17 Q. And your boss called you because he wanted to  
 18 legally do the right thing, and you provided him advice,  
 19 didn't you?  
 20 MS. BUCESS: Objection. Calls for  
 21 speculation on the part of this witness.  
 22 PRESIDING OFFICER: Sustained.  
 23 Q. (BY MR. BUZZBEE) He wanted to know how to  
 24 properly sign an outside counsel contract, didn't he?  
 25 MS. BUCESS: Objection. Calls for



1 speculation.  
 2 MR. BUZBEE: It's exactly what he told  
 3 her.  
 4 MS. BUCESS: Objection.  
 5 PRESIDING OFFICER: Overruled.  
 6 Q. (BY MR. BUZBEE) He wanted line and verse.  
 7 What did he call you? Missy? Is that what he called  
 8 you?  
 9 A. Yes, sir.  
 10 Q. Missy, look, I'm having a disagreement with  
 11 this Penley fellow. He's refusing to do his job, he's  
 12 insubordinate. I need to know under the statutes if I  
 13 have the authority, the legal authority, to sign a  
 14 contract. And you gave him advice, didn't you?  
 15 A. Yes, sir.  
 16 Q. And you said, Ken, you do.  
 17 Isn't that right?  
 18 A. Correct.  
 19 Q. Why are we here? The guy did everything he was  
 20 supposed to. He had some insubordinate people in his  
 21 outfit. So --  
 22 MS. BUCESS: I object. Counsel is  
 23 testifying. Not asking questions.  
 24 MR. BUZBEE: That is a question. I'm not  
 25 finished.

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1 PRESIDING OFFICER: Sustained.  
 2 Q. (BY MR. BUZBEE) You knew that Penley refused  
 3 to follow the procedure and sign off on the contract  
 4 right? You knew Penley said, I ain't going to sign it,  
 5 right?  
 6 A. I knew Penley said he did not want to sign it,  
 7 correct.  
 8 Q. The only person in the office who has authority  
 9 to sign the contract himself, unless designated, is Ken  
 10 Paxton, isn't that right?  
 11 A. That is correct.  
 12 Q. Let's make sure we're all clear on that. This  
 13 bureaucratic process that this person signs and this  
 14 person signs and this person signs, all of their power  
 15 and authority to sign a contract comes from the elected  
 16 Attorney General Ken Paxton, isn't that true?  
 17 A. Subject to the appropriations act, the  
 18 statutes, and the rules that we adopted, correct.  
 19 Q. That's right.  
 20 A. Yes, sir.  
 21 Q. So -- and we saw Mr. Penley's notes, if he said  
 22 in his notes: Missy told Ken he had the authority to  
 23 sign the contract --  
 24 MS. BUCESS: Objection. That violates the  
 25 rule. Sorry. That violates the rule.

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1 MR. BUZBEE: You keep objecting. This is  
 2 a document that's in evidence, Your Honor. We all  
 3 looked at it.  
 4 PRESIDING OFFICER: Overruled.  
 5 Q. (BY MR. BUZBEE) When we looked at Mr. Penley's  
 6 notes --  
 7 MS. BUCESS: I object. I object --  
 8 MR. BUZBEE: You can object again, but  
 9 it's in the evidence, Your Honor. You saw it. We all  
 10 saw it.  
 11 MS. BUCESS: I object to him testifying  
 12 about a document that this witness has not established  
 13 that she's ever even seen. That's improper.  
 14 MR. BUZBEE: That's not right, Your Honor.  
 15 When I asked her if Penley's notes are correct, that is  
 16 Missy told Ken --  
 17 MS. BUCESS: I am asking for a ruling,  
 18 Judge.  
 19 MR. BUZBEE: -- he had the authority to  
 20 sign a contract, that's an incredibly appropriate  
 21 question.  
 22 PRESIDING OFFICER: Sustained.  
 23 Q. (BY MR. BUZBEE) Now, you did tell Penley that  
 24 you had told Ken he had the authority, right?  
 25 A. I told everyone on the phone call, then Penley

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1 was one of the members of the phone call, correct.  
 2 Q. Let's make sure we all get that right.  
 3 And your job at that point in time when  
 4 you told Mr. Paxton that was?  
 5 A. His chief of staff.  
 6 Q. The chief of staff of the attorney general's  
 7 office of the state of Texas advised her boss, the  
 8 attorney general, that it was okay to sign an outside  
 9 counsel contract, correct?  
 10 A. I told General Paxton that it was legal for him  
 11 to sign the outside counsel contract, correct.  
 12 Q. And then later when everybody was scrambling  
 13 around, you told his entire executive staff that you had  
 14 told him that, right?  
 15 A. I was completely honest with them, yes, sir.  
 16 Q. And they still went to the FBI, didn't they?  
 17 A. They, in fact, went to the FBI.  
 18 Q. That's right.  
 19 Are you somebody that goes to church?  
 20 A. I'm not sure that's an appropriate question, is  
 21 it? My personal beliefs.  
 22 Q. Well, it is when you're telling us about the  
 23 ethical, legal, and moral implications of an affair.  
 24 Remember telling us all that?  
 25 Remember saying that? Maybe -- I think

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1 you said political, ethical, legal implications of an  
 2 affair. Remember saying that?  
 3 A. I remember giving the attorney general my  
 4 thoughts on those topics.  
 5 Q. Okay. So I won't get your thoughts on the  
 6 topic.  
 7 You ever met somebody that's perfect?  
 8 A. Never, sir.  
 9 Q. Okay. Was there only one person that was  
 10 perfect?  
 11 A. In my belief system, there is only one entity  
 12 that's perfect.  
 13 Q. All have sinned and fallen short of the grace  
 14 of God, right?  
 15 A. I would agree with that, sir.  
 16 Q. Yeah. Sometimes people make stupid mistakes,  
 17 correct?  
 18 A. Yes, sir.  
 19 Q. Sometime -- I mean, imagine if we impeached  
 20 everybody here in Austin that had had an affair, we'd be  
 21 impeaching for the next hundred years, wouldn't we?  
 22 A. I don't think I should answer that question in  
 23 this chamber particularly. I've been around a long  
 24 time, Mr. Buzbee. I'm not going to go there with you.  
 25 Q. I'm quite sure you've seen a lot, have you not?

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1 A. Indeed.  
 2 Q. Yeah, just because somebody has an affair  
 3 doesn't mean that they're a quote, criminal, does it?  
 4 A. I would not associate that directly.  
 5 Q. Yeah. I mean, that would be incredibly  
 6 hypocritical, would it not, if somebody said this guy is  
 7 a criminal because he had a marital indiscretion. That  
 8 would be really hypocritical, would it not?  
 9 A. I would not say that.  
 10 Q. Yeah, you would never say something like that,  
 11 would you?  
 12 A. I would not.  
 13 Q. You even sent in those -- when you were texting  
 14 back and forth with Ken Paxton, your boss, you sent him  
 15 the legal authority that gives him the authority to sign  
 16 contracts, right?  
 17 A. Correct.  
 18 Q. Okay. And you also referred him to the  
 19 attorney general's website, didn't you?  
 20 A. With the procedure, yes, sir.  
 21 Q. Yeah. So you not only told him over the phone,  
 22 but you also sent him the exact statute and the website,  
 23 the AG's website, right?  
 24 A. I did.  
 25 Q. Okay. Did you ever figure out how the grand

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1 jury subpoenas were actually obtained by Mr. Cammack?  
 2 A. I did not.  
 3 Q. Okay. You know, of course, he didn't have to  
 4 appear in front of any grand jury. Right?  
 5 A. If you told me that, then, you know, I'll take  
 6 your word for it. I didn't dive into that. Again, I  
 7 told General Paxton that the contract was legal to sign.  
 8 Q. Okay.  
 9 A. But not -- couldn't be funded. He had a  
 10 funding issue.  
 11 Q. Okay. We'll talk about the funding issue.  
 12 The funding issue is something you -- you  
 13 know, of course, Cammack didn't get any money?  
 14 A. I do not know that.  
 15 Q. Okay.  
 16 A. But you're telling me Cammack didn't get any  
 17 money.  
 18 Q. Young man did some -- a lot of work, didn't get  
 19 paid?  
 20 MS. BUSS: I object to defense counsel  
 21 testifying.  
 22 Q. (BY MR. BUZZBEE) I'm asking if you knew that --  
 23 MS. BUSS: I object.  
 24 PRESIDING OFFICER: Sustained.  
 25 Q. (BY MR. BUZZBEE) Did you know that, that he

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1 never got paid?  
 2 A. I did not know that until you just told me.  
 3 Q. Okay. Let me ask you: Is -- would it be an  
 4 appropriate process for the attorney general, before you  
 5 everyone try to go through the executive approval  
 6 memorandum process, the -- that's a bureaucratic  
 7 process, is it not?  
 8 A. Correct.  
 9 Q. Okay. It's a bunch of procedural rules that  
 10 have no force in law, right?  
 11 A. It's documentation that has -- not the legal  
 12 document.  
 13 Q. Right. You know, oh, got you, you didn't  
 14 follow the procedure in the office. The AG can decide  
 15 what the procedure in the office is, can he not?  
 16 A. He can waive the procedure in writing, yes,  
 17 sir.  
 18 Q. He can waive it verbal. He can do what he  
 19 wants as long as he's -- he believes he's serving the  
 20 people of Texas, isn't that right?  
 21 A. Well, he agreed to the rules that said it would  
 22 be in writing.  
 23 Q. And he can change the rules?  
 24 A. If he goes to the Texas Administrative Code  
 25 process in this instance, he could change the rules,

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1 yes.  
 2 Q. Let me just ask this, though, so we're all  
 3 clear: Can the AG of our state send an email to the  
 4 controller? Is there a controller in the office?  
 5 Somebody in charge of the money?  
 6 A. It's -- there is a controller in the office,  
 7 and then there's the Texas controller.  
 8 Q. Yeah, I'm not -- I'm talking about the internal  
 9 one. Who was the internal controller in the AG's  
 10 office?  
 11 A. Michele Price.  
 12 Q. Can the AG send an email to the controller  
 13 within the office and say, set aside 50 K or 25 K for a  
 14 contract I'm going to sign?  
 15 A. He can.  
 16 Q. Okay. Is that something that he has the  
 17 authority to do?  
 18 A. Yes.  
 19 Q. Okay. Does anybody else have that authority?  
 20 A. The appropriations act in Article IX,  
 21 Section 16, says that the communication needs to go to  
 22 the controller. So that communication would need to be  
 23 forwarded to the controller to prove that the attorney  
 24 general felt it was in the best interest of the state.  
 25 Q. The attorney general. No one else?

1 A. The appropriations act uses the words "attorney  
 2 general," and as you correctly stated, those kind of  
 3 things he can delegate, but if he didn't delegate, it  
 4 says attorney general, yes, sir.  
 5 Q. If he did not delegate, it would be illegal,  
 6 true?  
 7 A. I don't understand the question.  
 8 Q. Let's say that one day Mr. Penley decides that  
 9 he wants to set aside 50k to sign an outside counsel  
 10 contract. That would be illegal, wouldn't it?  
 11 A. I don't think it would be illegal. I don't  
 12 think anyone would do it for him. The controller would  
 13 be following the procedures.  
 14 Q. You think so?  
 15 A. I do.  
 16 Q. Okay.  
 17 A. I would say staff --  
 18 Q. Let's look in evidence. We've already seen  
 19 Exhibit 361.  
 20 MR. BUZBEE: Can we put it on the screen  
 21 for the witness, Erick? You help me out here, Erick?  
 22 Everybody likes Erick, Your Honor.  
 23 PRESIDING OFFICER: And Stacey.  
 24 MR. BUZBEE: And Stacey. And Stacey.  
 25 If you don't mind, Erick, go to Page 4 of

1 Exhibit -- AG Exhibit 361.  
 2 Q. (BY MR. BUZBEE) You see that there in front of  
 3 you: Jeff Mateer is authorizing \$50,000 to be set aside  
 4 for a guy named Johnny Sutton.  
 5 Do you see that?  
 6 A. I do see this.  
 7 Q. Did you know that was going on?  
 8 A. No, sir.  
 9 Q. Did they tell you they were doing that?  
 10 A. No, sir.  
 11 Q. Do you think that that the first assistant has  
 12 the authority to hire outside counsel be it with an  
 13 email?  
 14 A. I do.  
 15 Q. You do.  
 16 But Ken Paxton doesn't?  
 17 A. I believe that Ken Paxton could have sent a  
 18 very similar email if he did about the funding. I know  
 19 he would have achieved the same result, if he did. You  
 20 may show me that documentation, if you'd like. I don't  
 21 have -- I'm not aware of it.  
 22 Q. Is the -- I thought we had this real strict  
 23 bureaucratic procedure to hire outside counsel.  
 24 Remember you telling us about all that?  
 25 A. We do.

1 Q. Okay.  
 2 A. And in that procedure the first assistant has  
 3 been delegated that authority.  
 4 Q. No. Ken Paxton did not delegate any authority  
 5 to hire Johnny Sutton. No. You know that's true?  
 6 MS. BUJESS: I object. That's a  
 7 misstatement of what she said.  
 8 Q. (BY MR. BUZBEE) Do you know whether Ken  
 9 Paxton --  
 10 MS. BUJESS: Object.  
 11 MR. BUZBEE: I'm going to rephrase the  
 12 question.  
 13 PRESIDING OFFICER: Sustain.  
 14 Rephrase.  
 15 Q. (BY MR. BUZBEE) Do you know whether Ken  
 16 Paxton, the boss, authorized Jeff Mateer, the  
 17 subordinate, to set aside \$50,000 for Johnny Sutton?  
 18 A. I have no personal knowledge of Johnny Sutton.  
 19 Q. Okay.  
 20 MR. BUZBEE: Pass the witness.  
 21 PRESIDING OFFICER: Redirect.  
 22 MS. BUJESS: No, sir.  
 23 PRESIDING OFFICER: Are -- both sides can  
 24 excuse the witness?  
 25 MR. BUZBEE: We are finished with this

1 witness.  
 2 MS. BUSS: Yes. Yes.  
 3 PRESIDING OFFICER: You may step down,  
 4 thank you.  
 5 THE WITNESS: Am I excused?  
 6 PRESIDING OFFICER: You are excused.  
 7 THE WITNESS: Thank you, sir.  
 8 PRESIDING OFFICER: She asked is she  
 9 subject to recall?  
 10 MS. BUSS: No.  
 11 PRESIDING OFFICER: Subject to recall?  
 12 MR. BUZBEE: No, Your Honor. I think  
 13 we're done with this one.  
 14 PRESIDING OFFICER: Okay, thank you.  
 15 Who's your next witness?  
 16 MR. DONNELLY: Your Honor, the House calls  
 17 Gregg Cox.  
 18 PRESIDING OFFICER: Bailiff will bring in  
 19 Gregg Cox.  
 20 MR. DONNELLY: And, Mr. President, if I  
 21 may in an attempt to hopefully expedite the process, I  
 22 have one piece of evidence that I intend to show while  
 23 Mr. Cox is on the stand. It is Exhibit No. 249 whose  
 24 affidavit attached is No. 640. It's a video before the  
 25 Senate finance committee from February 10th, 2021. It

1 is a government record, and it is authenticated by the  
 2 proper affidavit associated with it. We'd offer the  
 3 same into evidence.  
 4 PRESIDING OFFICER: You're going to submit  
 5 that, right?  
 6 MR. DONNELLY: I'm offering it as  
 7 evidence, Your Honor, because I intend to play it with  
 8 the witness.  
 9 PRESIDING OFFICER: It has --  
 10 MR. DONNELLY: To expedite, I was hoping  
 11 to get any objections taken care of beforehand.  
 12 PRESIDING OFFICER: Do you have any  
 13 objections?  
 14 MR. BUZBEE: No, Your Honor.  
 15 (Witness enters)  
 16 PRESIDING OFFICER: Mr. Cox, raise your  
 17 right hand.  
 18 I do solemnly swear or affirm that the  
 19 evidence I give upon this hearing by the Senate of Texas  
 20 impeachment charges against Warren Kenneth Paxton, Jr.  
 21 shall be the truth, the whole truth, and nothing but the  
 22 truth, so help me God.  
 23 THE WITNESS: I do.  
 24 PRESIDING OFFICER: Please take your seat.  
 25 Court will admit into evidence Exhibit 249

1 and Exhibit 640.  
 2 (HBOM Exhibits 249 and 640 admitted)  
 3 MR. DONNELLY: Thank you, Mr. President.  
 4 May I proceed?  
 5 PRESIDING OFFICER: Yes, you may.  
 6 GREGG COX,  
 7 having been first duly sworn, testified as follows:  
 8 DIRECT EXAMINATION  
 9 BY MR. DONNELLY:  
 10 Q. Good afternoon, sir.  
 11 A. Good -- good afternoon.  
 12 Q. I'm going to need you to speak a little bit  
 13 closer to the mic. I'm never really told that nobody  
 14 can hear me, but I know that acoustics are not great, so  
 15 please step forward -- or slide forward to make sure we  
 16 can hear you.  
 17 A. Very good.  
 18 Q. Would you please introduce yourself to the  
 19 honorable Senators?  
 20 A. Hi. My name is Gregg Cox.  
 21 Q. And tell us, sir, how you're currently  
 22 employed?  
 23 A. I am currently the first assistant with the  
 24 Hays County District Attorney's Office in San Marcos.  
 25 Q. Could you give us, please, a quick briefing of

1 your history, professional, and perhaps even law school  
 2 that led you up to this point?  
 3 A. Yes. I attended law school at the University  
 4 of Texas. And actually during my first year of law  
 5 school, I worked here at the Texas Senate. Took a year  
 6 off from law school, worked for an accounting firm. And  
 7 then when I went back during my second year, I got a job  
 8 as a law clerk at the Travis County District Attorney's  
 9 Office in the Public Integrity Unit.  
 10 Upon graduation and passing the bar, I was  
 11 offered a position as an assistant district attorney,  
 12 and I ended up staying with the Travis County District  
 13 Attorney's Office for 30 full years.  
 14 Q. After leaving the district attorney's office in  
 15 those 30 years of service, did you go to another  
 16 government or quasi-government job?  
 17 A. I did. I initially went and was general  
 18 counsel in 2021 at the Texas Civil Commitment Office, a  
 19 small state agency that oversees people that have been  
 20 civilly committed as sexually violent predators. I left  
 21 there and went to the Texas District and County  
 22 Attorneys' Association where I was assistant director of  
 23 training. And then in January of this year, I became  
 24 first assistant in the Hays County office.  
 25 Q. I appreciate that, sir. Thank you.

1 During your time at the Travis County  
 2 District Attorney's Office, you indicated you were  
 3 director of special prosecutions division. Did that  
 4 include investigations into public corruption?  
 5 A. Yes, it did. I served as director of special  
 6 prosecutions, which included the state funded Public  
 7 Integrity Unit while it existed for 15 years, the end of  
 8 2021 to the end of 2016.  
 9 Q. I figure you might get some questions about  
 10 that, but I'll let my colleagues take care of that.  
 11 Let's move on then to your time at the  
 12 district attorney's office towards the end, who was the  
 13 district attorney -- not the last elected district  
 14 attorney that you served under, but second to last? If  
 15 I'm asking that right?  
 16 A. So --  
 17 Q. Let me ask it a better way. Do you know  
 18 Margaret Moore?  
 19 A. Yes.  
 20 Q. Okay.  
 21 A. 2017 through 2020, Margaret Moore was district  
 22 attorney. During her administration, I was serving as  
 23 director of operations.  
 24 Q. Very good.  
 25 Did she ask you at some point to speak

1 with her -- or let me ask you this: Did you flag a  
 2 concern for her related to a possible open records  
 3 request?  
 4 A. In October of 2020, one of my responsibilities  
 5 was overseeing public information. I became aware of an  
 6 open records request that the office had received  
 7 related to Ken Paxton and Nate Paul. I didn't know what  
 8 was going on. I asked a question about that. She  
 9 briefed me on some things that had been going on that I  
 10 had been unaware of and then asked me to start joining  
 11 into some meetings with some individuals related to  
 12 that.  
 13 Q. Is it fair to say that up unto that point you  
 14 had not heard the name Nate Paul in relation to the  
 15 Travis County District Attorney's Office?  
 16 A. That's correct.  
 17 Q. Very good.  
 18 Then who did you speak with at Ms. Moore's  
 19 request?  
 20 A. Initially, I spoke with a couple of lawyers  
 21 that represented the Mitte Foundation.  
 22 Q. And let me back up. I poorly phrased that  
 23 question, as I often do.  
 24 Back that up to say, Ms. Moore, you  
 25 indicated, wanted to speak with you --

1 A. Yes.  
 2 Q. -- about this request. Did you speak with  
 3 Ms. Moore, and was there anybody else present?  
 4 A. I spoke with Ms. Moore and Don Clemmer, I may  
 5 have spoken with Mindy Montford, although I can't recall  
 6 that for certain.  
 7 Q. And based on what you learned during that  
 8 conversation, was there a next step that you took?  
 9 A. I drafted up a real brief overview of potential  
 10 criminal offenses that could be relevant to the  
 11 situation that they briefed me on, and then we set up a  
 12 series of meetings to gather more information.  
 13 Q. Do you recall approximately when it was that  
 14 you drafted this initial -- I'm going to call it a  
 15 skeleton outline?  
 16 A. If I am recalling the dates correctly, the  
 17 initial conversation was on October 21st of 2020. I  
 18 drafted the first memo on October 23rd, which was Friday  
 19 of that week. And then Monday, Tuesday, and Wednesday  
 20 of the following week, we had a series of meetings. And  
 21 then I believe it was on October 28th that I drafted a  
 22 more thorough memo about the situation.  
 23 MR. DONNELLY: Your Honor, if I may  
 24 approach the witness after I ask the following question?  
 25 Q. (BY MR. DONNELLY) I'm going to show you what

1 I'm -- I don't intend to introduce into evidence but  
 2 would ask if you would rely on your memo to refresh your  
 3 memory?  
 4 A. Sure.  
 5 MR. BUZBEE: Objection. Your Honor, he  
 6 hasn't said that he doesn't remember anything yet.  
 7 MR. DONNELLY: Fair enough.  
 8 MR. BUZBEE: He can't sit up there and  
 9 testify from a document that's clearly hearsay.  
 10 MR. DONNELLY: Your Honor, I'll rephrase.  
 11 I apologize. Thank you.  
 12 And, Mr. President, I keep saying "Your  
 13 Honor." Force of habit.  
 14 PRESIDING OFFICER: Whatever is  
 15 comfortable for you.  
 16 MR. DONNELLY: Thank you, sir.  
 17 Q. (BY MR. DONNELLY) Do you have a full  
 18 recollection of each and every item that you outlined in  
 19 your October 28, 2020 memo?  
 20 A. I have a reasonably good recollection of it.  
 21 Q. Do you feel that looking at that would assist  
 22 and aid you in your testimony in order to provide  
 23 comment to the ladies and gentlemen of the jury and not  
 24 waste a lot of time?  
 25 A. I do.

1 MR. DONNELLY: May I approach the witness,  
 2 Your Honor?  
 3 MR. BUZBEE: Your Honor, may I, again --  
 4 and, again, I'm all about saving some time, but this is  
 5 not proper to give him a document that he hasn't said --  
 6 he hasn't asked a specific question about do you  
 7 remember this, remember that. You don't just refresh a  
 8 recollection with an entire document. That's not how it  
 9 works.  
 10 MR. DONNELLY: Your Honor, respectfully,  
 11 I've yet to hear a single objection on this issue from  
 12 Mr. Buzbee, other than his complaints about it. I will  
 13 proffer to the Court, if I may, sir.  
 14 MR. BUZBEE: It's hearsay. Not allowed.  
 15 MR. DONNELLY: If I may, sir -- if I may,  
 16 sir. Thank you. I've allowed you to continue your  
 17 objections, and I ask you to give me the same decency.  
 18 Your Honor, this witness is testifying  
 19 that he created a report. He has testified here today  
 20 that he doesn't have full memory of everything contained  
 21 in that report. And, Mr. President, he has said that it  
 22 would assist him in providing testimony to the jury.  
 23 PRESIDING OFFICER: Overrule the  
 24 objection.  
 25 MR. DONNELLY: Thank you.

1 May I approach, Mr. President?  
 2 PRESIDING OFFICER: Yes, you may.  
 3 MR. DONNELLY: I hope I'm not the only one  
 4 that's ever happened to because my wife will take care  
 5 of me later on.  
 6 Q. (BY MR. DONNELLY) Sir, tell me after your  
 7 initial meeting with Margaret Moore and Mr. Clemmer,  
 8 what steps did you take, if any?  
 9 A. So the initial conversation, I was provided a  
 10 briefing of some facts that they knew at that point. I  
 11 then went and looked at some open source information to  
 12 gather some additional facts, and I drafted an earlier  
 13 version of this memo that did not include any fact  
 14 summary. It only included an outline of potential  
 15 criminal offenses that might be avenues of  
 16 investigation.  
 17 I provided that to Ms. Moore on Friday,  
 18 the 23rd. And then we had the series of meetings that I  
 19 referenced a moment ago. And I drafted this memo after  
 20 that series of meetings.  
 21 Q. Do you recall the individuals who you spoke  
 22 with? And I'm not asking you what they said, just the  
 23 identity of those individuals.  
 24 A. Yes. As I started mentioning a little bit ago,  
 25 two attorneys from the Mitte Foundation, however you say

1 that. Then we had a meeting that Monday afternoon, a  
 2 video meeting over Zoom with Mr. Mateer. The following  
 3 day we had a telephone conference call with Mr. Maxwell.  
 4 And then the next day, Wednesday of that week, we had a  
 5 rather lengthy conference call with Mr. Penley.  
 6 Q. Then did you summarize -- did you summarize  
 7 those facts as you knew them within this report that I  
 8 provided to you, which you had drafted around  
 9 October 28th?  
 10 A. Yes. I took detailed notes. And then I wrote  
 11 this fact summary and the rest of the memo after that.  
 12 Q. Very good.  
 13 And, again, I'm not going to go into you  
 14 about the specifics in your report. You're here to  
 15 testify about your memory.  
 16 So let me ask you: As a result of your  
 17 conversations -- let me back that up.  
 18 Would you call what you did an  
 19 investigation?  
 20 A. I would call it a preliminary investigation.  
 21 Q. Would it be fair to describe it as a limited  
 22 investigation?  
 23 A. Yes.  
 24 Q. So in this preliminary limited investigation,  
 25 you spoke with multiple individuals. And were you able

1 to identify in your mind possible criminal offenses?  
 2 A. Yes, I was.  
 3 Q. And who would have been the subject of the  
 4 possible criminal offenses?  
 5 A. Primarily, Ken Paxton. But there were other  
 6 individuals that were also identified as potential  
 7 suspects.  
 8 Q. Very good.  
 9 I'd like to ask you which offenses you  
 10 identified, and I'm going to ask you one by one to just  
 11 go slowly.  
 12 Could you tell me, please, what you  
 13 believe the first potential offense you identified was?  
 14 A. Potentially bribery.  
 15 Q. Bribery.  
 16 What else did you identify?  
 17 A. Accepting a gift to a public servant.  
 18 Q. Very good.  
 19 Next?  
 20 A. Official -- abuse of official capacity under  
 21 39.02 of the penal code, which has two different ways of  
 22 committing the offense. One is misusing something of  
 23 value belonging to government for an improper purpose.  
 24 Second part is violating a law relating to your office  
 25 or employment.

1 And I believed that there were  
 2 commissioned -- there were potential offenses under both  
 3 of those sections.  
 4 MR. DONNELLY: Ms. Manela, could I please  
 5 ask you to bring up on the screen the two -- the three  
 6 potential criminal offenses that have been identified?  
 7 MR. BUZBEE: Objection, Your Honor. We  
 8 all know that Ken Paxton's not been charged with  
 9 anything. This is completely improper. He --  
 10 possible -- possible criminal violations. This is  
 11 completely improper.  
 12 MR. DONNELLY: Your Honor, this  
 13 information goes directly to rebut inferences provided  
 14 by the defense team concerning any possible  
 15 investigation that may have occurred.  
 16 Additionally, it goes specifically to  
 17 articles of impeachment regarding potential abuse of  
 18 power, potential bribery. Many of the other ones we're  
 19 about to elicit from this witness, Your Honor.  
 20 MR. BUZBEE: May I be heard one further  
 21 time, Your Honor?  
 22 Imagine that it would be proper in a court  
 23 for somebody to come here and say he's possibly did  
 24 this, possibly did that, possibly did this. Incredibly  
 25 improper. That's pure speculation. He hasn't been

1 charged with anything. And even if he were charged,  
 2 he'd still be innocent.  
 3 MR. DONNELLY: Your Honor --  
 4 MR. BUZBEE: So this is completely  
 5 improper, and I object to it because it's speculation.  
 6 MR. DONNELLY: Mr. Buzbee, I apologize for  
 7 interrupting you.  
 8 If I may, Your Honor, just briefly. This  
 9 witness is here to testify to his perceptions, his  
 10 opinions. They are opinions that can be challenged. He  
 11 is a lay witness under rule 701. And he is using his  
 12 information and rationally based on his perception is  
 13 providing opinions which would be helpful to the jury to  
 14 understand a fact in issue. He is available to be  
 15 cross-examined by Mr. Buzbee who I'm sure will take him  
 16 on cross-examination and test his credibility.  
 17 MR. BUZBEE: He hasn't responded to the  
 18 objection, which is this is all speculation. I mean, he  
 19 could say that about everybody here. Possible this,  
 20 possible that. That's why as the gatekeeper the Court  
 21 can't allow it.  
 22 MR. DONNELLY: And, Your Honor, again,  
 23 I've responded directly to it as a rule 701 lay --  
 24 PRESIDING OFFICER: Okay. Hold it.  
 25 MR. DONNELLY: I apologize.

1 PRESIDING OFFICER: I got it.  
 2 Overrule the objection. Go ahead.  
 3 MR. DONNELLY: Thank you.  
 4 Ms. Manela, if you would, please.  
 5 Q. (BY MR. DONNELLY) I bring up on the screen --  
 6 I just want to make sure these are three that you have  
 7 identified here in court. Is this an accurate and  
 8 correct summary of the testimony you've provided up to  
 9 this point?  
 10 A. It is.  
 11 Q. Please, sir, the next potential offense that  
 12 you've identified?  
 13 A. We were also concerned about some election code  
 14 violations if certain factors came into play about how  
 15 money may have been transmitted or handed over. And  
 16 along those same lines, money laundering under 34.02 of  
 17 the penal code.  
 18 Q. Money laundering is listed now on here. Is  
 19 that accurate -- an accurate summary of what you've  
 20 stated?  
 21 A. That is.  
 22 Q. Very good.  
 23 What is the next offense that you  
 24 identified?  
 25 A. Tampering with a government record and possible

1 perjury related to personal financial statements filed  
 2 under Chapter 572 under the Government Code.  
 3 Q. And, Mr. Cox, I'll ask you: As you turn to the  
 4 side, just make sure to keep your voice up so we can all  
 5 hear you.  
 6 A. Yes.  
 7 Q. Please, sir, what's the next one you identified  
 8 as a potential offense?  
 9 A. Coercion of a public servant under 36.02 of the  
 10 penal code.  
 11 Q. And, again, what's showing up on the screen,  
 12 does that accurately reflect the testimony you provided?  
 13 A. It is.  
 14 Q. Next offense?  
 15 A. Official oppression under 39.03 of the penal  
 16 code. And retaliation under 36.06 of the penal code.  
 17 Q. And, again, those two that have just popped up  
 18 on the screen, do those accurately reflect your  
 19 testimony?  
 20 A. Yes.  
 21 Q. Next offense that you potentially identified?  
 22 A. We discussed whether there could be under penal  
 23 code 15.02 of the penal code or under penal code  
 24 Section 71.02, either a criminal conspiracy to commit  
 25 any of those offenses, including the ones that haven't

1 been put on the screen that I mentioned or engaging in  
 2 organized criminal activity with connection to these  
 3 offenses.  
 4 Q. Was there also -- was there also an  
 5 identification of a potential Government Code section  
 6 violation?  
 7 A. Yes. Chapter 572 of the Government Code not  
 8 only has the financial disclosure rules, it also has  
 9 standards of conduct for state employees in  
 10 Subchapter C. And there was what appeared to be a  
 11 fairly clear violation of one of the provisions of that  
 12 section.  
 13 Q. Sir, the information that's displayed on the  
 14 screen now, is this an accurate summary of the -- of  
 15 your testimony here today specifically as to the  
 16 potential offenses that you personally identified?  
 17 A. Yes, it is.  
 18 MR. DONNELLY: Your Honor, I've marked for  
 19 identification purposes Exhibit No. 660, which is the  
 20 entirety of what is shown on the screen. And I would  
 21 offer the same into evidence as summation.  
 22 PRESIDING OFFICER: It is admitted into  
 23 evidence.  
 24 (HBOM Exhibit 660 admitted)  
 25 MR. DONNELLY: Thank you, Your Honor.

1 PRESIDING OFFICER: Did you object --  
 2 MR. BUZBEE: I was going to, Your Honor.  
 3 PRESIDING OFFICER: I'm sorry. Excuse me.  
 4 MR. BUZBEE: Why don't we --  
 5 PRESIDING OFFICER: I mean, I thought you  
 6 had already allowed it earlier, and it had not been  
 7 admitted. So state your objection.  
 8 MR. BUZBEE: Why don't we write on there  
 9 that -- accurately reflect the testimony of potential or  
 10 possible instead of just putting the statutes on there.  
 11 He -- the witness clearly said that he speculated this  
 12 might have been some offenses. And so it would be  
 13 really improper to put that into evidence without  
 14 clearly identifying that these are all potentials or  
 15 possibles that have never been indicted on. Ever.  
 16 MR. DONNELLY: May I respond, Your Honor?  
 17 Or, Mr. President, may I respond?  
 18 PRESIDING OFFICER: Hold on.  
 19 MR. DONNELLY: I know Mr. President has  
 20 indicated his desire not to have to look at too many  
 21 numbers, so I'm probably going to make it worse by  
 22 suggesting the following, but the Texas Supreme Court  
 23 under Uniroyal Goodrich Tire verse Martinez and in  
 24 Speier verse Webster College have adopted that charts  
 25 that summarize or perhaps emphasize testimony are

1 admissible if the underlying information has been  
 2 admitted into evidence.  
 3 This is simply a summary. Mr. Buzbee may  
 4 question the witness at his leisure concerning the  
 5 qualifications and any particular changes that he  
 6 believes are appropriate for this jury to understand.  
 7 MR. BUZBEE: Your Honor, it has to be a  
 8 fair summary. No one's challenging that you can do a  
 9 summary, but it has to be a fair summary, and that's not  
 10 fair.  
 11 PRESIDING OFFICER: I'm going to sustain  
 12 the objection. You are allowed to bring it in. He said  
 13 these were possible, so I'm going to sustain the  
 14 objection.  
 15 MR. BUZBEE: And so can we have it -- if  
 16 it's going to come into evidence, write "possible" on it  
 17 or "potential"?  
 18 PRESIDING OFFICER: Yes.  
 19 MR. BUZBEE: That's not -- yes, thank you.  
 20 PRESIDING OFFICER: Do you agree?  
 21 MR. DONNELLY: I'd be happy to -- I'd be  
 22 happy to identify it as the testimony which has been  
 23 provided as possible evidence, and I'll even identify  
 24 that it's by Mr. Gregg Cox.  
 25 PRESIDING OFFICER: And then are you --

1 MR. BUZBEE: If he write -- if he writes  
 2 that on there, because that's going to be on the front  
 3 page of the newspaper, and let's make it clear that this  
 4 guy didn't have any evidence of that.  
 5 MR. DONNELLY: Your Honor, may I do that  
 6 at a break so as not to take any further time, but  
 7 before formally submitting into evidence?  
 8 PRESIDING OFFICER: Yes. On each one,  
 9 each item.  
 10 MR. DONNELLY: Yes, Your Honor.  
 11 PRESIDING OFFICER: All right.  
 12 MR. DONNELLY: Mr. President, excuse me.  
 13 Either, thank you.  
 14 Q. (BY MR. DONNELLY) Sir, after you've identified  
 15 these possible potential offenses, and, again, this is  
 16 your opinion, and as you've described to us, you have  
 17 worked in the criminal field for some 30 years, is that  
 18 accurate?  
 19 A. Correct.  
 20 Q. What, if anything, did you do?  
 21 A. After discussing this with Margaret Moore, the  
 22 decision was made to reach out to the U.S. Attorney's  
 23 Office, make sure that moving forward with an  
 24 investigation would not interfere with any ongoing  
 25 federal investigation. And I was tasked with making



1 those calls and setting up meetings about that.  
 2 Q. The Chapter 572 of the Government Code offense  
 3 that you flagged, was that one that you discussed with  
 4 Margaret Moore?  
 5 A. I believe so, yes.  
 6 Q. Do you recall the complete language of  
 7 Section 572 of the Government Code?  
 8 A. Not off the top of my head.  
 9 Q. Could you recite it off the top of your head?  
 10 A. I could not.  
 11 Q. If you had a copy of the statute, would it  
 12 assist you in providing your testimony here today?  
 13 A. Yes, it would.  
 14 MR. DONNELLY: Your Honor, for  
 15 identification purposes only and not for admission, I'd  
 16 offer 661 of the House Board of Managers exhibit to the  
 17 witness and to counsel so they may review as the witness  
 18 testifies.  
 19 PRESIDING OFFICER: Are you bringing it  
 20 forward?  
 21 MR. DONNELLY: Yes, Your Honor. But,  
 22 again, not offer as -- not offered into evidence but  
 23 merely for purposes of reliance during his testimony.  
 24 PRESIDING OFFICER: Okay.  
 25 MR. BUZBEE: May I have a copy?

1 PRESIDING OFFICER: Yes.  
 2 Q. (BY MR. DONNELLY) Sir, could you identify for  
 3 us -- and you don't have to read directly from it, but  
 4 are you familiar after having looked at this document  
 5 with 572.002?  
 6 A. Yes, I am.  
 7 Q. And does it provide -- tell us what your  
 8 thought process was -- and if you need to refer to the  
 9 documents, please do -- but what your thought process  
 10 was as to why this would be a potential violation?  
 11 A. Well, actually, 572.002 sets out who the  
 12 various officers are that are subject to this. 572.051  
 13 sets out the standards of conduct.  
 14 And what I referenced earlier in my  
 15 testimony about the violating a law related to his  
 16 office or employment under 39.02 of the penal code, this  
 17 would constitute a law relating to someone's office or  
 18 employment.  
 19 And the Subsection A says that a state  
 20 officer should not accept or solicit any gift favor or  
 21 service that might reasonably tend to influence the  
 22 officer or employee on the discharge of his official  
 23 duties or that the officer or employee knows or should  
 24 know is being offered with the intent to influence the  
 25 officer or employee's official conduct.

1 Q. So after flagging these potential violations  
 2 for your elected District Attorney Moore, what actions  
 3 did you take?  
 4 A. I reached out to the U.S. Attorney's Office,  
 5 spoke with the then manager of the Austin branch of the  
 6 U.S. Attorney's Office, Ashley Hoff, and we ended up  
 7 setting up a meeting.  
 8 Q. Was the idea to reach out to the local United  
 9 States Attorney's Office yours or Ms. Moore's?  
 10 A. I believe it was mine, although I can't say  
 11 that Ms. Moore didn't also suggest it.  
 12 Q. Was there any concern -- well, let me ask --  
 13 let me ask it a different way.  
 14 Was there any concern about an ongoing  
 15 investigation?  
 16 A. So much of what we were talking about related  
 17 to Nate Paul, and we knew that Nate Paul was the subject  
 18 of a federal investigation. We were concerned that if  
 19 we jumped into this and opened an investigation, we were  
 20 going to interfere with an ongoing federal  
 21 investigation. So we just wanted to basically  
 22 deconflict with the feds before we took any action.  
 23 Q. Is that common? That deconfliction, is that  
 24 common?  
 25 A. That is common.

1 Q. Don't want to run into each other on the  
 2 investigation?  
 3 A. Correct.  
 4 Q. Want to make sure the witnesses know that there  
 5 are potentially two tracks going?  
 6 A. Exactly.  
 7 Q. Fair enough.  
 8 Do you recall who all you -- well, let me  
 9 ask you this: You set up a meeting, correct?  
 10 A. We set up a couple of different meetings.  
 11 Initially, we had a conference call, Margaret Moore, Don  
 12 Clemmer, and myself from the district attorney's office.  
 13 Gregg Sofer, Ashley Hoff, and Christina Playton from the  
 14 U.S. Attorney's office. And we talked through a lot of  
 15 the facts, and then we agreed to have an in-person  
 16 meeting the following week. In between those two  
 17 meetings, I was advised that because Mr. Clemmer and  
 18 Ms. Moore --  
 19 MR. BUZBEE: Objection, hearsay.  
 20 PRESIDING OFFICER: Sustained.  
 21 Q. (BY MR. DONNELLY) Can you tell us whether or  
 22 not there were multiple people from your office who were  
 23 going -- who were supposed to be meeting with the U.S.  
 24 Attorney's Office?  
 25 A. When we set up the in-person meeting, I was the

1 only person attended so that no potential witnesses were  
 2 involved.  
 3 Q. And did those potential witnesses include  
 4 individuals from your office?  
 5 A. Correct.  
 6 Q. Fair enough.  
 7 Without getting into the content of what  
 8 was discussed at that meeting, did you believe you had a  
 9 path forward to continue your investigation?  
 10 A. That's what we were trying to determine, was  
 11 whether there was a path forward that did not interfere  
 12 with a significant federal investigation that was going  
 13 on.  
 14 Q. Did you believe that you, after that meeting,  
 15 had a path forward?  
 16 A. After that meeting, I was still unclear. The  
 17 in-person meeting we had included people from Washington  
 18 D.C. that came down for the meeting. And then shortly  
 19 after that meeting, I had a telephone call with someone  
 20 from the U.S. Attorney's Office. And at that point, we  
 21 stood down.  
 22 Q. You stood down. Was that your desire to stand  
 23 down?  
 24 A. I was frustrated by that.  
 25 Q. Is it fair to say that you had additional

1 investigation that you wanted to achieve?  
 2 A. Yes.  
 3 Q. And I should phrase that differently.  
 4 Was it something that you wanted to  
 5 achieve or you felt the evidence would lead you to  
 6 follow?  
 7 A. It was something I felt was worthy of  
 8 investigation. It involved important issues involving  
 9 the state of Texas, and I was concerned that as I had  
 10 seen happen too often, the federal government would sit  
 11 on it for a long time, and then we might not see  
 12 anything happen.  
 13 Q. Does that appear to have been the case thus  
 14 far?  
 15 A. It does.  
 16 Q. Finally, sir, as you were going through  
 17 Section 572.051, I'd ask you to take a look at  
 18 Subsection D of that statute.  
 19 A. Yes.  
 20 Q. As it relates to the testimony that you  
 21 previously provided that an officer, an employee -- a  
 22 state officer or employee should not solicit gifts,  
 23 favors, services, or bribes, does it indicate who is  
 24 responsible for drafting the policies that would go  
 25 throughout the entire state?

1 A. Subsection C of that statute says that each  
 2 state agency shall adopt a policy, and it places the  
 3 burden of drafting a model policy of these standards of  
 4 conduct and making sure that ethical policies are in  
 5 place on the attorney general.  
 6 MR. DONNELLY: I'll pass the witness, Your  
 7 Honor.  
 8 PRESIDING OFFICER: Mr. Buzbee, we were  
 9 going to break in five minutes. We can go 10 or 15, if  
 10 you want to start, and then we'll break, or do you want  
 11 to break now?  
 12 MR. BUZBEE: Let's just break.  
 13 PRESIDING OFFICER: Okay. Members, we'll  
 14 break now. This is your late afternoon break. We'll  
 15 come back at 5:15 and then we'll go to about 7:00.  
 16 (Recess: 4:53 p.m. to 5:18 p.m.)  
 17 PRESIDING OFFICER: Bailiff, please bring  
 18 in the witness.  
 19 (Witness enters)  
 20 PRESIDING OFFICER: Looks like I'm missing  
 21 a juror or two, or one anyway. A few over here.  
 22 I believe we have everyone.  
 23 Mr. Buzbee.  
 24 MR. BUZBEE: Yes, Your Honor.  
 25 PRESIDING OFFICER: Your witness.

1 CROSS-EXAMINATION  
 2 BY MR. BUZBEE:  
 3 Q. You know, they say that you can indict a ham  
 4 sandwich. You ever hear people say that?  
 5 A. I've heard that saying.  
 6 Q. In fact, you recall that our -- the former  
 7 governor of our state was indicted just for exercising  
 8 his veto. Remember that?  
 9 A. He was not actually indicted.  
 10 Q. He was indicted. Governor Rick Perry was  
 11 indicted.  
 12 A. I thought --  
 13 Q. For exercising his veto. Did you not know  
 14 that?  
 15 A. I thought they did an investigation that  
 16 resulted in a no bill.  
 17 Q. No. You're misinformed.  
 18 He was indicted by a Travis County grand  
 19 jury. Did you not know that?  
 20 A. I did not know that.  
 21 Q. And he said over and over and over, my gosh,  
 22 all I did was exercise a veto. You can indict a ham  
 23 sandwich.  
 24 MR. DONNELLY: Respectfully object to this  
 25 line of questioning as being wholly irrelevant.

1 PRESIDING OFFICER: Overruled.  
 2 Q. (BY MR. BUZBEE) So here we have a Travis  
 3 County -- in Governor Perry's case a Travis County grand  
 4 jury indicted him for exercising his veto, and you just  
 5 went through this litany of possible maybes with regard  
 6 to Ken Paxton, didn't you?  
 7 A. That's correct.  
 8 Q. He might have done this, he might have done  
 9 that, right?  
 10 A. Correct.  
 11 Q. I guess what you were saying is that, hey, I'm  
 12 analyzing the law. If any of this foolishness is true,  
 13 this might be the criminal violations, right?  
 14 A. That would be accurate.  
 15 Q. And you know for a fact that you're not  
 16 supposed to come into a court like this and testify  
 17 about what somebody might or may have done, isn't that  
 18 right?  
 19 A. I was answering the questions that were asked.  
 20 Q. You would have never -- I mean, have you ever  
 21 been in court before as a prosecutor.  
 22 A. I have.  
 23 Q. So you know for a fact that that is not proper,  
 24 don't you?  
 25 A. This is not a criminal trial.

1 Q. Right. It's not proper to go into a court  
 2 that's -- and testify on live stream and to jurors about  
 3 something that someone might have done. That's  
 4 incredibly misleading, incredibly prejudicial and wrong,  
 5 isn't it?  
 6 MR. DONNELLY: Objection, Your Honor, to  
 7 asked and answered. Mischaracterizes the evidence as  
 8 presented by the witness.  
 9 PRESIDING OFFICER: Overruled.  
 10 A. I was asked to identify the possible avenues of  
 11 investigation that I outlined in the memo to the  
 12 district attorney.  
 13 Q. (BY MR. BUZBEE) Possible, maybe, potentially.  
 14 We don't know, right? You don't know at all, do you?  
 15 A. I don't understand that question.  
 16 Q. You were just sitting up there and making a  
 17 bunch of silly guesses, weren't you?  
 18 A. I would not agree with that.  
 19 Q. And you just testified in this historic  
 20 impeachment proceeding in response to the House's  
 21 questions about all of the potentials or the maybes or  
 22 the possibilities. Right?  
 23 A. I was talking about the memo that I wrote for  
 24 the district attorney outlying -- outlining the avenues  
 25

1 of investigation had the feds not waived us off and we  
 2 had moved forward.  
 3 Q. The feds waived you off, you say?  
 4 A. Yes.  
 5 Q. Y'all were excited about this. We got a chance  
 6 to get Ken Paxton, isn't that true?  
 7 A. That's not accurate.  
 8 MR. BUZBEE: Let's look at, Erick, AG  
 9 Exhibit 170, Brickman 202.  
 10 Q. (BY MR. BUZBEE) You tell me if this is right.  
 11 It's in evidence.  
 12 MR. BUZBEE: Bring up -- bring that right  
 13 there on 10-27-2020, Erick.  
 14 Right there, Erick.  
 15 Q. (BY MR. BUZBEE) Let me just read this so we'll  
 16 understand what y'all really were up to.  
 17 My phone conference with Margaret Moore  
 18 and her team went well today. They are excited about  
 19 pursuing this investigation and will coordinate their  
 20 efforts with the U.S. Attorney Office so that both  
 21 pursuits complement each other. They obviously want to  
 22 move quickly as they have time constraints. They are  
 23 not going to wait on the feds.  
 24 Did I read that right?  
 25 A. You read it correctly, yes.

1 Q. Uh-huh. So the DA's office of Travis County --  
 2 Margaret Moore, is she a Democrat, Republican?  
 3 A. She's a Democrat.  
 4 Q. Okay. So the Democrat -- elected Democrat  
 5 district attorney of Travis County was excited. She had  
 6 a chance -- she had a chance to go after Ken Paxton for  
 7 just an entire litany of things, according to your  
 8 little memo, right?  
 9 A. I disagree with the description of "excited."  
 10 Q. And you're telling me that the feds waived her  
 11 off, that's what you're telling me?  
 12 A. Correct.  
 13 Q. The feds under whom -- who was in charge of the  
 14 feds?  
 15 A. At that time, I believe it was still Attorney  
 16 General Barr.  
 17 Q. Okay. Who was the president at that point in  
 18 time?  
 19 A. Donald Trump.  
 20 Q. Oh, think about that for a minute. You're  
 21 telling me that this elected Democrat who you claim the  
 22 maybes, the possibilities, the potential, all kinds of  
 23 crimes, that she as an elected Democrat decided stand  
 24 down, Donald Trump says stand down. You think that we  
 25 really believe that foolishness? You think we believe

1 that?  
 2 A. I have no idea what you believe.  
 3 Q. Nobody believes that. And you don't believe it  
 4 either.  
 5 MR. DONNELLY: Objection, Your Honor.  
 6 Q. (BY MR. BUZBEE) Do you?  
 7 MR. DONNELLY: I object -- sir, thank  
 8 you -- to the form of the question and offering an  
 9 opinion that he is not entitled to offer in testimony.  
 10 PRESIDING OFFICER: Sustain.  
 11 Q. (BY MR. BUZBEE) You don't believe that either,  
 12 do you?  
 13 A. I don't even know what you're saying right now.  
 14 What was your question?  
 15 Q. (BY MR. BUZBEE) Now, you had told us that  
 16 potentially, possibly, maybe abuse of official capacity,  
 17 right?  
 18 A. Correct.  
 19 Q. Potential, maybe, who knows, acceptance of gift  
 20 to a public servant?  
 21 A. Correct.  
 22 Q. No clue if that was true or not, was there?  
 23 You had no clue, did you?  
 24 A. Can I explain the purpose of --  
 25 Q. I'm asking you whether you had any clue that

1 any of those things were true?  
 2 A. Based upon the information provided by the  
 3 three witnesses that we had interviewed, yes, it  
 4 appeared that it was true.  
 5 Q. You thought it was true, so you had probable  
 6 cause to make an arrest, and that's what you did, right?  
 7 A. No.  
 8 Q. Okay.  
 9 A. A preliminary investigation is to determine  
 10 whether or not to move forward with an investigation.  
 11 That was the stage we were at.  
 12 Q. Probable cause means you have enough for an  
 13 arrest, right?  
 14 A. Probable cause would give rise to justification  
 15 for an arrest.  
 16 Q. You didn't have justification for an arrest,  
 17 did you?  
 18 A. We were at the point of making a determination  
 19 of whether to move forward with an investigation.  
 20 Q. There was no indictment, right?  
 21 A. Correct.  
 22 Q. There was no arrest, right?  
 23 A. Correct.  
 24 Q. And yet -- and yet, you came here in front of  
 25 all these fine people and told us a bunch of maybes,

1 isn't that right?  
 2 A. I came here and answered questions about the  
 3 memo.  
 4 Q. Uh-huh. And looking at this litany that  
 5 your -- the lawyer wanted to put into evidence one of  
 6 those was possibly, maybe, who knows, engaging in  
 7 organized criminal activity, right?  
 8 A. That is something I outlined in the memo.  
 9 Q. That sounds bad, doesn't it?  
 10 A. It's a offense under the penal code.  
 11 Q. That sounds like there's something really going  
 12 on bad at the AG's office, right?  
 13 A. That is your characterization of that.  
 14 Q. That's something you would never want to be a  
 15 part of, right?  
 16 A. I don't understand your question.  
 17 Q. Well, I'm just trying to figure out. I mean,  
 18 if that's what's going on at the AG's office, if you  
 19 really believe that, you certainly never would want to  
 20 be a part of it, right?  
 21 A. I'm not an employee of the attorney general's  
 22 office.  
 23 Q. I mean, my point is, you would never engage in  
 24 such activity, would you? This might, maybe activity  
 25 you talked about?

1 A. The activity that was being alleged on the part  
 2 of Mr. Paxton?  
 3 Q. You would have never engaged in any of these  
 4 so-called potential crimes yourself, would you?  
 5 A. Correct, I would not.  
 6 Q. You would never want to be a part of anything  
 7 like that, would you?  
 8 A. That is correct.  
 9 Q. You wouldn't want to be associated with  
 10 something like that, would you?  
 11 A. That is correct.  
 12 Q. You have dedicated your life, you claim, to the  
 13 rule of law, right?  
 14 A. Correct.  
 15 Q. And so there is no way, no way you would ever  
 16 want to be associated or affiliated with that kind of  
 17 criminal conduct, isn't that right?  
 18 A. I am not following your line of -- you're  
 19 talking about the conduct described in the memo about  
 20 Mr. Paxton after the interview of the three witnesses?  
 21 Q. I'm talking about criminal -- organized  
 22 criminal activity. You'd never want to be a part of  
 23 that?  
 24 A. Correct.  
 25 Q. I mean, if you really believed it, if you

1 really believed that, you certainly wouldn't want to be  
 2 a part of it, right?  
 3 A. Correct.  
 4 Q. You applied for a job at the AG's office,  
 5 didn't you?  
 6 A. I did.  
 7 Q. Let's make sure we let that sink in. You  
 8 applied for a job after this silly memo you wrote,  
 9 didn't you?  
 10 A. Yes.  
 11 Q. Let it sink in. You wrote this silly memo  
 12 where you talk about potential violations of law and  
 13 months later you apply to work at the AG's office,  
 14 didn't you?  
 15 A. That is correct.  
 16 Q. And you know what the kicker is? Who wrote  
 17 your letter of recommendation?  
 18 A. Margaret Moore. She wrote a general letter of  
 19 recommendation that I could use with any employer. It  
 20 was not specific for that job.  
 21 Q. She wrote you a letter of recommendation. This  
 22 whole thing should be dismissed, don't you agree?  
 23 A. No.  
 24 Q. Yeah.  
 25 MR. BUZBEE: I think the point has been

1 made, Your Honor. I pass the witness.  
 2 PRESIDING OFFICER: Your witness on  
 3 redirect.  
 4 MR. DONNELLY: Thank you, Mr. President.  
 5 REDIRECT EXAMINATION  
 6 BY MR. DONNELLY:  
 7 Q. Mr. Cox, did you speak with the elected  
 8 District Attorney Moore to determine whether or not  
 9 there was an ongoing active investigation at the Travis  
 10 County District Attorney's Office?  
 11 A. Yes -- please ask that again.  
 12 Q. Fair enough.  
 13 You indicated to us that prior to writing  
 14 your October 28, 2020 memo, you had had a conversation  
 15 with Margaret Moore, is that accurate?  
 16 A. Yes.  
 17 Q. Did you learn whether or not there was an  
 18 ongoing investigation at the Travis County District  
 19 Attorney's Office concerning the allegations made by  
 20 Nate Paul?  
 21 MR. BUZBEE: Objection. The question  
 22 calls for hearsay.  
 23 PRESIDING OFFICER: Sustained.  
 24 Q. (BY MR. DONNELLY) Did you review documents or  
 25 were you -- did you ask for any documents, you

1 personally ask for any documents that would show whether  
 2 or not there was an ongoing active investigation  
 3 concerning the complaints made by Nate Paul?  
 4 MR. BUZBEE: Now he's asking to testify  
 5 about documents not in evidence. Hearsay. And best  
 6 evidence rule.  
 7 MR. DONNELLY: All right. If I may, Your  
 8 Honor, best --  
 9 PRESIDING OFFICER: Sustained.  
 10 Q. (BY MR. DONNELLY) Did you have an opinion as  
 11 to whether or not there was an ongoing investigation  
 12 into the complaints made by Nate Paul?  
 13 MR. BUZBEE: Objection. His opinion is  
 14 completely irrelevant.  
 15 MR. DONNELLY: Your Honor, we've  
 16 established that under rule 701 and others as a  
 17 testifying witness, he's allowed to testify as to what  
 18 his opinion is based on the evidence as he knew it.  
 19 MR. BUZBEE: I didn't say that he was an  
 20 expert, Your Honor. He's not an expert. That's  
 21 improper.  
 22 MR. DONNELLY: And as Mr. Buzbee knows  
 23 without making these foolish arguments, 701 deals with  
 24 lay witness opinions.  
 25 PRESIDING OFFICER: Sustained.

1 MR. DONNELLY: If we could, please,  
 2 Ms. Manela, play Exhibit 249.  
 3 MR. BUZBEE: This goes beyond the scope of  
 4 the cross.  
 5 MR. DONNELLY: And, Your Honor, as you  
 6 know --  
 7 MR. BUZBEE: If I can finish, please. I'm  
 8 sorry, sir.  
 9 MR. DONNELLY: Of course.  
 10 MR. BUZBEE: He's expanding the recross or  
 11 the -- his redirect. It's improper. He never mentioned  
 12 that video that went into evidence, so he can't talk  
 13 about it now.  
 14 MR. DONNELLY: If I may, Mr. President?  
 15 PRESIDING OFFICER: Under the rules -- it  
 16 was very clear in the rules that the Senators passed 25  
 17 to 3 that direct -- redirect would have to be on what  
 18 was already covered.  
 19 MR. DONNELLY: I apologize then, Your  
 20 Honor. I didn't understand the rule as it relates to  
 21 that specific issue. We'll provide the testimony  
 22 through an additional witness. Thank you, sir.  
 23 Pass the witness.  
 24 MR. BUZBEE: I have nothing further for  
 25 this witness, Your Honor.

1 PRESIDING OFFICER: Are you both finished  
 2 with the witness?  
 3 MR. DONNELLY: Yes, sir.  
 4 MR. BUZBEE: Yes, Your Honor.  
 5 PRESIDING OFFICER: Okay. You're able to  
 6 go.  
 7 MR. HARDIN: Your Honor, we call Margaret  
 8 Moore. We call Margaret Moore.  
 9 PRESIDING OFFICER: Okay. Before we call  
 10 the witness, I want to be correct. Not in the rules  
 11 being on direct to direct was what we discussed when we  
 12 all met now two weeks ago, that redirect would be on  
 13 what was brought in the testimony on direct. That's  
 14 what we discussed.  
 15 You may bring in the witness.  
 16 (Witness enters)  
 17 PRESIDING OFFICER: Would you please raise  
 18 your right hand.  
 19 (The following oath was given to the  
 20 witness.)  
 21 PRESIDING OFFICER: I do solemnly swear or  
 22 affirm that the evidence I give upon this hearing by the  
 23 Senate of Texas of the impeachment charges against  
 24 Warren Kenneth Paxton, Jr. shall be the truth, the whole  
 25 truth, nothing but the truth, so help you God?

1 THE WITNESS: I so swear.  
 2 PRESIDING OFFICER: Please have a seat.  
 3 Your witness, Mr. Hardin.  
 4 MR. HARDIN: Thank you, Your Honor.  
 5 MARGARET MOORE,  
 6 having been first duly sworn, testified as follows:  
 7 DIRECT EXAMINATION  
 8 BY MR. HARDIN:  
 9 Q. Ms. Moore, I'm going to ask you, we've had  
 10 trouble with this microphone with all of us, mine and  
 11 the witness. So if you would try to stay closer than  
 12 you would ordinarily stay with a microphone, I'd  
 13 appreciate it.  
 14 A. Will do.  
 15 Q. All right. Would you state your name, please?  
 16 A. My name full name is Margaret McCarthy Moore.  
 17 Q. Ms. Moore, how are you -- going to go through  
 18 with you a little bit of history of your background and  
 19 all, but I want to really kind of relate it to your  
 20 personal and professional background.  
 21 Where'd you grow up?  
 22 A. I grew up in Waco, Texas.  
 23 Q. And did you live in Waco all the way through  
 24 high school?  
 25 A. I did.

1 Q. And after high school, what did you do?  
 2 A. I came to the University of Texas here in  
 3 Austin.  
 4 Q. And did you attend and graduate?  
 5 A. I did. I earned a BBA in accounting in 1970,  
 6 and then I started law school here.  
 7 Q. All right. After graduate school or after law  
 8 school, what year did you become licensed to practice in  
 9 the state of Texas?  
 10 A. 1973.  
 11 Q. And then what did you do?  
 12 A. At that time, I was working in the legislature.  
 13 In 1973, I was working in the House. I got my  
 14 license -- I passed the bar in April of that year.  
 15 I ended up coming back and working the  
 16 constitutional convention in '74 and worked in the -- in  
 17 1975 during the session and then I -- when I became a  
 18 lawyer, I really wanted to be in the courtroom, so I was  
 19 able to -- I was appointed the juvenile public defender  
 20 for Travis County in 1976.  
 21 Q. All right. And then you had a series of other  
 22 jobs. What led you in to where you became the elected  
 23 district attorney of Travis County?  
 24 A. I was hired as an assistant district attorney  
 25 in 1977. I had gotten to know Ronnie Earle when he was

1 in the legislature, and he gave me a job in the DA's  
 2 office.  
 3 Q. How long were you there?  
 4 A. I was there until I was elected county attorney  
 5 in 1980. I took office in 1981.  
 6 Q. As the county attorney?  
 7 A. Yes.  
 8 Q. How long were you the county attorney in  
 9 Travis?  
 10 A. Four years.  
 11 Q. Pardon me?  
 12 A. Four years.  
 13 Q. Okay. And then after your tour, would that be  
 14 1985?  
 15 A. Correct.  
 16 Q. And then what was your next position?  
 17 A. Mommy.  
 18 Q. All right.  
 19 A. I had a -- I had a daughter, and I remarried in  
 20 1984 and we had two sons, one in '85 and one in '87.  
 21 And my husband was a litigator, so we made the family  
 22 decision that somebody ought to be home with these kids.  
 23 So I did not go back into the practice of law until much  
 24 later.  
 25 I did, though -- during that time, I did

1 serve twice on the Travis County Commissioners Court as  
 2 an appointee to fulfill unexpired terms.  
 3 Q. What year did you become the elected district  
 4 attorney for Travis County?  
 5 A. Well, I was elected in 2016, and I took office  
 6 January 2017.  
 7 Q. All right. So some of the things we're going  
 8 to be talking about occurred in 2020. You were, of  
 9 course, a Democrat, correct?  
 10 A. That is correct.  
 11 Q. And then what was the outcome of the  
 12 March 2020 -- or, really, I think there was a runoff,  
 13 was there not, in the race in the primary?  
 14 A. 2020 I was defeated in a runoff in July.  
 15 Q. All right. So from July the 20 -- July of  
 16 2020, you were in effect a lame duck to the end of the  
 17 year, were you not?  
 18 A. Yes.  
 19 Q. All right. Not a phrase we all enjoy, but it  
 20 was a reality, correct?  
 21 A. Correct.  
 22 Q. All right. I want to take your attention, if I  
 23 can, to Attorney General Paxton.  
 24 Had you had a particular mission and  
 25 intent as to the kind of relationship you hoped to have

1 with Attorney General Paxton as you were elected  
 2 district attorney as a Democrat and he was the elected  
 3 attorney general as a Republican?  
 4 A. Well, in general, my aim as district attorney  
 5 was to establish good relationships between the Travis  
 6 County District Attorney's Office and all of the law  
 7 enforcement agencies that -- and that included the  
 8 attorney general's office. I -- I had -- did work there  
 9 under General Abbott for nine and a half years, so that  
 10 was an office that I had a particular fondness for.  
 11 Q. Well, I appreciate that.  
 12 So at the time that General Paxton was the  
 13 attorney general and you were the district attorney, you  
 14 had how many years experience previously working for the  
 15 attorney general's office?  
 16 A. Nine and a half.  
 17 Q. And what year -- what -- when was that era?  
 18 A. I went to work there in 2000 -- sorry.  
 19 Q. That's okay.  
 20 A. 2005 to 2014.  
 21 Q. And was Governor Abbott at that time the  
 22 attorney general?  
 23 A. He was.  
 24 Q. Was he the attorney general for the entire time  
 25 you worked for the attorney general's office?

1 A. Yes, he was.  
 2 Q. All right. Now, how would you describe into  
 3 the period of May, June, or whatever of 2020, how would  
 4 you describe your relationship and dealings with the  
 5 attorney general?  
 6 A. He had -- General Paxton himself?  
 7 Q. Yes.  
 8 A. Had been -- I considered him a friend. I  
 9 didn't know him well, but he'd been very generous with  
 10 helping with matters that we asked him to help with. I  
 11 considered him a friend.  
 12 Q. All right. In May of 2020, did you become  
 13 aware of any type of request that he was making  
 14 regarding a particular matter?  
 15 A. Yes.  
 16 Q. And what was that and how did you become aware?  
 17 A. My first assistant was Melinda Montford, known  
 18 as Mindy Montford, and she told me -- informed me  
 19 about --  
 20 MR. BUZBEE: Objection, hearsay.  
 21 A. She --  
 22 PRESIDING OFFICER: Sustained.  
 23 Q. (BY MR. HARDIN) So did you become aware of a  
 24 conversation that Mindy Montford had with the attorney  
 25 general?

1 A. I did.  
 2 Q. And as a result of that conversation, did you  
 3 authorize or agree to any type of meeting with the  
 4 attorney general on behalf of members of your staff?  
 5 A. Of course.  
 6 Q. All right. And when you say "of course," what  
 7 do you mean?  
 8 A. I did consider him a friend, and I'd considered  
 9 the relationship between the DA's office and the  
 10 attorney general's office to be a very important working  
 11 relationship. So an elected official, the highest legal  
 12 officer in the land, wants to have a meeting --  
 13 Q. All right.  
 14 A. -- with me or my folks, it's going to be yes.  
 15 Q. And who attended this meeting and what type of  
 16 meeting was it? Were you informed as to where it was  
 17 and all?  
 18 A. It was a lunch meeting to discuss a case that  
 19 the attorney general felt should be investigated by the  
 20 DA's office.  
 21 Q. So was the original contact, then, with a  
 22 proposal for the attorney -- by the attorney general for  
 23 the district attorney's office to investigate a  
 24 particular case?  
 25 A. It was directly between General Paxton and

1 Ms. Montford.  
 2 Q. Had you ever yourself at this time or before  
 3 heard the name of Nate Paul?  
 4 A. Not that I recall.  
 5 Q. All right.  
 6 A. No.  
 7 Q. And then were you present at the meeting?  
 8 A. No.  
 9 Q. And to your knowledge who was present at the  
 10 meeting?  
 11 A. Mindy Montford, Don Clemmer, who was my  
 12 director over special crimes, Mr. Paxton, Mr. Paul, and  
 13 Mr. Wynne, an attorney from Houston that represented  
 14 Mr. Paul.  
 15 Q. All right. Now, at this lunch, did you know  
 16 anything about whether there was perhaps another person?  
 17 Have you ever heard of a Mr. Drew Wicker?  
 18 A. I have not.  
 19 Q. So do you have any knowledge one way or the  
 20 other as to whether he was at that lunch?  
 21 A. I do not have that knowledge.  
 22 Q. When lunch was over, did the -- Mr. Clemmer and  
 23 Ms. Montford come back to report on it to you?  
 24 A. Yes, they did.  
 25 Q. And as a result of what they recorded, what was

Lorrie A. Schnoor, CSR, RDR, CRR

1 your reaction as to what y'all intended to do with the  
 2 attorney general's recommendation? Or request, rather?  
 3 A. Well, the allegations that were reported to me  
 4 that Mr. Paul turned out to be his complaints that  
 5 Mr. Paul brought to Mindy and Mr. Clemmer were  
 6 ridiculous and their communication to me was to that  
 7 effect, and I agreed with them after they described it  
 8 to me.  
 9 MR. HARDIN: Can I have exhibit which is  
 10 in evidence 88 up on the screen, please, or on the iPad,  
 11 please.  
 12 Is that 68 instead? Do I have the wrong  
 13 number? I'm trying to read handwriting on here.  
 14 MR. BUZBEE: Are you talking about the  
 15 first referral?  
 16 MR. HARDIN: That's the right exhibit.  
 17 MR. BUZBEE: 68.  
 18 MR. HARDIN: Do I have the right number?  
 19 MR. BUZBEE: Yes.  
 20 MR. HARDIN: 68? Thank you.  
 21 Q. (BY MR. HARDIN) Now, did you -- did you become  
 22 aware was the issue as to what to do about a complaint  
 23 by Mr. Nate Paul that he wanted to have investigated by  
 24 the DA's office?  
 25 A. Yes.

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1 Q. All right. And once you found out enough about  
 2 it, did you actually read the complaint that is before  
 3 you as -- on the screen whether it's 68 -- if we could  
 4 go over to the other page, where it says "request to  
 5 investigate." Did you know anything about -- do you  
 6 recall when you reviewed it and formed whatever opinions  
 7 you had about it?  
 8 A. I do not recall when.  
 9 Q. All right. But did you ultimately become aware  
 10 of what the allegations were here, what the contentions  
 11 were?  
 12 A. Oh, yes. I was aware of the allegations, but I  
 13 didn't see the RTI till later, if I did it --  
 14 Q. So --  
 15 A. I don't know when that was.  
 16 Q. What was your position as to what your office  
 17 was going to do with this complaint?  
 18 A. Well, it was going nowhere.  
 19 Q. All right. Well, if it was going to go  
 20 nowhere, what do you mean by that?  
 21 A. I mean it would have been handled like with  
 22 courtesy. You're here, fill out the form, and then it  
 23 would have been followed up by a rejection letter.  
 24 Q. Does the rest of this exhibit --  
 25 MR. HARDIN: If you could, Stacey, just go

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1 through -- give about five seconds on each page.  
 2 Q. (BY MR. HARDIN) And ask if this -- if this  
 3 document showing her is the kind of form and complaint  
 4 that your office would do? And I want to go  
 5 particularly to page -- I want to make sure that we're  
 6 not publishing any of the identifying data on the -- on  
 7 the complaint.  
 8 So here you see the signature of Mr. Paul.  
 9 You notice -- do y'all request that they swear to these  
 10 complaints, or is that there in case they choose to?  
 11 A. No, it's a practice that they swear to the  
 12 complaint.  
 13 Q. Okay. Can you stay with that microphone,  
 14 ma'am. Pretty please.  
 15 All right. Now, this, of course, has a  
 16 place for somebody to notarize and swear to it if they  
 17 choose to, correct?  
 18 A. Correct.  
 19 Q. And what is the policy in your office  
 20 ordinarily? Do people swear to these complaints? Are  
 21 they asked to, or what is -- what's customarily done?  
 22 A. My belief is that they were asked to swear to  
 23 it.  
 24 Q. All right. Well, we notice here that this  
 25 didn't happen here, correct?

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1 A. It did not.  
 2 Q. All right. Now, on the next page, I don't want  
 3 to show the people over. I'm going to read you some  
 4 names, but with no identifying data on the screen until  
 5 it gets taken out. And I don't know whether it's been  
 6 taken out of this particular screen. I want to just  
 7 read names to you without us publishing them and see if  
 8 you recall these names being names that were proposed  
 9 that they would be investigated based on this document.  
 10 A Mr. Sabban, a Mr. Preston Joy, a  
 11 Mr. Jason Ernst, a Mr. Alan Buie, Ms. Gupta, a Judge  
 12 Mark Lane, and then a series of other -- one other  
 13 person and some others.  
 14 Now, did you -- were you aware of the  
 15 nature of who some of these people were at the time you  
 16 were informed about this?  
 17 A. Absolutely.  
 18 Q. And is this another reason that you're saying  
 19 it wasn't going anywhere?  
 20 A. It was going nowhere in my office.  
 21 Q. And does that mean that y'all had no intention  
 22 of either investigating or prosecuting with this kind of  
 23 allegation?  
 24 A. None whatsoever.  
 25 MR. HARDIN: If we can, Stacey, if we can

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1 move over now. Skip the people and go to Bates number  
 2 68 -- excuse me -- Bates number 9036, 9037.  
 3 Q. (BY MR. HARDIN) And I want to represent to you  
 4 this is Mr. Paul laying out what -- his contentions or  
 5 so. And ultimately, did you folks decide what you were  
 6 going to do with this case --  
 7 MR. HARDIN: That's fine. You can take it  
 8 down, thank you.  
 9 Q. (BY MR. HARDIN) What were you going to do with  
 10 this case if it was going to go nowhere? What did you  
 11 do?  
 12 A. I decided to send it to David Maxwell.  
 13 Q. And by the time you were going to send it to  
 14 Mr. Maxwell, how long had you known him, and what was  
 15 your view of his competence and ability, et cetera?  
 16 A. I don't remember how long. I --  
 17 Q. And I want you to get back to that microphone.  
 18 A. I said I don't remember how long. I knew of  
 19 his reputation because I worked in the AG's office. I  
 20 thought very highly of him. I knew that he was a former  
 21 Ranger and was working with the Rangers. He had a very,  
 22 very stellar reputation as an investigator.  
 23 I sent -- I decided to send it to him  
 24 because it was -- I was quite confident that he would  
 25 view this complaint the same way I did.

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1 Q. And so what you thought when you -- when you  
 2 sent it -- when you came up with the idea of sending it  
 3 to the AG's office, why did you send it to the AG's  
 4 office instead of just politely telling Mr. Paul, no  
 5 dice. Nice to have met you, we're not going to do  
 6 anything?  
 7 A. Because I didn't want to offend Mr. Paxton.  
 8 Q. If, in fact, Mr. Paul had come on his own not  
 9 being sponsored with the attorney general and made this  
 10 same complaint, what would you have done?  
 11 A. We would have sent a rejection letter.  
 12 Q. Pardon me?  
 13 A. We would have sent a rejection letter.  
 14 Q. All right. But because it was sponsored to you  
 15 by the attorney general, what did you do?  
 16 MR. BUZBEE: Your Honor, I'm going to  
 17 object. There's been no evidence of any sort of, quote,  
 18 sponsor, so I object to that.  
 19 MR. HARDIN: We just had a luncheon in  
 20 which he sponsored it. I don't know what he means.  
 21 PRESIDING OFFICER: Overruled.  
 22 MR. HARDIN: Thank you.  
 23 Q. (BY MR. HARDIN) Go ahead.  
 24 A. Had it not been for Mr. Paxton's personal  
 25 interest, it would have been handled routinely, but

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1 because I valued the relationship with Mr. Paxton and  
 2 considered him to have been a friend, I didn't -- I  
 3 didn't want to offend him. And this seemed to be a  
 4 delicate way of having the matter reach --  
 5 Q. So --  
 6 (Simultaneous discussion)  
 7 Q. (BY MR. HARDIN) Yeah, so let me ask you, if  
 8 you sent it over to him --  
 9 MR. HARDIN: If I can, can I have 668,  
 10 please.  
 11 This is in evidence, Your Honor.  
 12 Actually, it's AG 68. Again, I'm  
 13 misreading handwriting, and I apologize for it.  
 14 Q. (BY MR. HARDIN) All right. No, I'm sorry.  
 15 Let's go to 124. Now, could you read this?  
 16 A. Uh-huh.  
 17 Q. All right.  
 18 A. Yes, I can.  
 19 Q. And could you identify what it is, please?  
 20 A. This is a letter from Don Clemmer to Brandon  
 21 Cammack of sending a second complaint that Mr. Paul  
 22 filed with our office.  
 23 Q. I'm sorry. This is not -- this is the second  
 24 referral?  
 25 A. Yes.

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1 Q. I wanted to go to the first referral.  
 2 MR. HARDIN: I apologize. I'm probably  
 3 giving you the wrong number, Stacey. I want the first  
 4 referral, please. Thank you.  
 5 Q. (BY MR. HARDIN) Now, if you would look at  
 6 this, who -- this letter is signed by whom?  
 7 Signed by whom there? You can see below.  
 8 A. By Don Clemmer, yes.  
 9 Q. All right. Was this letter written at your  
 10 suggestion?  
 11 A. It would -- yes, it was written after we  
 12 discussed what we -- what I wanted it to say.  
 13 Q. Did you instruct or discuss with Mr. Clemmer  
 14 the language he would use in describing to Mr. Maxwell  
 15 while he was sending it?  
 16 A. Yes.  
 17 Q. All right. I want to particularly -- to look  
 18 at the last sentence where it says -- or the next to  
 19 last sentence, the two last two sentences: However,  
 20 since an employee of the Department of Public Safety is  
 21 one of the subjects of the complaint, referral to the  
 22 Rangers would appear inappropriate. I am, therefore,  
 23 requesting that your agency conduct the review.  
 24 Did you consider this a -- an official  
 25 recusal from you?

1 A. Absolutely not.  
 2 Q. All right. And then why did you -- why did  
 3 you -- why does it got that sentence in there saying  
 4 that since he was -- Department of Public Safety is one  
 5 of the subjects, it would be inappropriate to send to  
 6 them? Why is that in there?  
 7 A. Well, public -- matters of public integrity  
 8 are -- we're required to involve the Texas Rangers. One  
 9 of the named -- the people in the complaint, it was a  
 10 Ranger. But this letter was written to send it over,  
 11 but not to in any way endorse it as needing to be  
 12 investigated.  
 13 Q. Had y'all done any investigation of this  
 14 complaint?  
 15 A. I think the one thing we ascertained is that  
 16 there was indeed a -- an active federal investigation.  
 17 And other than that, no.  
 18 Q. All right. And do -- and did you at any time  
 19 intend and inspect the attorney general's office to  
 20 conduct an investigation?  
 21 A. No.  
 22 Q. And, in fact, this letter doesn't ask for an  
 23 investigation, does it?  
 24 A. No.  
 25 Q. This letter says for them to do what with it?

1 A. Review it.  
 2 Q. And by that language, knowing Mr. -- and with  
 3 Mr. Clemmer having worked with David Maxwell, what did  
 4 you want to make sure that Mr. Maxwell understood that  
 5 language meant when you sent it to him?  
 6 MR. BUZBEE: Objection, Your Honor. This  
 7 witness did not send this letter. Mr. Clemmer would be  
 8 the one to answer that question --  
 9 MR. HARDIN: I'm asking what she --  
 10 MR. BUZBEE: Can I finish my objection,  
 11 please?  
 12 Mr. Clemmer --  
 13 (Simultaneous discussion)  
 14 MR. HARDIN: Not if you're using my time.  
 15 PRESIDING OFFICER: Stop. Stop. Stop.  
 16 Court reporter can't report --  
 17 MR. HARDIN: I understand.  
 18 PRESIDING OFFICER: -- record --  
 19 MR. HARDIN: I am going to request,  
 20 though, that this man learn to object the way it's  
 21 supposed to be. Otherwise, he's using up our time  
 22 unnecessarily. He's been speaking through objections  
 23 all day, and I respectfully ask that the Court to keep  
 24 that in mind.  
 25 PRESIDING OFFICER: Sustained your

1 objections.  
 2 MR. BUZBEE: Thank you.  
 3 PRESIDING OFFICER: I sustained the  
 4 objection, continue.  
 5 MR. HARDIN: All right.  
 6 Q. (BY MR. HARDIN) Now, what did you expect is  
 7 what I'm asking, not somebody else, but what did you  
 8 expect when you sent that kind of language over there?  
 9 MR. BUZBEE: Objection, speculation.  
 10 MR. HARDIN: No, I asked what she  
 11 expected. I'm not asking her what she expected --  
 12 Q. (BY MR. HARDIN) Let me put it this way: What  
 13 did you expect and want to happen?  
 14 PRESIDING OFFICER: Overrule.  
 15 Go ahead.  
 16 A. I expected David Maxwell and any of the  
 17 criminal lawyers in the AG's office would view this  
 18 matter as absolutely baseless and not worthy of  
 19 investigation. I expected it to be a dead issue.  
 20 Q. (BY MR. HARDIN) And --  
 21 A. On arrival.  
 22 Q. And, in fact, did you give Mr. Clemmer  
 23 instructions to call Mr. Paxton ahead of time and warn  
 24 him it's coming -- Mr. Maxwell, not Mr. Paxton?  
 25 A. Yes, I did.

1 Q. And --  
 2 A. I did not want David Maxwell to think that I  
 3 didn't have a good enough sense to know this was  
 4 ridiculous.  
 5 Q. All right. Now, during that time when it  
 6 happened, did you ever authorize that Mr. Cammack or  
 7 anyone else associated with the attorney general's  
 8 office, did you yourself authorize them to conduct any  
 9 kind of criminal investigation?  
 10 A. No.  
 11 Q. Did you appoint anyone as a special prosecutor?  
 12 A. No.  
 13 Q. Did you appoint anyone as a pro tem prosecutor?  
 14 A. No.  
 15 Q. Tell the jury the distinction in your mind of  
 16 what a special prosecutor is, if such a position exists,  
 17 if -- what a pro tem prosecutor is, and what you did or  
 18 did not do as a result?  
 19 A. A pro tem district attorney is appointed when  
 20 the district attorney recuses, and that's a formal  
 21 process. It requires the district attorney to ask the  
 22 Court's permission to recuse. And when the Court does  
 23 recuse, a pro tem is appointed to take the place of the  
 24 district attorney.  
 25 Q. And what is the process that happens? I mean,

1 is there a very, as you mentioned, formal process?  
 2 Let's say that the attorney -- the -- your office  
 3 concludes it's wrong, appropriate for you to conduct an  
 4 office -- was a matter of ethics or public policy and  
 5 decide that you're going to recuse yourself and ask an  
 6 attorney pro tem, would it be --  
 7 A. Yes.  
 8 Q. -- to be appointed?  
 9 And that would be like a DA in an  
 10 adjoining county?  
 11 A. That is the law now. Or it could be the  
 12 attorney general's office.  
 13 Q. All right.  
 14 A. We had that --  
 15 Q. And then --  
 16 A. An instance of that.  
 17 Q. If you decide to do that though, what would the  
 18 process be?  
 19 A. A motion would be made in court.  
 20 Q. A written motion?  
 21 A. Correct.  
 22 Q. All right. A written motion is made to a  
 23 judge, and what would that written motion say?  
 24 A. It would say that the district attorney because  
 25 of a conflict or for whatever other reason, it's usually

1 a conflict, is asking the Court's permission to recuse  
 2 and the Court then, please appoint a district attorney  
 3 pro tem to handle. And it's always a specific matter.  
 4 Q. All right. And did any of that -- and then  
 5 does the judge ultimately, for it to be effective, enter  
 6 an order?  
 7 A. The judge rules on the motion and enters an  
 8 order and usually at that time appoints -- has found  
 9 someone to be appointed. It is, you know, not uncommon  
 10 to assist the judge in finding someone, but I've also  
 11 had the judge say who she wanted.  
 12 Q. Right. So if one is an appointed pro tem, it  
 13 ultimately results in a judicial order, does it not?  
 14 A. It does.  
 15 Q. All right. Did that happen in any way, any of  
 16 those procedures you described, did any of that happen  
 17 in this -- involving anybody being asked to look into  
 18 the complaint of Mr. Paul?  
 19 A. No.  
 20 Q. Now, how would a special prosecutor work if you  
 21 were going to appoint a special prosecutor?  
 22 A. The way we use the term "special prosecutor" in  
 23 my experience has been that the district attorney  
 24 appoints someone to handle a special matter. And that  
 25 person is not on the payroll of the district attorney,

1 but is sworn in by the district attorney and becomes  
 2 essentially like any other assistant DA. It's under  
 3 this -- when the pro tem is appointed, the DA loses all  
 4 control over the lawsuit. The DA is out of it. And  
 5 with a special prosecutor, the district attorney  
 6 continues to supervise the handling of the case.  
 7 Q. And they're actually sworn in by a judge?  
 8 A. No, they're sworn in by me.  
 9 Q. All right. Did you do any of that in this  
 10 case?  
 11 A. No.  
 12 Q. So was either a attorney pro tem or a special  
 13 prosecutor under that term, were either of those  
 14 positions engaged in by you on this complaint of  
 15 Mr. Paul?  
 16 A. No, they were not.  
 17 Q. And when this file went from you to the  
 18 attorney general's office following the letter of  
 19 Mr. Clemmer, did you -- and by that time, had you hired,  
 20 retained, appointed, sworn in, any of those things, any  
 21 lawyer, to look into and work with you on the complaint  
 22 of Mr. Paul?  
 23 A. No.  
 24 Q. And after that case file left you and went to  
 25 the AG's office, did you in your office have anything to

1 do with investigating that file?  
 2 A. No, we did not.  
 3 Q. Other than helping Mr. Cammack get his grand  
 4 jury subpoenas, other than that, did you do anything to  
 5 assist Mr. Cammack in investigating this case?  
 6 A. No.  
 7 Q. And did anybody in the attorney general's  
 8 office ask you to aid in any way Mr. Cammack?  
 9 A. No.  
 10 Q. Did the attorney general ever ask you in any  
 11 way to aid Mr. Cammack?  
 12 A. He did not ask me. I don't know that he asked  
 13 anyone.  
 14 Q. So was Mr. Cammack ever hired or employed by  
 15 your office in any way?  
 16 A. No.  
 17 Q. I believe I have the right number. I just want  
 18 to make -- if I could check.  
 19 This is a video that is in evidence.  
 20 MR. HARDIN: I'm going to ask Stacey,  
 21 Exhibit 249, I would ask her to queue it up and play it  
 22 for the jury, please.  
 23 Q. (BY MR. HARDIN) And I will ask you to listen,  
 24 then I'll have a question afterwards.  
 25 (Video playing)

1 Q. (BY MR. HARDIN) What is your testimony --  
 2 (Video playing)  
 3 Q. (BY MR. HARDIN) Is that testimony truthful?  
 4 A. No.  
 5 Q. How untruthful is it? In what way?  
 6 A. It is astonishingly untruthful. There is no  
 7 way that anyone could interpret the facts as my  
 8 appointing Mr. Cammack as a special prosecutor. I  
 9 couldn't pick him out of a lineup today. I don't know  
 10 him.  
 11 MR. HARDIN: Pass the witness.  
 12 PRESIDING OFFICER: Mr. Buzbee.  
 13 MR. BUZBEE: Yes, Your Honor.  
 14 CROSS-EXAMINATION  
 15 BY MR. BUZBEE:  
 16 Q. Hi, Ms. Moore.  
 17 A. Hello.  
 18 Q. How are you doing?  
 19 A. I'm doing well. Thank you.  
 20 Q. Good.  
 21 MR. BUZBEE: Erick, could you pull up  
 22 Article V, the impeachment article, so we can look at it  
 23 real quick.  
 24 Q. (BY MR. BUZBEE) As he's doing that, Ms. Moore,  
 25 you're telling us all that there was never in this

1 situation an attorney pro tem, true?  
 2 A. Correct.  
 3 Q. Let's look at the article of impeachment  
 4 article.  
 5 You see the language that says: Attorney  
 6 General Warren Kenneth Paxton misused his official  
 7 powers by violating the laws governing the appointment  
 8 of prosecuting attorneys pro tem.  
 9 You see that?  
 10 A. I do.  
 11 Q. There was never a prosecutor pro tem with  
 12 relation to Mr. Cammack, isn't that true?  
 13 A. There was not one appointed.  
 14 Q. Okay. It sounds like when you learned about  
 15 the complaint of Nate Paul, your initial gut reaction  
 16 was, that is absolutely ridiculous what he's alleging,  
 17 true?  
 18 A. True.  
 19 Q. But you know, of course, that sometimes the FBI  
 20 does, in fact, violate people's rights, right?  
 21 A. I've never witnessed that.  
 22 Q. But you've certainly read the news reports  
 23 about it, haven't you?  
 24 A. I've read news reports alleging that.  
 25 Q. I mean, there's a lot of them, but did you hear

1 about the FBI admitted flawed forensic testimony in 32  
 2 death penalty cases?  
 3 A. No.  
 4 Q. How about when the FBI conducted improper  
 5 searches of U.S. officials using a foreign database?  
 6 A. I don't know about that.  
 7 Q. How about when the FBI improperly spied on  
 8 activists?  
 9 A. I don't recall reading about that either.  
 10 Q. How about when the FBI misused an intelligence  
 11 database and performed 278,000 searches?  
 12 A. I didn't hear about that.  
 13 Q. And the reason I keep asking you about these  
 14 repeated alleged FBI abuses is because when you first  
 15 heard about this alleged FBI abuse, the first thing you  
 16 thought was ridiculous, correct?  
 17 A. No, that's not correct. That's not what I  
 18 said.  
 19 Q. You knew that a federal judge had ruled that  
 20 FBI agents had conducted illegal searches of businesses?  
 21 A. I don't know what you're alluding to.  
 22 Q. How the FBI violated the privacy rights of tens  
 23 of thousands of Americans?  
 24 A. Mr. Buzbee, I'm not aware of that article.  
 25 Q. Seems to me that that might be something you

1 make yourself aware of before you side --  
 2 MR. HARDIN: Excuse me. Excuse me. This  
 3 is all irrelevant. Using it to attack one agency or  
 4 another is irrelevant to what the attorney general did  
 5 in this case, and I object to being extremely  
 6 irrelevant.  
 7 MR. BUZBEE: Your Honor --  
 8 PRESIDING OFFICER: Overruled.  
 9 MR. BUZBEE: Thank you.  
 10 Q. (BY MR. BUZBEE) You --  
 11 MR. HARDIN: Judge, the second thing is  
 12 he's testifying.  
 13 MR. BUZBEE: I'm asking the witness --  
 14 MR. HARDIN: Cross does not give him the  
 15 right to simply sit up there in an unsworn way and make  
 16 these kind of allegations. He's testifying and not  
 17 asking a question.  
 18 MR. BUZBEE: I'm not making any  
 19 allegation.  
 20 PRESIDING OFFICER: Please --  
 21 MR. BUZBEE: My question --  
 22 PRESIDING OFFICER: -- address the witness  
 23 properly.  
 24 MR. BUZBEE: Yes, Your Honor.  
 25 Q. (BY MR. BUZBEE) My question to this witness

1 who claimed or who said in her statement that she gave  
 2 the Board of Managers that her initial reaction was this  
 3 entire claim against the FBI was ridiculous, I'm just  
 4 asking her whether she had heard very similar claims and  
 5 had seen very similar claims reported all over the  
 6 United States with regard to the FBI?  
 7 MR. HARDIN: It does not allow him to be  
 8 talking about irrelevant other circumstances, Your  
 9 Honor, to make his point.  
 10 PRESIDING OFFICER: Okay. Well, he  
 11 stopped. He stopped.  
 12 MR. HARDIN: Thank you.  
 13 PRESIDING OFFICER: You put a stop to  
 14 that, right? We asked him to go straight. Ask the  
 15 questions properly.  
 16 Go ahead.  
 17 MR. HARDIN: Thank you.  
 18 A. May I answer?  
 19 Q. (BY MR. BUZBEE) I don't know, the lawyer's  
 20 objecting. I don't know. I'll move on.  
 21 A. No, I'd like to answer because you've misstated  
 22 what I saw and what -- why I responded that way.  
 23 Q. Uh-huh.  
 24 A. It wasn't just against the FBI. It was a whole  
 25 range of agencies that was a conspiracy that I felt was

1 absolutely incredible and without basis.  
 2 Q. Uh-huh.  
 3 A. That's not just the FBI. The Texas Rangers,  
 4 the U.S. Marshal, the U.S. Magistrate, the U.S.  
 5 Attorney's Office, all of those together, the securities  
 6 board.  
 7 Q. You --  
 8 A. That's why I considered it incredible.  
 9 Q. Well, couldn't you have just said, you know  
 10 what? I don't think the Rangers would do that. I don't  
 11 think the magistrate would do that. But you know what?  
 12 That -- those FBI folks, they may have done that. You  
 13 could have just investigated that, right? What you  
 14 could have done --  
 15 A. Mr. Buzbee, I worked with the FBI.  
 16 Q. Uh-huh.  
 17 A. I worked with the FBI to have a prisoner -- I  
 18 mean, an accused murderer surrender at the border the  
 19 very first month I was in office. I worked with the FBI  
 20 investigating the in this city. I stood next to the  
 21 U.S. attorney himself watching assistant U.S. attorneys  
 22 and FBI agents and other law enforcement officials  
 23 drawing up search warrants to submit to a magistrate. I  
 24 did not find this allegation of a broad conspiracy among  
 25 all these agencies to have any merit.

1 Q. Based on no investigation, true?  
 2 A. Correct.  
 3 Q. Yep. So what you decided to do rather than  
 4 investigate it, you decided to refer it back to the AG's  
 5 office, right?  
 6 A. I decided to send it to David Maxwell.  
 7 Q. Yeah, you said part of the allegation was  
 8 against the Texas Rangers, right?  
 9 A. Yes.  
 10 Q. So you sent it to the hall of fame Texas  
 11 Ranger, didn't you?  
 12 A. He was the chief investigator in the AG's  
 13 office.  
 14 Q. Trying to get this right.  
 15 You thought it would be inappropriate to  
 16 send the allegation to the Texas Rangers, so you,  
 17 instead, sent it to the Texas Ranger, right?  
 18 A. What I'd really like -- I think would be  
 19 truthful here is that I wasn't concerned about sending  
 20 it to the Texas Rangers because it wasn't worth sending.  
 21 I did think that the chief investigator in the attorney  
 22 general's office would view it the same way.  
 23 Q. So I'm just trying to remember who it was sent  
 24 to.  
 25 So one of the allegations was against the

1 U.S. Attorney's Office?  
 2 A. Yes.  
 3 Q. And the referral was to a U.S. -- a former U.S.  
 4 attorney, right?  
 5 A. I don't know to whom you --  
 6 Q. Mr. Penley, a former U.S. attorney?  
 7 A. Mr. Penley was not named in that letter.  
 8 Q. Yeah.  
 9 A. That was specifically sent to David Maxwell.  
 10 Q. Well, we all know now, and I know you weren't  
 11 here, you wouldn't know this, but -- but just so we're  
 12 clear, the allegation among others was against Texas  
 13 Rangers and U.S. Attorney's Office, and you sent it to  
 14 the AG's office where the head of both -- the both of  
 15 the divisions that would have looked at this would have  
 16 been a Ranger and a U.S. attorney. Did you realize  
 17 that?  
 18 A. I didn't know Mr. Penley.  
 19 Q. Let's look at the referral letter.  
 20 MR. BUZBEE: AG 68, Erick, please.  
 21 MR. HARDIN: Pardon me, Your Honor. Just  
 22 to correct -- just to correct the record, I believe he  
 23 mistakenly referred to Mr. Penley as a U.S. attorney,  
 24 and I don't want that to stay unchallenged. He, of  
 25 course, was an assistant U.S. attorney. I don't want to

1 suggest that was being looked at by a U.S. attorney.  
 2 MR. BUZBEE: A former assistant U.S.  
 3 attorney. I think we all know who he is. He testified.  
 4 MR. HARDIN: Thank you.  
 5 Q. (BY MR. BUZBEE) Now, let's look at the  
 6 referral.  
 7 Clemmer at the time worked for you in the  
 8 office, right?  
 9 A. Yes.  
 10 Q. Okay. He had the authority to send this  
 11 letter, true?  
 12 A. Yes.  
 13 Q. And he sent the letter to Mr. Maxwell. You've  
 14 told us that, right?  
 15 A. Correct.  
 16 Q. And he says: Would typically forward such a  
 17 complaint to the Public Integrity Unit of the Texas  
 18 Rangers for review.  
 19 Right?  
 20 A. Yes.  
 21 Q. However, since an employee of the Department of  
 22 Public Safety is one of the subjects of the complaint,  
 23 referrals to the Rangers would appear inappropriate.  
 24 Correct?  
 25 A. Yes, he says that.

1 Q. Okay. Now, you also made a comment with  
 2 Mr. Hardin about you typically would require someone  
 3 making a criminal complaint to swear to the complaint,  
 4 is that right?  
 5 A. Yes, the form.  
 6 Q. Is it required?  
 7 A. I don't -- I didn't review every single  
 8 complaint, but it's my understanding we had that policy,  
 9 yes.  
 10 Q. That was the policy in the office is to require  
 11 the complainant to swear to the complaint?  
 12 A. Yes.  
 13 MR. BUZBEE: May I approach the witness?  
 14 Q. (BY MR. BUZBEE) Do you see the document I just  
 15 handed you, ma'am?  
 16 A. I do.  
 17 Q. And who -- it's an email, is it not?  
 18 A. It is.  
 19 Q. An email from whom to whom? From who to whom?  
 20 A. There's two, it appears.  
 21 Q. Is this email from people within your office?  
 22 A. And it's both -- both of the emails on this  
 23 piece of paper are from Todd Bircher to Don Clemmer.  
 24 And then the next one is Todd Bircher to M. Wynne.  
 25 MR. BUZBEE: Your Honor, we move for

1 admission of this -- of this piece of evidence.  
 2 PRESIDING OFFICER: Any objection?  
 3 MR. HARDIN: I have no objection.  
 4 PRESIDING OFFICER: Admit AG Exhibit 0242  
 5 into evidence.  
 6 (AG Exhibit 242 admitted)  
 7 Q. (BY MR. BUZBEE) And we'll put on the screen  
 8 Exhibit 242, which I think His Honor put into evidence,  
 9 allowed into evidence.  
 10 And let's -- just so we know what the --  
 11 your underlings -- Mr. Bircher was one of your  
 12 subordinates, was he not?  
 13 A. He was.  
 14 Q. And let's look at what he told Mr. Paul's  
 15 lawyer in writing. I'm going to read it. You tell me  
 16 if I get it right.  
 17 Please see the attached RTI, which  
 18 includes instructions on submitting your client's  
 19 complaint. Feel free to contact me with any questions  
 20 you may have. Again, no need to get a Notary's  
 21 signature on it.  
 22 That's what your people told Mr. Paul's  
 23 lawyer, isn't that true?  
 24 A. That's what this email says, yes.  
 25 Q. And yet, and yet, there's been suggestion here

1 that the complaint, Mr. Paul, a suggestion that he knew  
 2 that was baloney, and that's why he didn't get it  
 3 notarized, did you know that was a suggestion being  
 4 made?  
 5 Did you know that was the suggestion --  
 6 A. No.  
 7 Q. -- being made?  
 8 A. I've been under the rule, so I haven't heard  
 9 anything.  
 10 Q. I figured that.  
 11 But what we know specifically is exactly  
 12 what Mr. Paul's lawyer was told is what he did. He did  
 13 not get it notarized, did he?  
 14 A. No, he did not.  
 15 Q. Now, I want to focus with you, if you would, on  
 16 the second referral. It's in evidence, AG Exhibit 124.  
 17 Let's take a look at that one.  
 18 Were you aware that your subordinate  
 19 Mr. Clemmer was doing -- was sending a second referral?  
 20 A. I don't know when I became aware of that. It  
 21 very possibly was after this. I don't know.  
 22 Q. Okay. So it could be the case that when  
 23 Mr. Clemmer sent a second referral directly to  
 24 Mr. Cammack in Houston, you didn't have any idea about  
 25 that at the time?

1 A. That could well be the case. I just don't  
 2 recall.  
 3 Q. Now, certainly Mr. Clemmer -- I mean, common  
 4 sense would dictate Mr. Clemmer knew who Mr. Cammack  
 5 was, right?  
 6 A. I don't know what -- he addresses this to him.  
 7 Q. Right. He knew who Mr. Cammack was.  
 8 Otherwise, why would he send him the letter in Houston,  
 9 the referral in Houston, right? That's common sense,  
 10 isn't it?  
 11 A. It would appear.  
 12 Q. Yeah, okay. Is it typical -- let me ask it  
 13 this way: If a special prosecutor is appointed and an  
 14 additional matter comes up within the office and they  
 15 want to continue to use the special prosecutor, is that  
 16 sometime done?  
 17 A. That did not occur in my administration.  
 18 Q. Uh-huh. Now, I want to look at some things  
 19 that were happening, maybe you didn't know about them.  
 20 Did you not realize that the people within your office  
 21 were assisting Mr. Cammack in obtaining grand jury  
 22 subpoenas?  
 23 A. I didn't know it until recently.  
 24 Q. Okay. You had no idea that there were multiple  
 25 people in your office who were guiding Mr. Cammack in

1 obtaining grand jury subpoenas?  
 2 A. I did not.  
 3 Q. But you will admit now that you know it now,  
 4 right?  
 5 A. I do know it now.  
 6 Q. So let's be clear. Even though you didn't know  
 7 it, you admit that there were multiple people in your  
 8 office who were assisting Mr. Cammack in obtaining grand  
 9 jury subpoenas related to both the first and second  
 10 referral, isn't that right?  
 11 A. That's what I believe to be the case, yes.  
 12 Q. Yeah. As an example, let's --  
 13 MR. BUZBEE: Let me offer, hopefully  
 14 without objection, I need to know if this is in  
 15 evidence, House Managers' Exhibit 186. We offer House  
 16 Managers' Exhibit 186. It's their exhibit. Copies?  
 17 PRESIDING OFFICER: It's not. It's not  
 18 in --  
 19 MR. BUZBEE: We offer --  
 20 PRESIDING OFFICER: -- evidence yet. Any  
 21 objection?  
 22 MR. BUZBEE: We offer House Managers' 186.  
 23 PRESIDING OFFICER: Mr. Hardin, any  
 24 objection?  
 25 MR. HARDIN: May I have just a second?

1 PRESIDING OFFICER: Yes, you may.  
 2 MR. HARDIN: I have no objection.  
 3 PRESIDING OFFICER: Admit 18 -- is it 186?  
 4 Yes, 186 into evidence.  
 5 (HBOM Exhibit 186 admitted)  
 6 MR. BUZBEE: Yes, Your Honor.  
 7 And, Erick, bring up House Managers'  
 8 Exhibit 186 that's now in evidence, and go to the third  
 9 page. Make it the fourth page, Erick, please. There we  
 10 go.  
 11 Q. (BY MR. BUZBEE) Now, there's some email  
 12 traffic between Brandon Cammack and someone named Gayla  
 13 Schwab. Do you know that person?  
 14 A. Yes.  
 15 Q. Who is she?  
 16 A. Her position was bailiff of the grand jury.  
 17 Q. Okay.  
 18 MR. BUZBEE: And let's go to the next  
 19 page, Erick.  
 20 Q. (BY MR. BUZBEE) And notice here that Gayla  
 21 Schwab, who's legal secretary at the grand jury unit, is  
 22 sending email -- an email to Brandon Cammack. Do you  
 23 see that there at the bottom?  
 24 A. No, not on this page. I'm seeing the email  
 25 from Bailey Molnar.

1 Q. Look at -- look at the email. It says: Hi,  
2 Brandon. I was directed to forward your request to Don  
3 Clemmer, director of our special prosecution division,  
4 to handle this -- to handle this matter.  
5 Do you see that?  
6 A. No, that's not the page that's on my screen.  
7 Q. Okay. Well, my eyes are terrible, so I can't  
8 see really your screen.  
9 MR. BUZBEE: Erick, third page.  
10 Exhibit 186. Email at the bottom to Brandon Cammack  
11 from Gayla Schwab. There we go.  
12 Q. (BY MR. BUZBEE) Now, can you see the email  
13 where she is referring Mr. Cammack to one of your  
14 subordinates?  
15 A. Yes, I see that.  
16 Q. And do you see --  
17 A. Thanks for enlarging it.  
18 Q. I know it's hard. We're going to try to roll  
19 through this quickly.  
20 And do you see that your subordinate,  
21 Mr. Clemmer's response to Mr. Cammack right above it?  
22 A. I've seen it, but this is illegible.  
23 Q. How about now?  
24 A. There we go.  
25 Q. He says: Let me know what type of case this

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1 investigation involves so I can get the right people to  
2 assist you. Thanks.  
3 That's what he says to Mr. Cammack, right?  
4 A. Yes.  
5 Q. He says: Cammack, let me know what case this  
6 is so I can get the right folks to help you.  
7 Right?  
8 A. What he says.  
9 Q. Okay. And then --  
10 MR. HARDIN: Your Honor, excuse me.  
11 Excuse me, Mr. Buzbee.  
12 Could I ask if the juror -- the witness  
13 would like a paper copy to have in front of her? If so,  
14 I'll be glad to give her one.  
15 PRESIDING OFFICER: Can you read this?  
16 THE WITNESS: I can when they enlarge it.  
17 MR. BUZBEE: Just trying to slow us down.  
18 PRESIDING OFFICER: All of us need it  
19 enlarged so...  
20 MR. BUZBEE: Yeah. And we'll enlarge.  
21 (Simultaneous discussion)  
22 MR. BUZBEE: Best I can. I can't see it  
23 either, Ms. Moore.  
24 Q. (BY MR. BUZBEE) And do you see Mr. Cammack's  
25 response?

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1 MR. BUZBEE: Bring it up.  
2 Q. (BY MR. BUZBEE) It says -- it's on  
3 September 23rd, 2020, at 4:25 p.m. You see, he says:  
4 I've been appointed on a referral from your office to  
5 the AG's office regarding a matter involving public  
6 corruption. I'm trying to get grand jury subpoenas  
7 issued.  
8 Do you see that?  
9 A. I do.  
10 Q. He explained in detail what he was up to,  
11 didn't he?  
12 A. I'm not sure about the detail part, but he does  
13 say.  
14 Q. I mean, it's in writing what he was -- he was  
15 telling your subordinate what he was doing, right?  
16 A. He does.  
17 Q. He's getting grand jury subpoenas --  
18 A. He does.  
19 Q. -- for a corruption investigation, right?  
20 A. Yeah, he just doesn't mention that it was the  
21 Nate Paul case, but -- but he does -- it's a matter  
22 involving public corruption. I'm -- I'm reading this.  
23 The first time I saw it was last week.  
24 Q. Right. And that -- that was the first  
25 referral. Let's look at the first page of this exhibit.

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1 And we can see at the top another email to Mr. Cammack  
2 from your subordinate, Don Clemmer.  
3 MR. BUZBEE: Pull it up, please.  
4 Q. (BY MR. BUZBEE) And here's where your  
5 subordinate is sending a referral to Mr. Cammack. That  
6 is the second referral, isn't that right?  
7 A. Yes, September of '20.  
8 Q. Okay. So if there's any suggestion by anybody  
9 that your people weren't helping this young man obtain  
10 grand jury subpoenas, that would be false, isn't that  
11 right?  
12 A. They did help him.  
13 Q. They even filled out the forms for him and sent  
14 it to him via DocuSign, didn't they?  
15 A. Yes.  
16 Q. Let's let that sink in. They filled out the  
17 form, emailed it to him using DocuSign, and all he had  
18 to do was DocuSign for the applications for the  
19 subpoenas, isn't that right?  
20 A. That's my understanding.  
21 Q. Who put the word "special prosecutor" on the  
22 DocuSign that was sent to this man?  
23 A. I do not know that.  
24 Q. So according to you, it could be possible that  
25 your subordinates in the office put that language in the

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1 dock sign that this young man signed electronically,  
 2 isn't that right?  
 3 A. Yes, but I notice that he uses that term,  
 4 "special prosecutor," for the OAG.  
 5 Q. Yeah.  
 6 A. So I wouldn't be surprised if they used his  
 7 language.  
 8 Q. I mean, they certainly didn't tell him don't  
 9 use that language, did they?  
 10 A. No, I wouldn't think that a secretary to the --  
 11 Q. It was more than a secretary, ma'am. You know  
 12 it was more than one person, don't you?  
 13 A. There was --  
 14 Q. You know --  
 15 A. Mr. Buzbee, do you want me to answer these  
 16 truthfully, or do you want to just --  
 17 Q. No, no, I prefer you not lie. Yes, of course,  
 18 I'd prefer you not lie. I'd prefer you to follow your  
 19 oath.  
 20 Will you agree that there were multiple  
 21 people involved in your office in assisting this young  
 22 in getting grand jury subpoenas issued?  
 23 A. I would agree that multiple people offered to  
 24 assist him. I do not believe multiple people filled out  
 25 the forms.

1 Q. I want to show you something that's in  
 2 evidence, and you just tell me if it's true. It's --  
 3 MR. BUZBEE: I'm going to get yelled at  
 4 for this, but it's Exhibit 127, Exhibit 19, Erick. It's  
 5 already in evidence. 127, Exhibit 19, Erick. There we  
 6 go.  
 7 Q. (BY MR. BUZBEE) Now here's some language in  
 8 this letter sent to Mr. Cammack shortly thereafter. And  
 9 it says: It has come to our attention that you appeared  
 10 before the Travis County grand jury.  
 11 Can we agree that Brandon Cammack never,  
 12 never appeared in front of any grand jury?  
 13 A. Ever? I have no idea --  
 14 Q. With relation to this particular matter?  
 15 A. Well, he wouldn't have appeared in person  
 16 before a grand jury.  
 17 Q. I mean, all he did --  
 18 A. All the grand jury proceedings at this time  
 19 were, in fact, over Zoom anyway.  
 20 Q. He didn't even do a Zoom, all he did --  
 21 A. I don't think he did. I mean --  
 22 (Simultaneous discussion)  
 23 A. It would --  
 24 Q. (BY MR. BUZBEE) You see the point --  
 25 A. May I finish?

1 Q. Yeah, I'm sorry. Go ahead.  
 2 A. It would be unusual for anyone issuing a grand  
 3 jury subpoena to actually appear in front of the  
 4 physical grand jury.  
 5 Q. Right. Because what we know happened was some  
 6 of your folks in the office helped him fill out forms,  
 7 and he signed them electronically with DocuSign, right?  
 8 A. That's what it appears to be happened.  
 9 Q. Okay. Now, is it true that your office was  
 10 excited about pursuing an investigation against Ken  
 11 Paxton?  
 12 A. I can't speak for the entire office.  
 13 Q. Well --  
 14 A. But I was not excited about any of this.  
 15 Q. Okay.  
 16 MR. BUZBEE: Your Honor, I pass the  
 17 witness.  
 18 PRESIDING OFFICER: Redirect, Mr. Hardin.  
 19 MR. HARDIN: Yes, Your Honor.  
 20 Your Honor, I move to introduce -- I move  
 21 to introduce Exhibit 243.  
 22 PRESIDING OFFICER: Any objection?  
 23 MR. BUZBEE: This is beyond -- this is, of  
 24 course, beyond the scope of her direct, as you know, and  
 25 so I would object to it.

1 PRESIDING OFFICER: As I said earlier, and  
 2 I corrected myself. It was not within the rules, but we  
 3 discussed direct -- redirect would be on what was  
 4 discussed on direct.  
 5 MR. HARDIN: I understand, but part of  
 6 this cross was challenging whether or not her office was  
 7 involved and what her office's involvement with this --  
 8 this is her answer to an attorney general public  
 9 relations statement that he made, which also sets out  
 10 her position about this entire matter. And she sent it  
 11 to him on October the 9th long before any of this was  
 12 looked at.  
 13 PRESIDING OFFICER: Hold on one second,  
 14 Counselors.  
 15 I'm going to overrule the objection  
 16 because it does go to the cross testimony.  
 17 MR. HARDIN: Thank you.  
 18 Can you put it up, please?  
 19 REDIRECT EXAMINATION  
 20 BY MR. HARDIN:  
 21 Q. Now, I'm going to ask you to publish it by  
 22 reading it. If you look up close to the microphone, I'd  
 23 like for you to read to the jury what you told  
 24 Mr. Paxton on October the 9th of 2020 through this  
 25 letter?

1 A. It's addressed to Ken Paxton, attorney general  
 2 of Texas, the Office of the Attorney General via email  
 3 and by hand delivery.  
 4 Dear Attorney General Paxton: On June 10,  
 5 2020, my office sent to David Maxwell a letter referring  
 6 a request to investigate, in parenthesis, RTI, filed in  
 7 our office by Nate Paul. The RTI was received by us  
 8 after you asked my office to hear his complaints. The  
 9 referral to the OAG was made with your approval. We did  
 10 not conduct -- conduct any investigation into the merits  
 11 of the matters complained of. In referring the matter  
 12 to the OAG, we concluded that ours was not the  
 13 appropriate office to either address the matters raised  
 14 in the complaint or to conduct an investigation into  
 15 them.  
 16 The referral cannot and should not be used  
 17 as any indication of a need for investigation, a desire  
 18 on the Travis County DA's part for an investigation to  
 19 take place, or an endorsement of your acceptance of the  
 20 referral.  
 21 My office has closed this file and will  
 22 take no further action. Furthermore, I have instructed  
 23 my employees to have no further contact with you or your  
 24 office regarding this matter.  
 25 Any action you have already taken or will

1 take pursuing this investigation is done solely on your  
 2 own authority as provided by Texas law. The newly  
 3 surfaced information raises serious concerns about the  
 4 integrity of your investigation and the propriety of  
 5 your conducting it.  
 6 Sincerely, Margaret Moore.  
 7 Q. Now, Ms. Moore, are you aware that if one is a  
 8 special prosecutor that they are to be supervised by the  
 9 authority appointing them a special prosecutor?  
 10 A. Yes. A special --  
 11 Q. And --  
 12 A. And a properly appointed special prosecutor is  
 13 supervised by the prosecuting authority.  
 14 Q. And if somebody is appointed as a special  
 15 prosecutor -- or let me strike that. Another way.  
 16 Do you consider when a person that says  
 17 that they are a special prosecutor for the attorney  
 18 general, when that person contacts your office and asks  
 19 for help in getting out subpoenas, tells you he doesn't  
 20 really have experience in doing that, and your people  
 21 assisting him, do you consider that in any form in any  
 22 way supervising his later investigation?  
 23 MR. BUZBEE: Objection, leading.  
 24 PRESIDING OFFICER: Sustained.  
 25 Q. (BY MR. HARDIN) You can tell me either way.

1 What is your opinion as to whether that is some type of  
 2 supervision?  
 3 A. Number one, I don't know that there's any such  
 4 thing as a special prosecution for the Office of the  
 5 Attorney General. A prosecution is -- the authority to  
 6 prosecute is limited to the elected district and county  
 7 attorneys of the state. So I don't even know what a  
 8 special prosecutor for the OAG is, but that's -- this  
 9 person was not appointed by me and was not supervised by  
 10 me.  
 11 Q. And was he authorized -- would he be authorized  
 12 to do any prosecution in the state of -- in Travis  
 13 County without your approval?  
 14 A. No.  
 15 Q. And is that built into the statutes that say  
 16 only the elected district attorney of a county has the  
 17 authority to approve and conduct prosecutions?  
 18 A. That is the law, and I knew that.  
 19 Q. Finally, finally, the video that we saw?  
 20 A. Yes.  
 21 Q. Did you -- did you notice that the attorney  
 22 general made no attempt to correct that untruthful  
 23 testimony given before the finance committee?  
 24 A. Not in the clip that I saw.  
 25 MR. HARDIN: That's all I have. Thank

1 you.  
 2 PRESIDING OFFICER: We need to admit  
 3 Exhibit 243 into evidence. I have not admitted it into  
 4 evidence yet.  
 5 MR. HARDIN: Thank you very much.  
 6 (HBOM Exhibit 243 admitted)  
 7 PRESIDING OFFICER: Mr. Buzbee, recross.  
 8 MR. BUZBEE: Yes, Your Honor.  
 9 Let's look at -- you said 247, is what it  
 10 was, or 3? Or 243?  
 11 PRESIDING OFFICER: 243.  
 12 MR. BUZBEE: 243.  
 13 PRESIDING OFFICER: Yes, sir.  
 14 MR. BUZBEE: Put on the screen, Erick --  
 15 it's our AG 19, same exhibit. This --  
 16 RECROSS-EXAMINATION  
 17 BY MR. BUZBEE:  
 18 Q. Ms. Moore, at the time you wrote this letter,  
 19 you didn't even know about the second referral, did you?  
 20 A. I easily could have. It's October 9, and the  
 21 second referral was sent to Cammack on the 23rd. What  
 22 happened in between is the motion to quash the subpoenas  
 23 issued by Mr. Cammack were granted by -- the motion was  
 24 granted to quash those subpoenas, and when that  
 25 happened, all of this was brought to my attention. So I

1 could by October 9th have seen this second referral.  
 2 Q. Let's just make sure that we can agree on  
 3 something. You didn't mention any second referral in  
 4 this letter, did you?  
 5 A. No, I didn't.  
 6 Q. No mention whatsoever of the second referral in  
 7 this letter, is there?  
 8 A. No.  
 9 Q. Okay. One thing you said in this letter in the  
 10 third paragraph, your office has closed this file,  
 11 right?  
 12 A. I do say that.  
 13 Q. So up and until that point, y'all had an open  
 14 file on this referral, didn't you?  
 15 A. I don't -- I don't know that we did. I saw  
 16 this. I don't have a full recollection of exactly what  
 17 was going on at that moment, but I don't think we ever  
 18 actually opened a file.  
 19 Q. So you just closed an already closed file is  
 20 that what you're saying?  
 21 A. Could have, yeah.  
 22 Q. So how many times do you have to close a file  
 23 before it's closed?  
 24 A. Well, Mr. Buzbee, I'm sorry, but I -- you know,  
 25 this matter was dead on arrival, and it remained that

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1 way in my mind and --  
 2 MR. BUZBEE: Objection, nonresponsive.  
 3 A. -- all along.  
 4 PRESIDING OFFICER: Sustained.  
 5 Q. (BY MR. BUZBEE) Now, one of the things that  
 6 happened after all this came out in the newspaper, in  
 7 addition to you sending this letter, you also told one  
 8 of your subordinates to put everything that had happened  
 9 in writing, didn't you?  
 10 A. You want to be a little more specific?  
 11 Q. Do you remember Mindy Montford?  
 12 A. Oh, yes.  
 13 Q. You encouraged Mindy Montford to do a full  
 14 statement of what the office had done with regard to  
 15 these referrals, right?  
 16 A. I encouraged her to make a statement about what  
 17 occurred, yes.  
 18 Q. And that statement is AG Exhibit 44.  
 19 MR. BUZBEE: And we offer it, Your Honor.  
 20 PRESIDING OFFICER: You give us a copy of  
 21 it?  
 22 MR. BUZBEE: Is it in evidence or not?  
 23 It's in evidence, Your Honor.  
 24 PRESIDING OFFICER: It's already in  
 25 evidence.

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1 MR. BUZBEE: I'm sorry about that.  
 2 Erick, please put Exhibit 44 on the  
 3 screen.  
 4 Q. (BY MR. BUZBEE) In response to your  
 5 encouragement, one of your subordinates, Mindy Montford,  
 6 did, in fact, put everything that happened, at least  
 7 from her point of view, in writing, isn't that right?  
 8 A. Yes.  
 9 Q. Let's look at what she put in writing. And she  
 10 swore that this was true, did she not?  
 11 A. Yes.  
 12 MR. HARDIN: The scope has been exceeded  
 13 by this based on the Court's rulings.  
 14 MR. BUZBEE: No.  
 15 MR. HARDIN: I don't believe -- I don't  
 16 believe anything that this is relevant to that -- I  
 17 never mentioned Mindy Montford. I didn't discuss that  
 18 at all.  
 19 MR. BUZBEE: Your Honor, you let him put  
 20 into evidence over my objection her letter about how  
 21 things went down. And now to complete the record, I'm  
 22 going to put -- I've put in evidence, it's already,  
 23 there, what her subordinate who is directly involved  
 24 said went down. It's perfectly within the line of the  
 25 recess.

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1 MR. HARDIN: He's perfectly entitled to  
 2 call her as a witness. And we would welcome that. But  
 3 I'm not objecting to the exhibit. But going into this  
 4 subject is what I'm saying is contrary to the Court's  
 5 previous ruling.  
 6 PRESIDING OFFICER: I think he gave the  
 7 explanation why it's not contrary to the Court's rule  
 8 that we discussed because it had been introduced.  
 9 Overruled.  
 10 Q. (BY MR. BUZBEE) Let's look at the affidavit  
 11 that was done.  
 12 MR. BUZBEE: And just, Erick, so everybody  
 13 knows, look at the last page of Exhibit 44. So we'll  
 14 know when Ms. Montford swore that this was -- what  
 15 actually happened under oath. Go to the last page.  
 16 Q. (BY MR. BUZBEE) Can you confirm with me,  
 17 Ms. Moore, that she did this in January of 2021?  
 18 A. Yes.  
 19 Q. Okay.  
 20 MR. BUZBEE: Now, Erick, go back to the  
 21 second page of this exhibit. Last paragraph.  
 22 Q. (BY MR. BUZBEE) Ms. Moore, I just want to make  
 23 sure that I get this right.  
 24 Don Clemmer and I discussed the meeting  
 25 with Margaret Moore by phone.

Lorrie A. Schnoor, CSR, RDR, CRR

1 That's true, isn't it? The meeting with  
 2 Nate Paul?  
 3 A. Thank you for enlarging it.  
 4 Q. There you go.  
 5 A. Is she referring to the meeting with --  
 6 Q. The lunch meeting with Nate Paul.  
 7 A. The lunch meeting. Okay, yes.  
 8 Q. Yeah. She goes on to say at the beginning of  
 9 the last sentence in that paragraph: The district  
 10 attorney's office no longer has the resources to conduct  
 11 broad-based investigations.  
 12 MR. BUZBEE: Go to the next page, Erick.  
 13 Pull it up so we can read it.  
 14 Q. (BY MR. BUZBEE) This is what she said was the  
 15 truth at the time -- to conduct broad-based  
 16 investigations on its own so we knew we were not capable  
 17 of thoroughly looking into the allegations.  
 18 Am I right so far?  
 19 A. Yes.  
 20 Q. She said: When we receive complaints from  
 21 individuals such as Mr. Paul's, it is our normal course  
 22 of business to refer these cases to the Texas Department  
 23 of Public Safety, the Office of the Attorney General,  
 24 the FBI, or a local police department with jurisdiction  
 25 to investigate.

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1 That's what she wrote, true?  
 2 A. True.  
 3 Q. That's what she swore was the truth, right?  
 4 A. Yes.  
 5 Q. Then she goes on to say, skipping a sentence:  
 6 It was decided that we should refer the matter to the  
 7 OAG for review.  
 8 You see that?  
 9 A. Yes.  
 10 Q. She goes on to say: It was our intention to  
 11 have the OAG review the matter and determine whether or  
 12 not it rose to the level of a formal criminal  
 13 investigation.  
 14 Do you see that language?  
 15 A. I do.  
 16 Q. Okay.  
 17 MR. BUZBEE: Let's go to the bottom,  
 18 Erick, the sentence -- pull up the last half of the last  
 19 paragraph. The sentence starts: I've also told General  
 20 Paxton -- that sentence.  
 21 Q. (BY MR. BUZBEE) She says: I did inform  
 22 General Paxton at the time -- that time that the  
 23 district attorney's office did not have sufficient  
 24 resources to look into Mr. Paul's claims and that we  
 25 believe the only agency that could properly review the

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1 matter would be the OAG.  
 2 That's what she swore was true, correct?  
 3 A. It's written here, yes.  
 4 Q. She then says: It should be noted that at no  
 5 time prior to this conversation did General Paxton ask  
 6 that we refer this matter to his office. To my  
 7 knowledge, the idea to refer the Nate Paul matter to the  
 8 Office of the Attorney General --  
 9 MR. HARDIN: Pardon me. Pardon me.  
 10 MR. BUZBEE: Okay.  
 11 MR. HARDIN: Pardon me. My problem,  
 12 Mr. Buzbee, excuse me, I'm having trouble following it.  
 13 Can you point us to which page he's on and just tell me  
 14 so I can --  
 15 MR. BUZBEE: Does the witness know where I  
 16 am?  
 17 Q. (BY MR. BUZBEE) Ms. Moore, do you know where I  
 18 am?  
 19 A. I'm reading it here.  
 20 Q. Sure, you do. We all know where I am. Let me  
 21 keep going.  
 22 MR. HARDIN: Excuse me. Excuse me.  
 23 PRESIDING OFFICER: Give him the courtesy  
 24 of catching up.  
 25 MR. BUZBEE: Fourth line from the bottom

Lorrie A. Schnoor, CSR, RDR, CRR

1 of the second page.  
 2 MR. HARDIN: Thank you.  
 3 MR. BUZBEE: Third page.  
 4 Q. (BY MR. BUZBEE) It should be noted that at no  
 5 time prior to this conversation did General Paxton ask  
 6 that we refer the matter to his office. To my  
 7 knowledge, the idea to refer the Nate Paul matter to the  
 8 OAG came from our office.  
 9 Did I get that right?  
 10 A. Yes.  
 11 Q. General Paxton was not certain his office could  
 12 even review the matter.  
 13 Do you see that?  
 14 A. I do.  
 15 MR. BUZBEE: Your Honor, I pass the  
 16 witness.  
 17 PRESIDING OFFICER: That will -- we'll  
 18 adjourn in a moment. I want to get you the timestamp  
 19 here.  
 20 Time remaining, House, 9 hours, 19  
 21 minutes, and 12 seconds.  
 22 Respondent, 12 hours, 14 minutes, and  
 23 15 seconds.  
 24 Tomorrow will be another long day. We'll  
 25 come in at 9:00. We'll go to about the same time, 6:30

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1 to 7:00, whenever the natural ending. Until then, we  
 2 are adjourned.  
 3 You may be dismissed. Thank you.  
 4 I'm sorry. Can she be excused,  
 5 Mr. Hardin?  
 6 Mr. Buzbee, can she be excused?  
 7 MR. BUZBEE: Yes, sir, please.  
 8 MR. HARDIN: Yes, Your Honor, but with the  
 9 same understanding she could be on call.  
 10 PRESIDING OFFICER: All right. Thank you.  
 11 (Proceedings recessed 6:50 p.m.)  
 12  
 13  
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 17  
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 20  
 21  
 22  
 23  
 24  
 25

1 CERTIFICATE  
 2 STATE OF TEXAS )  
 3 COUNTY OF TRAVIS )  
 4 I, Lorrie A. Schnoor, Certified Shorthand  
 5 Reporter in and for the State of Texas, Registered  
 6 Diplomat Reporter and Certified Realtime Reporter, do  
 7 hereby certify that the above-mentioned matter occurred  
 8 as hereinbefore set out.  
 9 I further certify that I am neither counsel  
 10 for, related to, nor employed by any of the parties or  
 11 attorneys in the action in which this proceeding was  
 12 taken, and further that I am not financially or  
 13 otherwise interested in the outcome of the action.  
 14 Certified to by me this 11th day of September,  
 15 2023.  
 16  
 17  
 18 /s/ **Lorrie A. Schnoor**  
 19 \_\_\_\_\_  
 20 LORRIE A. SCHNOOR, RDR, CRR  
 21 Texas Certified Shorthand Reporter  
 22 CSR No. 4642 - Expires 1/31/24  
 23 email: laschnoor@prodigy.net  
 24  
 25

1 THE SENATE OF THE STATE OF TEXAS  
 2 SITTING AS A HIGH COURT OF IMPEACHMENT  
 3  
 4 IN THE MATTER OF §  
 5 WARREN KENNETH §  
 6 PAXTON, JR. §  
 7  
 8  
 9  
 10 TRIAL  
 11 VOLUME 6 AM SESSION  
 12 SEPTEMBER 12, 2023  
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 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24 Stenographically Reported by  
 25 Kim Cherry, CSR, RMR

1 A P P E A R A N C E S  
 2 FOR THE TEXAS HOUSE OF REPRESENTATIVES BOARD OF  
 3 MANAGERS  
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 7 Ms. Megan Moore  
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 23  
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1 VOLUME 6

2 SENATE IMPEACHMENT TRIAL

3 September 12, 2023 PAGE VOL.

4

5 HBOM WITNESSES: Direct Cross Voir Dire Vol.

6 BRANDON CAMMOCK

7 BY MR. HARDIN 8 6

8 BY MR. COGDELL

9

10 LUNCH BREAK..... 90 6

11 REPORTER'S CERTIFICATION..... 91 6

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1 seems uncertain.

2 We also pray that we may be instruments of

3 your righteousness, discerning right from wrong and upholding

4 the principles of fairness and equality.

5 Lord, we thank you for being our ever-present

6 help in times of need and for the wisdom and the grace that

7 you provide. May we walk boldly in your light knowing that

8 you, by our side, we can conquer all obstacles.

9 We offer this prayer in Jesus' name. Amen.

10 PRESIDING OFFICER: Thank you, Senator. You

11 may be seated.

12 To the public and to the media and to the

13 members, we are beginning late this morning. The Court's

14 always ready at 9:00 a.m., but both the House and the defense

15 had issues they needed to bring forth to the Court, and so we

16 have walked through some of those issues.

17 Can I have both sides come to the bench,

18 please.

19 (Conference at the bench off the record)

20 PRESIDING OFFICER: The bailiff will bring in

21 Mr. Cammack.

22 (Witness enters the Senate Chamber)

23 PRESIDING OFFICER: Mr. Cammack, please raise

24 your right hand.

25 (The following oath was given to the witness)

7

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

2 SEPTEMBER 12, 2023

3 (10:07 a.m.)

4 THE BAILIFF: All rise. Court of Impeachment

5 of the Texas Senate is now in session. The Honorable

6 Lieutenant Governor and President of the Senate Dan Patrick

7 now presiding.

8 PRESIDING OFFICER: Good morning, everyone.

9 Bailiff, if you will bring in the jury.

10 (Senator members enter the Senate chamber)

11 PRESIDING OFFICER: Good morning, everyone.

12 Will our prayer leader come up to pray.

13 Senator Blanco from El Paso.

14 SENATOR BLANCO: Let us pray. Heavenly

15 Father, we come before you today with humble hearts seeking

16 your guidance and your wisdom as we embark on our work. We

17 pray for strength and clarity of mind and ask that you grant

18 us the gift of strength and courage.

19 Your Word assures us in Isaiah 41:10, Fear not

20 for I am with you. Be not dismayed for I am your God. I

21 will strengthen you. I will help you. I will uphold you

22 with my righteous right hand.

23 Lord, we hold on to this promise knowing that

24 you are our source of unwavering courage. Strengthen our

25 resolve to trust in your plan even when the path before us

6

1 PRESIDING OFFICER: I do solemnly swear that

2 the evidence I give upon this hearing by the Senate of Texas

3 of impeachment charges against Warren Kenneth Paxton, Jr.,

4 shall be the truth, the whole truth, and nothing but the

5 truth so help me God.

6 THE WITNESS: I do.

7 PRESIDING OFFICER: Please take your seat.

8 And before you begin, I've always been asked

9 by both sides -- I meant to do this earlier -- the time

10 clock. Presentation of the evidence, the House, nine hours,

11 19 minutes and 12 seconds left, 9:19:12.

12 Respondent, 12 hours, 14 minutes, and 15

13 seconds left. 12 hours, 14 minutes, and 15 seconds.

14 You may begin.

15 BRANDON RAYMOND CAMMACK,

16 having been first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. HARDIN:

19 Q. Good morning.

20 A. Good morning, sir. How are you, sir?

21 Q. Is your microphone on, please, sir?

22 A. Can you hear me? Is that better?

23 Q. That's better.

24 A. Okay. Good morning.

25 Q. All right. Mr. Cammack, obviously, but state your

8

1 name for record, please.  
 2 A. My name is Brandon Raymond Cammack.  
 3 Q. And, Mr. Cammack, how old are you?  
 4 A. Thirty-seven, sir.  
 5 Q. And as we've gone through this -- you're doing  
 6 really well about leaning forward -- the microphone -- I  
 7 think that microphone and this one requires to be pretty  
 8 close. If you -- sometimes I may call it to your attention,  
 9 but I -- if you can just sort of try to keep it in mind, that  
 10 would be good.  
 11 A. Okay.  
 12 Q. Now, what is your profession?  
 13 A. I'm a lawyer.  
 14 Q. And can you take about a minute and a half, if you  
 15 don't mind, and sort of give us a little bit of your  
 16 background and experience, whatever got you to where you are  
 17 now.  
 18 A. Sure. I've been -- it all started -- I went to  
 19 school at the University of Houston for my undergrad. And I  
 20 went to the University of Houston Law School as well,  
 21 graduated in 2015.  
 22 During my time at U of H, I interned for the  
 23 Public Defender's Office in Harris County. I clerked for the  
 24 208th District Court in Harris County for Judge Denise  
 25 Collins. I -- when I graduated, I went out -- and my dad,

1 Sam Cammack, is also a criminal defense lawyer. I got out  
 2 and started working for him. I worked for him for about  
 3 three years and then went off on my own, and I've been on my  
 4 own, I guess, for the last five years now.  
 5 And then about last year or so, I partnered  
 6 with Ben Friedman, who is my business partner. We have a  
 7 criminal and a personal injury docket. I think I've  
 8 personally, at this point in my career, handled closed to 600  
 9 cases, probably tried 15 to 20 cases, somewhere in there.  
 10 Handled appeals up at the court of appeals in Houston. I've  
 11 argued at the Court of Criminal Appeals. And that's what I  
 12 do. That's how I got here.  
 13 Q. All right. Fine. When you say you graduated from  
 14 law school in 2015 -- and I believe you said you're 37?  
 15 A. That's correct.  
 16 Q. So did you do something in between undergraduate  
 17 and law school?  
 18 A. No, I -- no, I didn't, sir. I just went straight  
 19 into law school.  
 20 Q. Okay. So when you graduated from law school in  
 21 2015, you were what age?  
 22 A. I would have been, I guess, 29.  
 23 Q. All right. So I'm still trying to fit back.  
 24 Ordinarily you'd be 25 if you went straight for col- -- did  
 25 you do something before college or so?

1 A. I went to school for two years, and then I started  
 2 working for any grandfather Sam Cammack, Sr. -- Sam Cammack,  
 3 II, for his business, and then I took -- just took a few  
 4 years off, just focused on working and making a living and  
 5 then decided to go back to school at my dad's advice.  
 6 Q. Got you. So your grandfather was in what kind of  
 7 business?  
 8 A. He was a business owner. He did a variety of  
 9 things throughout his life, but he was a commercial real  
 10 estate developer and also owned a mortgage business, and so I  
 11 worked with him over there.  
 12 Q. How long did you work for him?  
 13 A. I was there, I would say, two to three years or so  
 14 and then decided to go back to school.  
 15 Q. All right. Now, as you are aware, the time frame  
 16 we're generally here about are events in the year 2020.  
 17 At that time, how long had you been a lawyer?  
 18 A. About five years.  
 19 Q. Okay. And, by the way, I think congratulations are  
 20 due. Did you just recently get married?  
 21 A. I got married to my beautiful wife, Terri, on  
 22 September 2nd, so...  
 23 Q. So you have been married now how long?  
 24 A. A week and a half. We didn't get to do a  
 25 honeymoon.

1 Q. And -- and is your wedding one thing that sort of  
 2 set the time frame as to when you might be available as a  
 3 witness in this case?  
 4 A. Yes, sir. That's why we didn't -- I'm here so we  
 5 didn't get to honeymoon. We'll do that next year.  
 6 Q. All right. Now, at the time that -- let's say in  
 7 the period of time of August of 2020, you had been a lawyer  
 8 about five years; is that right?  
 9 A. Yes, sir, that's correct.  
 10 Q. Had you had any federal practice at that time?  
 11 A. I believe at that time I was licensed in the  
 12 Southern District, but my practice was primarily in the  
 13 county and district court, state court cases.  
 14 Q. And was it at that time exclusively criminal?  
 15 A. Yes, sir, exclusively criminal.  
 16 Q. And you've added sort of a personal injury  
 17 component to it since 2020?  
 18 A. That's correct.  
 19 Q. All right. And -- and in your criminal practice  
 20 had you ever been a prosecutor?  
 21 A. No, sir.  
 22 Q. So had your experience been literally exclusively,  
 23 as you have described, doing criminal defense work?  
 24 A. That's correct.  
 25 Q. So if you hadn't been a prosecutor, is it fair to



1 assume that maybe you had never dealt with issuing grand jury  
 2 subpoenas or dealing with a grand jury in the role of a  
 3 prosecutor?  
 4 A. I had never issued grand jury subpoenas as a  
 5 defense lawyer.  
 6 Q. Okay. Now, you probably had prepared packets  
 7 representing people for grand jury, urging them that --  
 8 whatever your client's position was, correct?  
 9 A. Yes, sir. We've presented grand jury packets to  
 10 the grand jury through the DA's Office when we turned those  
 11 over.  
 12 Q. All right. Now, at the time -- can you tell us  
 13 when you first got involved in this case now? When did you  
 14 first hear from someone and whom was it?  
 15 A. I got -- well, it would actually be on my birthday  
 16 of 2020, August 22nd. That's when I first knew about  
 17 Mr. Paxton reaching out to me. I got a call from an unknown  
 18 number on that day. I think I was out to lunch with some  
 19 friends or something. And then later that -- that evening I  
 20 got a call from a gentleman named Michael Wynne, who I knew  
 21 through the Rotary Club, and said --  
 22 Q. Yeah.  
 23 A. -- Mr. Paxton had reached out to me.  
 24 Q. Excuse me. I didn't mean to interrupt on you.  
 25 Mr. Wynne -- was Mr. Wynne already a friend of  
 13

1 yours, or an acquaintance? Would you describe -- as of  
 2 August of 2020, how would you describe your relationship with  
 3 Mr. Wynne?  
 4 A. Just a -- an acquaintance. I knew Michael -- I've  
 5 been heavily involved in the Rotary Club, which is a  
 6 charitable organization. We have a downtown Rotary Club of  
 7 Houston. I've been involved with charities for, like, the  
 8 last six years I think. And he became a member of -- that  
 9 year.  
 10 And then I had worked with Michael -- he was a  
 11 chair of the Houston Bar Association. I was a member. And  
 12 he had reached out to me, I think, earlier this summer to do  
 13 a panel on how the courts would conduct business during  
 14 COVID-19. And so I -- I reached out to Judge Rosenthal,  
 15 Judge Susan Brown, Kelly Johnson, Judge Jordan, Herb Ritchie,  
 16 and there was a gentleman from Baker Botts. But we basically  
 17 did a Zoom panel on how we would conduct business. So  
 18 those -- that was my only interaction with Mr. Wynne.  
 19 Q. All right. Did you become -- as you got to know  
 20 him, did you become familiar with the fact that he was a  
 21 former federal prosecutor?  
 22 A. Yes, sir, I did.  
 23 Q. And what was your knowledge as to his background at  
 24 the time of this call that you just described that you got  
 25 from him?  
 14

1 A. Well, at that time I really didn't -- I didn't  
 2 really know much about his background other than -- you know,  
 3 other than just -- it was more just like when I would see him  
 4 in passing, you know, at a Rotary meeting, how are you doing?  
 5 I didn't really -- it wasn't like a friendship or anything  
 6 like that. I just knew him from those two settings.  
 7 Q. Now, you mentioned your father awhile ago was and  
 8 is a lawyer. But at the time that Mr. Wynne and, ultimately,  
 9 the Attorney General reached out to you, were you in a solo  
 10 practice or were -- were you with your father?  
 11 A. I was in a solo practice at the time.  
 12 Q. And did you have a secretary or anybody, a  
 13 paralegal or anybody helping you --  
 14 A. I had a legal assistant and I had -- I think at  
 15 that time I maybe had one other lawyer working for me. And  
 16 my older brother was in law school as well, and I -- I'd  
 17 sponsored his -- I think I sponsored his bar card as a  
 18 temporary bar card or something like that.  
 19 Q. All right. So that if you got involved into a case  
 20 that involved potentially a great number of documents,  
 21 witnesses, et cetera, the support you would have had would  
 22 have been what?  
 23 A. I don't understand the question.  
 24 Q. The support groups -- I mean, what kind of legal  
 25 support would you have had in order to be able to conduct an  
 15

1 investigation or something?  
 2 A. Well, the documents that I -- I mean, I received  
 3 just personally to my email.  
 4 Q. Okay. Now, tell me the nature of your call from  
 5 Mr. Wynne.  
 6 A. Mr. Wynne had reached out to me and told me that  
 7 Mr. Paxton was trying to get in touch with me. Didn't really  
 8 say anything more than that.  
 9 The call that I had gotten on my birthday from  
 10 Mr. Paxton was from an unknown number, so there was really no  
 11 way to call back, and then it wasn't until the next day that  
 12 I spoke with him.  
 13 Q. So as a date for the jury to have, the date that  
 14 you spoke with Mr. Paxton was what date?  
 15 A. That would have been August 23rd of 2020.  
 16 Q. And, by the way, up there, did you have with you --  
 17 not that -- did you have the invoice you ultimately sent to  
 18 the Attorney General's Office?  
 19 A. No, sir.  
 20 Q. Did you bring it to the stand with you?  
 21 A. No, sir. I don't have anything --  
 22 Q. All right.  
 23 A. -- in front of me.  
 24 Q. Do you -- do you want or need that as a point of  
 25 reference for dates? Or if you don't, that's fine. Or would  
 16

1 you like to have available a copy in order to periodically  
 2 check things? It's totally up to you.  
 3 A. I'll take it, sure.  
 4 Q. Pardon me?  
 5 A. I'll take it, yes, sir.  
 6 Q. Okay.  
 7 MR. COGDELL: Mr. Hardin, this is his bill?  
 8 MR. HARDIN: This is Exhibit 227, which I move  
 9 to introduce if it is not in evidence.  
 10 MR. COGDELL: No -- no objection.  
 11 PRESIDING OFFICER: Admit Exhibit 227 into  
 12 evidence.  
 13 (HBOM Exhibit No. 227 was admitted)  
 14 Q. (BY MR. HARDIN) Now, I'm not going to really  
 15 regularly be talking to you about this necessarily, but I'm  
 16 offering it to you as periodically if it helps you plug in  
 17 some dates.  
 18 A. Okay.  
 19 Q. Have you -- in a conversation previously, have you  
 20 sometimes referred to this to make sure you were comfortable  
 21 with certain dates?  
 22 A. Yes, sir. With respect to the dates, this would be  
 23 helpful --  
 24 Q. All right.  
 25 A. -- to try to help me remember.

17

1 Q. Now, let's go to the first -- by the way, did you  
 2 learn as you went along -- thank you, Stella -- that  
 3 Mr. Wynne was the one who recommended you to the Attorney  
 4 General?  
 5 A. Yes, sir. Mr. Paxton told me that when I met him.  
 6 Q. All right. So now let's go to that conversation,  
 7 your first conversation with the then Attorney General  
 8 Mr. Paxton.  
 9 Did you return his call or did he call you?  
 10 A. I believe I returned his call. I returned his call  
 11 the next day, and we spoke. And he asked me to -- he  
 12 said he would -- you know, he had gotten my name from Michael  
 13 Wynne. I think the words were, you know, your name was  
 14 dropped in the hat by Michael Wynne, and I'm looking to hire  
 15 someone to work on a criminal investigation. And we  
 16 scheduled a time for me to come out to Austin here to his  
 17 office.  
 18 Q. So five-year lawyer, solo practice, what was your  
 19 reaction?  
 20 A. I mean, I was -- I was excited because, you know,  
 21 it was the Attorney General's Office and so I was excited for  
 22 the opportunity to go out and meet him.  
 23 Q. All right. And did you do so?  
 24 A. I did.  
 25 Q. And when did you do it?

18

1 A. I believe that was August 26th. Our meeting was on  
 2 August 26th.  
 3 Q. All right. And in the August 26th meeting -- hold  
 4 on just a second.  
 5 All right. So tell me about that. Did you  
 6 drive up to Austin or up to here?  
 7 A. Yes, sir. I drove out to Austin.  
 8 Q. Did you go anywhere else first?  
 9 A. No, sir, just came straight to meet --  
 10 Q. Straight to the Attorney General's Office?  
 11 A. That's correct.  
 12 Q. All right. Describe for us that meeting.  
 13 A. So I -- I went in. I signed in in the front desk,  
 14 and then I went up to the floor where his office is. And I  
 15 think I waited around maybe 15 or 20 minutes, and then  
 16 Mr. Paxton came to the floor and we went into his office.  
 17 And then --  
 18 Q. All right. Who was in the initial meeting between  
 19 you and Mr. Paxton?  
 20 A. It was just me and Mr. Paxton in his office.  
 21 Q. Do you recall about what time of day you talked to  
 22 him?  
 23 A. I think that would have been -- I -- I don't recall  
 24 the exact time --  
 25 Q. All right.

19

1 A. -- but maybe around lunchtime, somewhere in there.  
 2 Q. Okay. Now, what did Mr. Paxton say?  
 3 A. So -- so before I got there, he had actually  
 4 reached out to me, like, through text messages and said, Can  
 5 you bring a resume with you? And I was, like, Well, I  
 6 haven't prepared a resume in a long time. But I went ahead  
 7 and prepared one and I brought my resume in. And then it was  
 8 kind of like, you know, our conversation we're having now,  
 9 where are you from, what do you do, your background. I gave  
 10 him my resume and just kind of pleasantries. And then he  
 11 said that he was looking to hire a special prosecutor to  
 12 investigate a criminal case where potentially there were  
 13 potential violations of the Texas Penal Code.  
 14 Q. And you mentioned special prosecutor. Was that his  
 15 word?  
 16 A. Yes, sir.  
 17 Q. And so, of course, you hadn't been hired at that  
 18 time, but later when you were, whenever you represented  
 19 yourself as a special prosecutor, where did that term come  
 20 from?  
 21 A. Mr. Paxton.  
 22 Q. All right. And did he tell you what the role of  
 23 this special prosecutor he was interviewing you for would be?  
 24 A. No, sir. Not -- I mean, not -- not really.  
 25 Q. Initially when he talked about this job, what did

20

1 you think it was going to entail?  
 2 A. My understanding -- well, this was just an  
 3 assumption. I was, like, well, if I'm going to be hired as a  
 4 special prosecutor, I would potentially be presenting the  
 5 case to a jury maybe at some point or presenting the case to  
 6 be charged.  
 7 Q. All right.  
 8 A. That was my initial impression.  
 9 Q. And he didn't tell you otherwise at that time?  
 10 A. That was -- like I said, sir, that was just my  
 11 assumption of what the job would entail.  
 12 Q. All right. And then how long would you estimate  
 13 you talked to him in this initial meeting in his office?  
 14 A. Roughly 15 or 20 minutes.  
 15 Q. Did he express anything -- any views about his own  
 16 staff or why he was hiring somebody from outside?  
 17 A. Yes, sir. He said that he was interviewing  
 18 multiple people -- considering multiple people for the  
 19 position and that he couldn't get his own -- his own staff  
 20 would not work on what he wanted them to work on.  
 21 Q. All right. He said they would not work on it?  
 22 A. That's correct. And he mentioned that, you know,  
 23 he just wanted to find out the truth and -- about what  
 24 happened.  
 25 Q. Okay. Do you recall anything else from the

21

1 conversation in that initial meeting?  
 2 A. No, sir. I mean, that's --  
 3 Q. All right. And then did you -- what happened after  
 4 you had this original meeting with him in his office by  
 5 himself?  
 6 A. He said, I want to introduce you to someone. I,  
 7 obviously, knew who Mr. Paxton was; and he said, I want to  
 8 introduce you to this first assistant, Jeff Mateer, whose  
 9 office was down the hall. So he walked me over there and  
 10 I -- I met with Mr. Mateer in his office, just Mr. Mateer and  
 11 I.  
 12 Q. And how would you characterize or describe  
 13 Mr. Mateer's reaction when he came in and introduced you?  
 14 A. It was the same type of conversation, pleasantries,  
 15 how are you. You know, I gave him my resume. You know, I  
 16 told him, you know, some -- the conversation kind of didn't  
 17 really get off the ground much, just like I'm here for the  
 18 special prosecutor -- to interview for the special prosecutor  
 19 position. And his attitude was kind of like disengaged about  
 20 it. He didn't really seem -- knew about it, but didn't  
 21 really seem interested in it. I'd say, you know, kind of  
 22 just like it was Mr. Paxton's own deal that he was focused  
 23 on.  
 24 Q. All right.  
 25 A. It wasn't an area -- obviously wasn't an area of

22

1 focus or concern for Mr. Mateer.  
 2 Q. Did it strike you in any way as if his  
 3 attitude was --  
 4 MR. COGDELL: Objection.  
 5 Q. (BY MR. HARDIN) -- well, this is -- this is  
 6 Mr. Paxton's deal? He's not that interested in it?  
 7 MR. COGDELL: Objection --  
 8 PRESIDING OFFICER: Sustained.  
 9 MR. COGDELL: Thank you.  
 10 Q. (BY MR. HARDIN) Tell me how it did strike you.  
 11 A. I'm sorry, sir?  
 12 Q. How did it strike you as to Mr. Mateer's  
 13 involvement in it?  
 14 A. Just he was just very disengaged about -- did not  
 15 seem interested in it at all, seemed like it was just kind of  
 16 a side deal that Mr. Paxton was working on. It was his own  
 17 focus. Mr. Mateer was not focused on it at all.  
 18 Q. How long would you think you were in Mr. Mateer's  
 19 office?  
 20 A. I'd say roughly 20 minutes.  
 21 Q. Had Mr. Paxton left you there by yourself with  
 22 Mr. Mateer?  
 23 A. Yes, sir.  
 24 Q. And then what happened after you finished meeting  
 25 Mr. Mateer?

23

1 A. I went back over to Mr. Paxton's office and he was  
 2 in there, just him and I. And, you know, I said goodbye.  
 3 Thank you for the opportunity. Thanks for calling me up.  
 4 And he said, Okay. We might be in touch with you. So I  
 5 drove back to Houston.  
 6 Q. All right. So how did -- how was it left when this  
 7 was all over in that first meeting?  
 8 A. How -- I'm sorry, how was it left?  
 9 Q. How was it left? What was supposed to happen next?  
 10 A. Well, I really didn't know. I mean, I looked at it  
 11 like, okay, I just interviewed with Mr. Paxton and the first  
 12 assistant, and so if they want to talk to me, they know how  
 13 to get in touch with me. That's --  
 14 Q. All right. So you left, obviously. What's the  
 15 next thing that happened in connection with this case?  
 16 A. I got a -- I got a text message from a gentleman  
 17 named Mr. Vassar a couple of days later asking me to set up a  
 18 time to meet with him.  
 19 Q. Do you recall the time -- the date or so that you  
 20 got the text message?  
 21 A. That would have been -- that would have been August  
 22 26th or -7th, I believe. It was just -- well, August 28th  
 23 maybe, 27th, 28th.  
 24 Q. I'm looking down at Exhibit 227, and I notice it  
 25 looks like the first time you charged was 9-3. So did you

24

1 have some -- did you choose not to bill the State for that  
2 first meeting or two when you went up there?

3 A. That's correct. And also I'd like to say, that's  
4 a -- that's a typo, that 9-3-20 date. The date that I  
5 actually went out there for the meeting was 9-4-20. So I  
6 made a typo there.

7 Q. Okay. All right. Now, at the -- once you got  
8 back, you got the text from Mr. Vassar, what happened next?

9 A. So we scheduled a time to speak on the phone that  
10 day. That's what the text message was about. And we got on  
11 a call together.

12 Q. All right. And did you ultimately send a draft --  
13 receive a contract or proposed contract from Mr. Vassar?

14 A. Yes, sir. He asked me for my email address on that  
15 phone call, and, you know, I told him, you know, this is  
16 about the special prosecutor position. He agreed. And then  
17 he said, Well, I'm going to be -- I need your email address.  
18 I'm going to be working on the contract for you.

19 Q. Okay. Did you receive that contract?

20 A. So, yes, sir, I did.

21 Q. When?

22 A. Well, I got the contract on -- on 9-3, September  
23 3rd, but I didn't -- it must have got lost -- I get hundreds  
24 of emails. It just got lost in the shuffle somewhere. So  
25 Mr. Paxton actually reached out to me on 9-3 and said, Did

25

1 you get the contract, by text message. And I said no.  
2 Because I was supposed to go out there on 9-4 to meet with  
3 the complainant, Mr. Paul, and also Mr. Paxton.

4 So the short answer is I got the contract, I  
5 just didn't see it that day. It got lost in the shuffle  
6 somewhere.

7 Q. All right. So tell me about how this -- this  
8 appointment or arrangement set up for 9-4. Whose idea was  
9 that?

10 A. So I got -- I got a call from Mr. Paxton. And it  
11 was kind of, like, Hey, we want you to do this job and --

12 Q. Excuse me for interrupting. Did you consider that  
13 the notice to you that you'd now been hired?

14 A. Yes, because he said I would be getting a contract.  
15 You got the job. And he asked me, you know, What -- what's  
16 the hourly rate that you would charge to do this? And I  
17 said, Well, I'll do it, you know, for \$300 an hour; and he  
18 said, I think we can get that for you.

19 Q. Now, you might -- I'm just guessing, you correct me  
20 if I'm wrong. In your criminal practice, customarily your  
21 billing, were you charging people hourly ordinarily or was it  
22 usually some type of flat-fee arrangement?

23 A. On criminal cases, flat fee; on personal injury  
24 cases, contingency fee.

25 Q. So did you have experience in charging that fee of

26

1 300 an hour or were you just sort of guessing?

2 A. It wasn't guessing. I just was trying to consider,  
3 you know, what was going to need to be done in the case.

4 Q. Okay. Okay.

5 A. I mean, and so I figured -- I landed on 300. I  
6 thought that was fair.

7 Q. All right. Now, when you had that -- how long did  
8 that phone call that you're describing? That was your  
9 second -- was that your second call with Mr. Paxton?

10 A. Yes, sir.

11 Q. All right. And then how long did that call last?

12 A. I don't recall. It wasn't very long, a few minutes  
13 maybe.

14 Q. You gave him your hourly rate. And then was there  
15 an appointment made for when?

16 A. So there was an appointment made on -- for 9-4,  
17 September 4th, 2020.

18 Q. Who picked that date?

19 A. We agreed to that date because I was going to meet  
20 the complainant -- or Mr. Paul that morning. And so after --  
21 you know, I'm in Houston, so there's -- I'm driving back and  
22 forth. I try to do -- meet them both the same day, so...

23 Q. Had you already -- when did you receive Mr. Paul's  
24 name as the person that you were going to be -- that you say  
25 complainant. In other words, describe what you meant by that

27

1 when you said he was the complainant.

2 A. Well, he was the one who had made the complaint or  
3 the allegations and so I viewed him as the complainant.

4 Q. All right. Had you seen any document as yet  
5 connected with the case?

6 A. No, sir.

7 Q. And so do you recall when you first received  
8 Mr. Paul's name?

9 A. That would have been from Michael Wynne when I set  
10 the meeting up to go out there and visit with him for -- with  
11 Mr. Wynne for the first time -- Mr. Paul for the first time.

12 Q. All right. Who set up the meeting with Mr. Paul?

13 A. Mr. Wynne.

14 Q. And did you inform the Attorney General that you  
15 were going to also meet Mr. Paul before you met him on the  
16 4th?

17 A. I did.

18 Q. When did you do that?

19 A. I don't recall. It was within one of those days.

20 Q. Would it have been -- would it have been the day  
21 that you talked to him about coming up on the 4th?

22 A. Yes, sir.

23 Q. Okay. So did you inform him that he was going --  
24 you were going first to Mr. Paul and then coming to the  
25 Attorney General?

28

1 A. That's correct.  
 2 Q. So tell us about your first meeting with Mr. Paul.  
 3 How did that happen and where?  
 4 A. So I met Mr. Paul at his office with Michael Wynne.  
 5 And, yeah, I drove out here early in the morning. I met with  
 6 him for, I'd say, hour and a half, two hours. And that was  
 7 the initial time that I -- you know, I heard the allegations  
 8 about their complaint.  
 9 Q. Had you done any research on Mr. Paul, his  
 10 background, who he was, et cetera, before you had this first  
 11 meeting with him?  
 12 A. I think I may have Googled his name and read a  
 13 headline or something like that.  
 14 Q. But did you limit your looking into him to Google  
 15 him? Is that about the only thing you remember doing at that  
 16 stage?  
 17 A. Yes. I didn't look at any court records or  
 18 anything. I mean, that's all that I did.  
 19 Q. And what was your level of knowledge about him when  
 20 you first went to meet him on the --  
 21 A. That he was --  
 22 Q. -- 4th?  
 23 A. -- a commercial real estate developer here in  
 24 Austin.  
 25 Q. Okay. Did you see that he was -- that he had had a

1 search warrant executed on his house and business back in  
 2 August?  
 3 A. No, sir.  
 4 Q. So what was your level of knowledge of Mr. -- of  
 5 Mr. Paul at the time you met him that first time, whether you  
 6 got it from the Attorney General or anyone else?  
 7 A. I mean, I didn't know him, didn't know anything  
 8 about him.  
 9 Q. Okay. And where did you meet him?  
 10 A. At his office.  
 11 Q. Who was present during the meeting?  
 12 A. It was Mr. Paul and Mr. Wynne.  
 13 Q. All right. So what happened at the meeting?  
 14 Without going in necessarily at this time with what he said  
 15 to you, what was the nature of the bill -- who did most of  
 16 the talking in the meeting?  
 17 A. Nate Paul did most of the talking. And it was --  
 18 it was just a lot of information given to me in a short time  
 19 period.  
 20 Q. Well, how was he doing that? I mean, how were you  
 21 given information?  
 22 A. He was talking about -- he was just talking, trying  
 23 to tell me, you know, the circumstances surrounding the  
 24 search of his home.  
 25 Q. Did he make any presentation to you?

1 A. Towards the end, he showed me a copy of a search  
 2 warrant and an order, and that was kind of the gist of -- of  
 3 his complaint. He showed me this presentation on a pdf  
 4 document.  
 5 Q. And so if you had to estimate the time that you  
 6 visited with Mr. Paul at that time to get his -- whatever he  
 7 wanted to impart to you, how much of that hour and a half or  
 8 hour and 45 meeting was Mr. Paul talking to you?  
 9 A. I don't understand. Like a percentage --  
 10 Q. Yes.  
 11 A. -- type thing?  
 12 Q. Yes.  
 13 A. Let's just say he was talking the majority of the  
 14 time. Mr. Wynne was not --  
 15 Q. And -- and how would -- what was your first  
 16 impression of Mr. Paul? How would you describe what you saw  
 17 or listened to in this meeting?  
 18 A. Energetic, passionate, and had a lot of conviction,  
 19 kind of an aggressive attitude, you know, just very, you  
 20 know, energetic person.  
 21 Q. And what was your reaction when you left? Let me  
 22 ask you this: Did he basically give you his side of the  
 23 matter that you had been retained to investigate?  
 24 A. That's correct.  
 25 Q. And what was your reaction to it?

1 A. I mean, I was convinced by what I was shown in the  
 2 search warrant presentation and all that.  
 3 Q. So when you left, did you -- to go talk to the  
 4 Attorney General, what was your -- had you already formed a  
 5 personal belief as to what you thought was going on here?  
 6 A. No, not a personal belief. I -- I was just, like,  
 7 hey, if -- if what he's showing me on how the search warrant  
 8 was altered is true, this is a big deal.  
 9 Q. Okay. And did you at that time say to anybody or  
 10 think that it looks like they did some bad stuff?  
 11 A. I had not developed an opinion about it one way or  
 12 the other. I mean, that was my first time. You know, it was  
 13 kind of like drinking through a fire hose, just a ton of  
 14 information coming in a short time.  
 15 And I -- when I went to Mr. Paxton's office  
 16 after that, I told him it was convincing, and he agreed.  
 17 Q. Okay. So just let's move now to General Paxton --  
 18 your meeting with General Paxton on the 4th of September, was  
 19 it?  
 20 A. That's correct.  
 21 Q. What -- how long was that meeting? Where did you  
 22 meet with -- meet him?  
 23 A. So we arranged to meet at his office again, and the  
 24 meeting was, I think, roughly 20 minutes or so.  
 25 Q. And then what did Mr. Paxton say in that meeting?

1 A. So I told him I was convinced pretty -- it was a  
2 convincing presentation of what he -- he agreed with that.  
3 He also said that the people in his office who were not --  
4 they weren't doing -- they weren't investigating the case.  
5 They weren't working on it.

6 You know, at that point I had learned that  
7 there were some federal agents and people, I guess, in  
8 positions of power who were kind of involved in that, and he  
9 made a comment that you need to have some guts to work on a  
10 case like this. And I was fired up about the opportunity to  
11 do it.

12 Q. So how would you describe to the jury and the Court  
13 your level now of excitement? Now that you've got a little  
14 bit of an idea of what -- what Mr. Paul says, you and the  
15 Attorney General have agreed it's convincing, and you think  
16 this is going to be a big deal. How -- how -- what was your  
17 state of mind about that?

18 A. I was excited to be working on a project with the  
19 Attorney General's Office.

20 Q. You were already there, right?

21 A. I mean, it's the chief law enforcement officer of  
22 our state. And, you know, it wasn't about money or anything  
23 like that. It was just an opportunity to do something new in  
24 my career and -- and try to help out.

25 Q. All right. And when he said that you -- his people  
33

1 there with me to the press conference. And so I went over  
2 there with -- with him and with -- one of his staff came over  
3 to the press conference. And then after that, we went back  
4 to the office. I just kind of watched the press conference.

5 Q. All right. So now not only have you been hired by  
6 the Attorney General, but you're going to a press conference  
7 with him. How did that make you feel?

8 A. Well, I mean, I've been with my dad in press  
9 conferences before in some of his high-profile cases, but it  
10 was -- it was cool, yeah.

11 Q. Okay. All right. Now, did -- did you think  
12 anything about -- let me back up.

13 So you had 20 minutes or so to talk to him  
14 about the case. Did y'all talk about any of the facts in the  
15 meeting before the press conference?

16 A. No. I -- I did not really have a full grasp on all  
17 of the people that were involved and all of the facts of the  
18 case at that point. Just --

19 Q. Now, what -- what was your impression or belief at  
20 that time as to the occupations or nature of the people you  
21 were supposed to investigate?

22 A. I knew that they were -- they were both local law  
23 enforcement and some of them were federal law enforcement  
24 officers at the time.

25 Q. Did you know that one of his allegations was about  
35

1 weren't working on it, did he express anything about how he  
2 felt about that to you or tell you whether they were not  
3 working on it or they wouldn't work on it? In your own  
4 words, what did he say?

5 A. Well, I just -- I don't recall specifically, but  
6 he -- you know, he said that he couldn't get the people in  
7 his office to work on this case.

8 Q. Okay. And did you leave that meeting with the  
9 impression or feeling that his people were refusing to work  
10 on it?

11 A. Yes. Yes, sir.

12 Q. Did you wonder, well, if they're not going to work  
13 on it, why don't you fire them?

14 A. I mean, I --

15 Q. You didn't think about that?

16 A. No, sir.

17 Q. All right. Okay. Now, after that meeting -- did  
18 that meeting get terminated a little early? Or tell me. You  
19 said it was about 20 minutes.

20 A. He said he --

21 Q. Excuse me just a second. You've driven all the way  
22 up from Houston from it -- for it. What happened to shorten  
23 it a little bit?

24 A. He had to go to a press conference, and I was going  
25 to take off. And he said, Well, why don't you just come over  
34

1 a federal magistrate?

2 A. Yes, sir.

3 Q. What was your reaction to hearing he wanted you  
4 involved -- investigate a federal judge?

5 A. My reaction to it was just hearing out their side  
6 of the story. I didn't really have an opinion one way or the  
7 other. However, if the allegations that they were making  
8 were true, then that would be -- that would be serious.

9 Q. Okay. Now, did he talk about any -- any -- in that  
10 conversation, any of -- either Mr. Paul or him, of any people  
11 other than federal and local law enforcement being the people  
12 he wanted investigated?

13 A. No, sir.

14 Q. After the press conference, did y'all -- how much  
15 longer were you in the company of the Attorney General?

16 A. I think probably 15 or 20 minutes. We went -- we  
17 went back to his office and finished up the conversation  
18 there.

19 Q. Well, what happened in that conversation?

20 A. When we got back to the office -- excuse me. When  
21 we got back to the office, I was -- I was a little bit  
22 concerned because at the time I think I had roughly -- I'm in  
23 A private practice. I think I had roughly 75 cases on my own  
24 docket. And I told them, I'm, like, well, if I'm coming back  
25 and forth between Houston and Austin, I -- you know, how am I  
36

1 going to be able to do this? And he said, Well, look -- his  
 2 words were, If you can just get a wet ink copy of the  
 3 original search warrant, this may -- will be over pretty  
 4 quickly and if -- meaning that -- I'm sorry.  
 5 Q. No. Go ahead.  
 6 A. Well, just if what had been produced to Nate Paul  
 7 and his lawyers matched up with the original copy, it would  
 8 be over quickly. But, obviously, if there were discrepancies  
 9 between the original wet ink copy, in his words, then this  
 10 thing could drag out a little bit more.  
 11 Q. So what did you think you were going to do  
 12 originally then?  
 13 And, by the way, had you ever heard the  
 14 phrase -- and maybe it's very common -- "I had a wet copy"?  
 15 What -- is that what he said, a wet copy?  
 16 A. A wet ink copy.  
 17 Q. What does that mean? What did you take it to mean?  
 18 A. Just the original search warrants that were signed  
 19 off by the judge had, you know, a wet ink signature on it.  
 20 Q. Okay.  
 21 A. Not the scanned pdf version.  
 22 Q. All right. So what did you walk out of that  
 23 meeting, heading back in a car to Houston, did you think your  
 24 mission was?  
 25 A. So we really didn't go into the scope of my -- of

1 the work. At that point -- it wasn't until I actually got --  
 2 so the copy of the contract had been sitting in my inbox. So  
 3 when I get back home and I read my contract and see that the  
 4 scope is limited to like more of an investigative role, then  
 5 I'm like, okay, well, I'm a lawyer, I'm just going to collect  
 6 evidence, review evidence that's presented to me, and draw  
 7 some type of conclusion. Either corroborate what the  
 8 allegation is or contradict that and put it in a brief and  
 9 submit it. So I knew at that point once I read my contract,  
 10 that I wouldn't be trying a case or anything like that. It  
 11 was limited in scope.  
 12 MR. HARDIN: Can you put the -- the  
 13 original -- the contract up and go to the Addendum A, please.  
 14 I believe the contract is in evidence in several ways.  
 15 MR. COGDELL: Is this in, Mr. Hardin? Do you  
 16 know?  
 17 MR. HARDIN: Pardon me?  
 18 MR. COGDELL: Is it in?  
 19 MR. HARDIN: I think it is.  
 20 MR. COGDELL: I'm not contradicting you. I  
 21 just don't know.  
 22 MR. HARDIN: I'll check. Hold on a second.  
 23 MR. COGDELL: Can we get an exhibit number,  
 24 Rusty?  
 25 MR. HARDIN: 160.

1 PRESIDING OFFICER: It is in.  
 2 MR. HARDIN: It's House 160, and it's in  
 3 evidence.  
 4 MR. COGDELL: Thank you.  
 5 Q. (BY MR. HARDIN) Now, do you recognize what I --  
 6 this particular excerpt from the contract?  
 7 A. Yes, sir.  
 8 Q. All right. And when you --  
 9 MR. HARDIN: If you could scroll up -- yeah.  
 10 That's going to be good.  
 11 Q. (BY MR. HARDIN) When you -- can you explain to the  
 12 jury what you realized your scope was more limited when you  
 13 saw this, I take it you're saying, than you originally  
 14 imagined your role would be?  
 15 A. Just in an investigative role. And then my  
 16 ultimate goal or job at the end of this would be to prepare a  
 17 report of my findings and give that to the Attorney General's  
 18 Office. And whatever they do with it is --  
 19 Q. And was this scope different than what you  
 20 understood it to be when you originally talked to the  
 21 Attorney General?  
 22 A. This was different than what I had, I guess, come  
 23 up with my mind, you know --  
 24 Q. Can you --  
 25 A. -- what I would be doing.

1 Q. Can you -- have -- tell us what lines or sentences  
 2 there, Mr. Cammack, so she can highlight exactly what you  
 3 noticed when you saw that it was changed -- a little bit  
 4 changed in the scope of what you could do.  
 5 A. Can I have a second just to look at this and read  
 6 it?  
 7 Q. So, for instance, do you see the sentence, if you  
 8 would, "prepare a report documenting any potential criminal  
 9 charges that may be discovered in the course of the  
 10 investigation"? Do you see that? And before it.  
 11 A. But that's the -- yes, sir. So that's like the  
 12 report I was referring to.  
 13 Q. Okay. And that is a more restricted role -- is it  
 14 your testimony that's really a more restricted role than you  
 15 understood from the Attorney General you were originally  
 16 going to have?  
 17 A. I'm sorry. Could you repeat the question?  
 18 Q. Is that a more restricted role than you originally  
 19 thought you were going to have when you talked to the  
 20 Attorney General?  
 21 A. Yes, sir.  
 22 Q. Okay. Now, you notice it says, Notwithstanding  
 23 anything to the contrary contained in this outside counsel  
 24 contract. Outside counsel shall conduct this investigation  
 25 only as consistent with the complaint referred to the OAG and

1 only as directed by the OAG, correct?  
 2 So were you -- who did you believe you were  
 3 being hired by?  
 4 A. The Office of the Attorney General.  
 5 Q. Did you have any contact with the district  
 6 attorney's office?  
 7 A. No, sir.  
 8 Q. Did you ever at any time during this representation  
 9 think you were working for the district attorney's office?  
 10 A. No, sir.  
 11 Q. Throughout your representation in this matter, whom  
 12 did you think -- or whom -- who hired you and whom did you  
 13 think you were working for?  
 14 A. The Office of the Attorney General.  
 15 Q. All right. And in turn throughout all of this, who  
 16 in the Attorney General's Office in a position of  
 17 responsibility did you consistently have your contact with?  
 18 A. The only person I reported to was Mr. Paxton at his  
 19 direction.  
 20 Q. Okay. Now, do you see, Except for outside  
 21 counsel's duty to provide a post-investigation report, this  
 22 outside-counsel contract expressly excludes legal services  
 23 relating to any other post-investigation activities  
 24 including, but not limited to, indictment and prosecution?  
 25 Had you, yourself, looked into the law that

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1 remember when I spoke with Mr. Paul and Mr. Wynne at the  
 2 meeting, if it was before or after that. But when I got it,  
 3 it was related to some type of alleged mortgage fraud where  
 4 these lenders were wrongfully foreclosing on his properties  
 5 and then trying to sell it at the auction. I -- I don't  
 6 recall any more detail than that.  
 7 Q. All right. And when you looked at that one, of  
 8 course, who was the complainant, the person who was  
 9 complaining about the criminal conduct and wanted it  
 10 investigated?  
 11 A. It was also Nate Paul.  
 12 Q. Now, when you looked at it, did you see that it was  
 13 essentially a complaint about civil litigation matters?  
 14 A. Are you -- I'm sorry. Could you repeat it?  
 15 Q. Yeah. And I'm really only asking about your  
 16 mindset --  
 17 A. Yes, sir.  
 18 Q. -- not one way -- one way or the other.  
 19 A. Okay.  
 20 Q. Did you notice whether it actually was a complaint  
 21 about civil litigation matters in bankruptcy court?  
 22 A. Well, I wasn't looking at it through that lens at  
 23 all. And to be frank with you, I -- I didn't have any  
 24 experience in handling any type of mortgage fraud or  
 25 prosecuting any type of potential white-collar crime in that

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1 talked about the jurisdiction -- respective jurisdictions of  
 2 a district attorney's office and the Attorney General's  
 3 Office?  
 4 A. No, sir.  
 5 Q. Did you ever?  
 6 A. No, sir.  
 7 Q. Okay. In this particular matter, what event did  
 8 you think you were going to be investigating?  
 9 A. The -- the referral from Travis County DA's Office  
 10 with respect to this allegedly unlawful search.  
 11 Q. All right. And then later did you -- did you  
 12 receive another referral, what's been called referral number  
 13 two?  
 14 A. Yes, sir.  
 15 Q. Now, that's dated September the 23rd. Do you  
 16 happen to recall when you received it?  
 17 A. I think I got that on 9-24.  
 18 Q. Okay.  
 19 A. On an email from a -- from the Travis County DA's  
 20 Office.  
 21 Q. And was that a totally different matter than you  
 22 were originally hired to investigate?  
 23 A. Yes, sir.  
 24 Q. When you got that, what was your response?  
 25 A. Well, I read through it and I just -- I don't

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1 way.  
 2 Q. All right. So did you just sort of put it aside  
 3 and not ultimately do anything with it?  
 4 A. No, sir, that -- that's not true.  
 5 Q. Okay. Well, tell me, in your words.  
 6 A. Well, I spoke with Mr. Paxton about the referral  
 7 because I wasn't sure if my scope of my contract covered  
 8 that.  
 9 Q. Certainly.  
 10 A. And so, you know, he said that it did. And so I  
 11 was like, well, I'm going to rise to the occasion, I'm going  
 12 to figure this out.  
 13 Q. All right. So let me see if we can go through the  
 14 mindset or experience for you.  
 15 You see a referral on a separate matter which  
 16 is not the one you were originally hired for, correct?  
 17 A. Yes, sir.  
 18 Q. And you receive it on September 24th. And you  
 19 notice it's an allegation of mortgage fraud occurred in  
 20 bankruptcy court. You see that?  
 21 A. Yes, sir.  
 22 Q. So how did you find out what the Attorney General  
 23 felt about it? Did you call him?  
 24 A. Yes, sir. I mean, I -- I -- I'm sorry, but I don't  
 25 remember the exact date.

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1 Q. That's okay.  
 2 A. But I asked him -- I know for sure that I asked him  
 3 if that was covered within the scope of my contract, and he  
 4 said yes.  
 5 Q. Do you remember when that conversation was and what  
 6 the rest of the conversation was?  
 7 A. I would just have to give you an approximation. It  
 8 was roughly around the time that I received the contract on  
 9 9-24, either the day before or day after or the day of,  
 10 somewhere in that 23 to 25th range.  
 11 Q. And do you recall what the occasion of that  
 12 conversation with him was somewhere around the 24th of  
 13 September? Did you call him explicitly for that -- about  
 14 whether this was -- this referral number two was in your  
 15 contract or were there other things that y'all talked about  
 16 as well?  
 17 A. I -- I don't recall the entire nature of that  
 18 specific call.  
 19 Q. Okay. Did you notice when you looked at referral  
 20 two, that one of the people he was refer -- that he was  
 21 asking to be criminally investigated was a federal bankruptcy  
 22 judge named Tony Davis?  
 23 A. No, sir.  
 24 Q. You -- you didn't notice at that time?  
 25 A. No, sir.

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1 Q. Okay. Did that referral, just like the first  
 2 referral, have a list of people that Mr. Paul claimed were  
 3 people of interest?  
 4 A. It did, yes, sir.  
 5 Q. All right. And did it list these people -- do you  
 6 recall whether, when it listed them, whether it listed  
 7 actually personal data, like their address and their phone  
 8 numbers?  
 9 A. I don't recall if that was in the referral or not.  
 10 Q. All right. You don't remember whether that was in  
 11 referral number two; is that what you're saying?  
 12 A. Yes, sir.  
 13 Q. All right. Was that the case in referral number  
 14 one?  
 15 A. Yes, sir. There were some -- there were names and,  
 16 I believe, some demographic information --  
 17 Q. All right.  
 18 A. -- in the first one. I just -- I don't recall.  
 19 Q. Now, in referral number -- let's go back now to the  
 20 period a little before September 24th when we were talking  
 21 about the original referral.  
 22 After you returned -- did you receive any type  
 23 of documents and materials to -- materials to review when you  
 24 left the meeting with both -- with Mr. Paul back on the 4th  
 25 of September?

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1 A. Yes, sir.  
 2 Q. Can -- can you tell us what kind of materials he  
 3 gave you that you took back to Houston to review?  
 4 A. So I -- I had taken my handwritten notes from the  
 5 meeting back with me, and then I also received like a little  
 6 five- or six-page document that appeared to be some type of  
 7 time line of events giving -- giving Mr. Nate Paul's version  
 8 about what happened.  
 9 Q. All right. Now, did you take that just as his  
 10 version?  
 11 A. Yes, sir.  
 12 Q. All right. But when you left there, what did  
 13 you -- did you have -- when you left there and then on the  
 14 4th and after your meeting with the Attorney General, had you  
 15 developed sort of a game plan in your own mind as to how you  
 16 were going to do the investigation?  
 17 A. So I did. I was trying to consider, you know, how  
 18 to -- to get information to either corroborate or contradict  
 19 what was being said.  
 20 Q. All right. And -- and did you -- tell us how you  
 21 viewed the role of Mr. Paul and his lawyer Mr. Wynne in this,  
 22 in terms of how they were -- what role were they to play in  
 23 the upcoming investigation?  
 24 A. Well, I viewed Mr. Paul as the complainant. He's  
 25 the one who was complaining of these allegations. And then,

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1 you know, Mr. Wynne was his attorney in some other separate  
 2 matter.  
 3 Q. Did you -- how did you view your role as the  
 4 Attorney General as -- did you look at them almost as a  
 5 client in terms of sharing -- them sharing information with  
 6 you and all? How would you describe that in your own words?  
 7 A. With -- I'm sorry, with who?  
 8 Q. With Mr. Paul.  
 9 A. Okay.  
 10 Q. And, of course, Mr. Wynne is his lawyer, but in  
 11 your view of the -- did you consider yourself as like a  
 12 prosecutor and a citizen had come in and made a complaint?  
 13 A. I viewed him as a complainant in the case and just  
 14 in the same way that if a client hires me for a case and they  
 15 bring in a banker's box full of documents and information,  
 16 I'm going to go through it. And so I didn't think that it  
 17 was unusual that I would be getting information from the  
 18 complainant and his attorney. And as I got that information,  
 19 you know, I thought this was the same information that  
 20 Mr. Penley had had.  
 21 Q. Yes. Had you met Mr. Penley?  
 22 A. No, sir.  
 23 Q. Did you ever meet him?  
 24 A. No, sir.  
 25 Q. All right. So when you originally were hired by

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1 the Attorney General, did you make a certain assumption as to  
2 what your role and Mr. Penley's would be?

3 A. Well, I thought I would meet Mr. Penley at some  
4 point. I remember -- I asked Mr. Paxton in that first -- or  
5 that second meeting if -- if I'd be meeting -- you know,  
6 if -- am I going to talk to him? Does he have a file that I  
7 can start working with?

8 And his response was, yeah, I think he's out  
9 of town and -- but he had a file on his desk. So I did  
10 assume at some point that I would meet Mr. Penley and take a  
11 look at his file.

12 Q. Well, did you assume originally that you would be  
13 working with the Attorney General's staff as you gathered  
14 information and that that would mean that you'd be working  
15 with the division head?

16 A. I did. I mean, obviously, as a solo practitioner I  
17 don't have access to a lot of the resources that government  
18 offices has. And so I thought at some point I would be  
19 dealing with or meeting with some of these individuals.

20 Q. Right. And so did you just assume that Mr. Penley  
21 was being kept informed as to what was going on here?

22 A. I didn't really think about that at the time.

23 Q. Okay. Fair enough. But at any time -- how many  
24 times did you ask Mr. Paxton about either meeting Mr. Penley  
25 or -- or getting some information or getting some support

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1 would be getting those things. I knew I would need it when  
2 it came to issuing subpoenas and things like that.

3 Q. Yeah. So what things were you asking him for?  
4 You ask -- let's start with Mr. Penley. Each time that you  
5 asked him or mentioned Mr. Penley, did he have some reason  
6 not to put you in touch with Mr. Penley?

7 A. The only thing that I asked about Mr. Penley was  
8 did he have a file and will I be meeting with him? To which  
9 his response was, he's out of town and his file is on the  
10 desk. I just thought in my mind that I would eventually meet  
11 with him to discuss this case. I mean, I don't know anything  
12 about any of these people in that office, and so I'm like, I  
13 didn't know -- I didn't know anything going on. So...

14 Q. How did you -- how did you know Mr. Penley? Just  
15 looking at a flowchart? How did you know about him?

16 A. I knew -- I knew the name from -- from Mr. Wynne  
17 and Mr. Paul in that first meeting.

18 Q. Did Mr. Wynne and Mr. Paul -- were they critical of  
19 Mr. Penley in that first meeting?

20 A. Yes.

21 Q. What did they say?

22 A. Well, they -- they said that Mr. Penley said that  
23 there was no information that could be presented to them --  
24 to him that would make him believe that a federal official  
25 broke the law in the way that they claimed.

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1 from the Attorney General's Office?

2 MR. COGDELL: I'm sorry. I didn't understand  
3 the question, Mr. Hardin. Can you -- can you repeat your  
4 question, Rusty? I didn't hear it. I'm sorry.

5 MR. HARDIN: Sure.

6 Q. (BY MR. HARDIN) How many times did you ask  
7 Mr. Paxton about either meeting Mr. Penley or getting some  
8 information or getting some support from the Attorney  
9 General's Office?

10 MR. COGDELL: Thank you.

11 A. I asked -- it's kind of two parts. With Mr. --  
12 with respect to Mr. Penley, I had only talked to him about  
13 Mr. Penley maybe twice. And then -- that was early on. And  
14 then that's when I was asking about was there a file? I'm  
15 like, you know, how do I get in touch with him on this deal?

16 And then as far as getting support from the  
17 office, I think I asked probably four or five times over the  
18 course of this three-and-a-half-week period when this all  
19 happened, well, can I get a badge? Can I get credentials?  
20 Which I never got, but I repeatedly asked for those things.

21 Q. (BY MR. HARDIN) And what was the Attorney  
22 General's response each time?

23 A. I think initially his response was, okay, we'll  
24 have to get somebody to work on that or we'll get it to you.  
25 It was just never -- I never got a firm answer on when I

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1 Q. All right. And this conversation with him was  
2 September -- that was the one September 4th?

3 A. Yes, sir.

4 Q. Okay. Now, did you think that was a little strange  
5 that they didn't want to deal with the head of the division  
6 in the Attorney General's Office?

7 A. My understanding was that they had met with him one  
8 time.

9 Q. That's all, just one time.

10 A. Yes, sir, that's what I was told.

11 Q. Is that what they -- is that what they told you?

12 A. Yes, sir. And he refused to look into it. And  
13 then that was kind of reinforced by the fact that Mr. Paxton  
14 said that he couldn't get anyone in his office to work on the  
15 case.

16 Q. All right. So in your conversations with them and  
17 as your investigation, were you ever told or informed that  
18 they actually met with Mr. Paul three times?

19 MR. COGDELL: Excuse me, Your Honor. The  
20 "them," objection, hearsay. That includes other people other  
21 than Mr. Paxton.

22 PRESIDING OFFICER: Sustained.

23 Q. (BY MR. HARDIN) Let me ask you this: Did you ever  
24 learn from Mr. Paul, Mr. Wynne, or Attorney General Paxton  
25 that Mr. Penley --

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1 MR. COGDELL: Excuse me. Excuse me, same  
 2 exact objection.  
 3 MR. HARDIN: Let me just finish, please.  
 4 MR. COGDELL: I'm sorry.  
 5 Q. (BY MR. HARDIN) That Mr. Penley or Mr. David  
 6 Maxwell met with Mr. Paul and Mr. Wynne three times?  
 7 MR. COGDELL: Okay. That's both multifarious  
 8 and hearsay.  
 9 PRESIDING OFFICER: Sustained.  
 10 Q. (BY MR. HARDIN) Did you ever learn that  
 11 Mr. Penley -- did you learn anything from any source about  
 12 how often Mr. Penley was trying to get Mr. Wynne to provide  
 13 further documents?  
 14 MR. COGDELL: Objection.  
 15 MR. HARDIN: The objection is only is -- was  
 16 he aware of anything like that.  
 17 MR. COGDELL: Objection, hearsay. The  
 18 question was, did you learn from any source. Objection,  
 19 hearsay.  
 20 MR. HARDIN: I'm only --  
 21 PRESIDING OFFICER: Overruled.  
 22 MR. HARDIN: Thank you.  
 23 Q. (BY MR. HARDIN) Were you?  
 24 A. I'm sorry. Could you please repeat the question?  
 25 Q. Sure. Were you ever aware from any source that

1 Mr. Penley after three meetings was continuing to try to  
 2 find -- get documents from Mr. Wynne? Did you ever hear that  
 3 from anybody?  
 4 A. I did.  
 5 MR. COGDELL: Objection. I'm sorry.  
 6 THE WITNESS: I'm sorry.  
 7 MR. COGDELL: Objection, hearsay.  
 8 I apologize. Sorry, Mr. Cammack. Sorry,  
 9 Rusty.  
 10 Objection, hearsay.  
 11 PRESIDING OFFICER: Sustained.  
 12 Q. (BY MR. HARDIN) In your mind what was your  
 13 understanding from any source of the level of involvement of  
 14 Mr. Penley and Mr. Maxwell in this investigation?  
 15 MR. COGDELL: The -- I'm sorry, Rusty, the  
 16 level of --  
 17 MR. HARDIN: I've not asked -- I'm not asking  
 18 for any statements or anything. I'm asking what his  
 19 understanding and mindset was.  
 20 MR. COGDELL: I understand. I just didn't --  
 21 you said "the level of," and then the word trailed off. I'm  
 22 sorry if I'm being difficult.  
 23 MR. HARDIN: How sorry are you?  
 24 MR. COGDELL: Pretty sorry. Sorry enough.  
 25 MR. HARDIN: All right. I -- my question, I

1 think, stands, Your Honor. I simply want to know what his  
 2 state of mind and level of knowledge was because it has a lot  
 3 to do with what he does later.  
 4 PRESIDING OFFICER: I didn't hear an objection  
 5 actually. I just heard him say he couldn't --  
 6 MR. HARDIN: I didn't either.  
 7 PRESIDING OFFICER: He just said he couldn't  
 8 hear you.  
 9 MR. COGDELL: I just didn't understand the  
 10 question. That question as asked, I'm fine. Go ahead.  
 11 MR. HARDIN: Is your microphone on?  
 12 MR. COGDELL: Well, he's reading it. I can't  
 13 read that far. Okay. I'm sorry.  
 14 MR. HARDIN: Thank you.  
 15 Q. (BY MR. HARDIN) Now, in the -- at the end of the  
 16 day, what was your level of knowledge about this?  
 17 A. So I was told early on by Mr. Paxton that the  
 18 people in his office weren't doing what he asked them to do.  
 19 That's why he was considering hiring outside counsel.  
 20 Q. Right.  
 21 A. And then towards the end of September, in this  
 22 three-and-a-half-week period, I was told by Michael Wynne  
 23 that Mr. Penley had reached out to him, kind of out of the  
 24 clear blue, for documents. And then I asked Mr. Paxton about  
 25 that when I spoke with him, and he said, Well, I told him to

1 stand down. He's not working on this case. You are.  
 2 Q. That who should stand down?  
 3 A. Mr. Penley.  
 4 Q. General Paxton told you that Mr. Penley should  
 5 stand down, he wasn't involved in the case anymore?  
 6 A. That's correct. And that was my only other time  
 7 that I knew about any of his involvement.  
 8 Q. All right. Do you recall when that conversation  
 9 was and where you were?  
 10 A. It would have been a phone call towards the end of  
 11 September.  
 12 Q. All right. Thank you. Now, let's go back. After  
 13 the 4th, I assume you started reviewing the materials you had  
 14 received?  
 15 A. Yes, sir.  
 16 Q. Tell us about how you proceeded in your  
 17 investigation then.  
 18 A. All right. So I was still trying to get my arms  
 19 around what was alleged and all of the folks that were  
 20 involved in it and trying to figure out -- since I -- you  
 21 know, I didn't really have any information -- what  
 22 information I would be able to obtain. And just started kind  
 23 of thinking of the way to do this would be to -- to do grand  
 24 jury subpoenas to get information regarding like phone calls  
 25 and things between the individuals involved in that

1 first referral.

2 Q. All right. Now, by the way, did you -- did you,  
3 during this period of time, Mr. Cammack, consult with any  
4 other people you thought might have had these types of  
5 investigations before to sort of get an idea of how to -- how  
6 to proceed?

7 A. No, sir. No, sir.

8 Q. This is not something you had done before, correct?

9 A. I had not ever done this before.

10 Q. Okay. Now, by the way, in your communications with  
11 the Attorney General, how were you communicating with him?  
12 By phone, by text, by email? Could you describe the forms of  
13 communication y'all used?

14 A. So we spoke by phone and through text message, and  
15 then throughout this process I continually forwarded emails  
16 to him as something would come up or I would get some  
17 information.

18 Q. Well, did you use any kind of encrypted  
19 communications?

20 A. Yeah. I think about the middle of the month he  
21 asked me to use the Signal app, which I wasn't really  
22 familiar with at the time. I just thought it was like a  
23 WhatsApp or just like --

24 Q. You weren't unfamiliar with Signal app at that  
25 time?

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1 A. I had never used it before.

2 Q. All right. And -- and how did that come about that  
3 he wanted you to communicate with him using Signal app?

4 A. He asked me on a phone call to download the app and  
5 use that.

6 Q. Did you go on the Internet to look and see what a  
7 Signal app was?

8 A. No, sir, I just downloaded the app.

9 Q. Okay. And do you recall what the nature of the  
10 conversation was in which he asked you to start using Signal  
11 app?

12 A. It would have been a call where we were talking  
13 just generally about the case, kind of the status of it and  
14 what was going on. It wasn't -- I do remember it was not a  
15 phone call specifically about using that app.

16 Q. And what type of email address did you -- did you  
17 use with him?

18 A. What do you mean?

19 Q. Well, do you recall what the email address was?

20 A. No, sir.

21 Q. Was it an official Attorney General's Office email  
22 address?

23 A. Oh, I see what you mean. No, sir.

24 Q. All right. What -- what was it?

25 A. His email address was -- it was a Proton mail

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1 address --

2 Q. All right.

3 A. -- that I was sent -- that I was given.

4 Q. Had you used Proton before?

5 A. No, sir.

6 Q. Had you ever heard of Proton?

7 A. I had heard of it. I've never used it.

8 Q. Okay. Now, in addition, what about the phones?  
9 What type of phone number did you have that you would  
10 communicate with him?

11 A. He -- I had the original number that he had first  
12 called me on. And then I think later he gave me another  
13 number. Around that time I was getting -- getting calls from  
14 unknown numbers or it would say "potential spam." You know,  
15 you get those types of calls. And I was like, well, I don't  
16 want to miss the Attorney General's number, so I got myself a  
17 separate number and gave it to him. That way I knew when  
18 that phone rang, that was Mr. Paxton calling.

19 Q. So you -- are you saying that you ultimately got a  
20 phone that was totally dedicated to phone conversations with  
21 the Attorney General of the State of Texas and that's the  
22 only number that you communicated with on that phone?

23 A. Yes, sir.

24 Q. And you did that why?

25 A. Because I didn't want to miss a call from an

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1 unknown number or a spam likely call or -- you know when you  
2 get those spam calls, I didn't want to have that come up and  
3 miss an important call, so...

4 Q. Did he use those -- did he use multiple phone  
5 numbers with you?

6 A. Yes, sir.

7 Q. How many?

8 A. Two numbers.

9 Q. Okay. And were either of those official Attorney  
10 General lines?

11 A. I believe they were cell phone numbers. I don't  
12 believe they were office numbers.

13 Q. All right. In fact, when was the first time that  
14 you ever learned what the official email address or the  
15 Attorney General office email address was of the Attorney  
16 General that you were dealing with all this time?

17 A. The first time that I ever saw his governmental  
18 email address?

19 Q. Yes.

20 A. Was when I got a cease and desist letter from Jeff  
21 Mateer.

22 Q. And when was that?

23 A. That would have been, I believe, August 1st or 2nd.

24 Q. And how was it that you saw what the Attorney  
25 General's official email address was?

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1 A. They were all copied on the email, all the  
2 gentlemen. Mr. -- Mr. Vassar, I think, was one of them,  
3 and --

4 Q. Was that first time, when you got your cease and  
5 desist letter, the first time you ever knew of any official  
6 communication form of communicating with the Attorney General  
7 whether it was through text or email or phone?

8 A. I thought all of my communications with him were  
9 official, but that was the first time that I saw his  
10 governmental email address.

11 Q. All right.

12 A. Yes, sir.

13 Q. Now, when you -- did you trust the Attorney  
14 General?

15 A. Yes, sir.

16 Q. Were you flattered about him reaching out to you?

17 A. Yes, sir.

18 Q. Did you trust Michael Wynne?

19 A. Yes, sir.

20 Q. Did you appreciate him referring you to the  
21 Attorney General?

22 A. I did, yes, sir.

23 Q. Okay. And did you always trust Michael Wynne to  
24 have your best interest at heart and try to help you?

25 A. Yes, sir. I didn't have any reason not to trust

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1 you say to Mr. Paxton and what did he say to you?

2 A. I told him I think we should try to do grand jury  
3 subpoenas being that this is a discreet way to get  
4 information. Grand jury proceedings are private and secret  
5 proceedings and so we'd be able to get information that way  
6 without raising any kind of alarms or causing some type of,  
7 you know, panic about the situation. And he said it was a  
8 smart idea.

9 Q. So he endorsed it?

10 A. Yes, sir.

11 Q. Did either of you talk about the fact that if you  
12 issued grand jury subpoenas for a claimed offense that  
13 Mr. Paul was presenting to you, that the recipients of those  
14 grand jury subpoenas would know what was going on or have  
15 questions or be maybe even alarmed? Did y'all discuss that  
16 at all?

17 MR. COGDELL: Excuse me. Objection,  
18 leading.

19 MR. HARDIN: I think I gave him several --  
20 PRESIDING OFFICER: Sustained.

21 Q. (BY MR. HARDIN) Did you -- did y'all talk about  
22 the possible reaction of people that got these subpoenas?

23 A. No, sir.

24 Q. Later you issued subpoenas, did you not, for credit  
25 unions and banks and stuff like that, correct?

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1 him. I knew that he was Nate Paul's lawyer.

2 Q. Okay. Did you trust Nate Paul?

3 A. I didn't really know Nate Paul. I just was trying  
4 to do my job.

5 Q. All right. Now, let's move to the period of the  
6 middle of September.

7 After you came back, you had all your material  
8 from the 4th that you had gotten from Nate Paul. What did  
9 you do after that?

10 A. So around this time I'm -- I had a conversation  
11 with Mr. Paxton because I wanted to try to get the  
12 individuals named in that first referral, like, call logs and  
13 email logs showing whether or not these people had been  
14 talking around the time that the search had taken place.

15 And so being that it's sensitive since they  
16 are federal agents and there's some people in power there, I  
17 thought that the grand jury subpoena would be a discreet way  
18 to get that information and so I brought that up to  
19 Mr. Paxton.

20 Q. And do you recall when this conversation was?

21 A. I believe it was around -- we had talked about it  
22 from early on in the month, like within that first week of  
23 September, but the conversations kind of continued going on  
24 until about the middle of the month, about September 14th.

25 Q. Okay. Now, at that time what was Mr. -- what did

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1 A. Yes, sir.

2 Q. Was there any conversation between you and the  
3 Attorney General about how those people might feel when they  
4 got those grand jury's?

5 A. No, sir.

6 Q. Did you become later aware -- I mean, we'll get to  
7 who all that was on there -- of -- that some of these  
8 subpoenas were going to lawyers or people that were opposing  
9 Mr. Paul in litigation? Were you aware that that's who some  
10 of the people were?

11 A. No, sir.

12 Q. Okay. Well, then let's get to what you know.

13 When you talked to the Attorney General back  
14 about downloading the app and everything, were you also  
15 talking to him at that time about trying to seek credentials  
16 and other types of things that you needed for what you were  
17 doing?

18 A. Yes, sir. I needed --

19 Q. When -- when did you first start asking for those  
20 types of things?

21 A. In my first meeting with him on September 4th. And  
22 then I asked about it again, like, as I'm approaching the  
23 time where I need to be -- at the time I'm doing the  
24 applications for these subpoenas.

25 Q. What -- what did you ask him for?

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1 A. An email address, am I going to get some type of  
2 badge or some credentials, like -- because I'm going to be  
3 approaching people with legal documents and I need something  
4 to show that I have the authority to do that.

5 Q. What did he say?

6 A. We're working on it.

7 Q. Now, you assumed, did you not, that, of course, it  
8 would be perfectly fine to give you those things because it  
9 would be of public record and there was nothing wrong with  
10 it, correct?

11 A. I expected to get that.

12 Q. Yes. And you expected him to believe you were  
13 going to need that, did you not, in your investigation?

14 A. Yes. And I ended up -- did -- I did need it.

15 Q. How many times do you think you asked the Attorney  
16 General for these official documents?

17 A. It would have had to have been four or five times  
18 over the course of a month.

19 Q. And each time you asked him for them, what was his  
20 response?

21 A. We're working on it. We'll get it to you.

22 Q. At some time did you begin to wonder why they would  
23 not give you any kind of official documents to show your  
24 status?

25 A. No. You know, I don't know the -- I don't know how  
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1 September 14th.

2 Q. Okay.

3 A. There were a couple of conversations where I was  
4 just kind of trying to figure my way through this.

5 Q. Now, you, of course, as you mentioned before, had  
6 never done a grand jury investigation, correct?

7 A. That is correct.

8 Q. So did you ask him some questions that -- the  
9 Attorney General some questions to try to help you in that  
10 respect?

11 First of all, did you assume that maybe he  
12 would know these kind of answers?

13 A. Yes, sir.

14 THE WITNESS: I am so sorry. Judge, is there  
15 any way I can use the public restroom and take a break?

16 PRESIDING OFFICER: All right. We'll stand at  
17 ease for ten minutes.

18 THE WITNESS: Sorry about that.

19 PRESIDING OFFICER: No. We'll give you ten  
20 minutes. The witness may step down.

21 MR. HARDIN: Thank you, Judge.

22 (Break taken from 11:24 a.m. to 11:29 a.m.)

23 PRESIDING OFFICER: Court will come to order.  
24 And hold on one moment, Mr. Hardin, for all the jurors to be  
25 seated again.  
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1 the office operates within the Attorney General's Office. I  
2 wasn't sure if there was a bunch of red tape to go through.  
3 I -- I didn't know any of that. I just knew that I would  
4 need it to do what he was asking me to do.

5 Q. Right. We always hear about the slowness of  
6 bureaucracy and government agencies. Is that the kind of  
7 thing you just thought was going on?

8 A. Yes, sir.

9 Q. Okay. So it never occurred to you that maybe he  
10 didn't want them to be public?

11 MR. COGDELL: Objection, leading and assuming  
12 facts not in evidence.

13 PRESIDING OFFICER: Sustained.

14 Q. (BY MR. HARDIN) Did it ever occur to you -- did  
15 you ever have the thought or wonder, is -- don't they want  
16 this public or what? Did you have that kind of thought  
17 process?

18 A. I wasn't thinking about anything like that.

19 Q. Okay. Fair enough.

20 Now, when you mentioned the grand jury  
21 possibility to the Attorney General, in that conversation --  
22 and you think that conversation was when, roughly?

23 A. That would have been around -- I know I spoke with  
24 him about it on -- on September 6th because I have a note  
25 here on this invoice, but the middle of the month around  
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1 Q. (BY MR. HARDIN) Mr. Cammack --

2 PRESIDING OFFICER: Hold on one second.

3 They're not all in their seats.

4 MR. HARDIN: Sorry, Your Honor.

5 PRESIDING OFFICER: Looks like we're short two  
6 members.

7 Mr. Hughes and Mr. Miles -- Senator Miles,  
8 Senator Hughes, please come forward.

9 We're one juror short, so we're going to wait.  
10 We're texting him now.

11 (Pause in proceedings)

12 PRESIDING OFFICER: Mr. Hardin, you may  
13 resume.

14 MR. HARDIN: Thank you, Your Honor.

15 Q. (BY MR. HARDIN) All right. Mr. Cammack, I want to  
16 go to, if I may, when you were asking him and talking to him  
17 about the grand jury subpoenas.

18 During that conversation -- and you -- you've  
19 mentioned that you asked him about credentials. How did you  
20 go about trying to find out how to do a grand jury -- issuing  
21 and using grand jury subpoenas? What did you do?

22 A. Yes, sir.

23 Q. Your microphone.

24 A. Yes, sir. So I asked Mr. Paxton -- you know, at  
25 this point he's like, it's a smart idea, this is the way that  
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1 we should proceed. So the next question is, okay, well,  
2 how -- how do we do this? Because I wasn't sure whether the  
3 Attorney General's Office had their own special grand jury in  
4 session for cases or if we would do it through a county, like  
5 Travis County grand jury. And so I didn't know the answer to  
6 that.

7 He said he didn't know the answer to that. He  
8 would need to find out. And, you know, I think he had  
9 indicated to me at that time, you know, he wasn't a criminal  
10 lawyer and most of his experience was in business law, so he  
11 would find out which -- which grand jury that we would --

12 Q. And did you find out?

13 A. He reached back out to me around the middle of the  
14 month, maybe a day or so after, and told me that we would be  
15 going through the Travis County grand jury.

16 Q. But the AG himself called you back and told you  
17 that?

18 A. Yes, sir.

19 Q. And -- and then what did you do?

20 A. So my next step was to reach out to Travis County  
21 District Attorney's Office. And it was kind of weird because  
22 I -- before I even had an opportunity to do that, I get a  
23 message or a voicemail that Michael Wynne had sent me saying  
24 this is the person that you need to contact over there.

25 Q. How soon after you had the conversation with the

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1 Attorney General that -- concerning the fact that it would be  
2 a Travis County grand jury, how soon after that conversation  
3 with the Attorney General did Mr. Wynne reach out and give  
4 you a contact in the Travis County DA's Office?

5 A. I don't recall exactly, probably within 24 to 48  
6 hours.

7 Q. Do you have any idea how Mr. Wynne would have known  
8 that you were seeking that information?

9 A. I'm sorry?

10 Q. Had you told Mr. Wynne you were trying to find out  
11 or did it just come in unsolicited?

12 A. No, I spoke with Mr. Wynne about -- about the grand  
13 jury process.

14 Q. All right.

15 A. So he was aware -- you know, him and Nate Paul were  
16 both aware that that's what -- how I was proceeding with  
17 their investigation.

18 Q. When you got that information, did you reach out to  
19 the Travis County grand jury?

20 A. I reached out to the Travis County District  
21 Attorney's Office and spoke --

22 Q. Excuse me. I said grand jury. You're right. The  
23 office. Excuse me. Go ahead.

24 A. I spoke with, I forget -- it was a nice woman. I  
25 forget her name. She was -- she put me in touch with a

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1 gentleman named Don Clemmer. And then Don Clemmer put me in  
2 touch with, I guess, this -- this real sweet lady. I think  
3 her name was Bailey. She might have been the grand jury  
4 coordinator over there.

5 Q. Let me ask you this: Was the last name Molnar?  
6 Does that sound --

7 A. That sounds -- that sounds like -- correct.

8 Q. Did you tell these folks that you were a special  
9 prosecutor working with the Attorney General's Office?

10 A. Yes, sir.

11 Q. Okay. And as such you were asking assistance to  
12 get some grand jury subpoenas?

13 A. Yes, sir.

14 Q. And did they help you get the grand jury subpoenas?

15 A. Yes, sir, they did.

16 Q. And let me ask you --

17 MR. HARDIN: At this time, Your Honor, I want  
18 to move to introduce in mass -- I believe we informed counsel  
19 on the other side -- Exhibit 257, which I'll represent is all  
20 of Mr. Cammack's production in this matter to both sides.

21 These are the documents that he has -- he has produced to  
22 lawyers on both sides, and I move to introduce them in toto.

23 PRESIDING OFFICER: Any objection?

24 MR. COGDELL: Yes and no. Yes.

25 PRESIDING OFFICER: Speak on the microphone,

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1 please.

2 MR. COGDELL: Yes.

3 PRESIDING OFFICER: Still can't hear you.

4 MR. COGDELL: Object to 649, 691 --

5 MR. HARDIN: Dan, can I stop you for just a  
6 second to explain to the Court?

7 We have given them excerpts -- it was too  
8 voluminous to be carrying around the hard document here, but  
9 what we did do -- it was about 2,000 pages. It was a lot.

10 What we then gone -- I've gone through and taken out excerpts  
11 and put an exhibit number on them. But they are excerpts  
12 from -- what I was seeking to do was introducing the whole  
13 group and then taking out and putting an exhibit number on  
14 those that we specifically were going to talk about.

15 Go ahead.

16 MR. COGDELL: I appreciate all of that,  
17 Mr. President. But to be clear, we got an amended exhibit at  
18 4:50 this morning which includes these, several of which I  
19 will be objecting to, several of which I won't.

20 MR. HARDIN: Excuse me, are we going to start  
21 getting into when we get stuff for them and what time of the  
22 morning? I would just ask for --

23 PRESIDING OFFICER: Just stop right now.

24 MR. HARDIN: Yeah.

25 MR. COGDELL: Like I started to say, object to

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1 649, 691, 687, 688, 689, 690, 686, and 650.  
 2 PRESIDING OFFICER: Reason for the objection?  
 3 MR. COGDELL: Sir?  
 4 PRESIDING OFFICER: You're objecting to those  
 5 documents? Okay.  
 6 MR. COGDELL: I am. Now, I do not have  
 7 objections to 677, 678, 679, 680, 681, 682, 683, 684, 685,  
 8 and 693.  
 9 The last sequence, Mr. President, I do not  
 10 have an objection to.  
 11 PRESIDING OFFICER: So let's go back to the  
 12 objection.  
 13 MR. COGDELL: Yes, sir.  
 14 PRESIDING OFFICER: I had asked you for a  
 15 reason for the objection to the --  
 16 MR. COGDELL: Yes, sir.  
 17 PRESIDING OFFICER: -- other documents.  
 18 MR. COGDELL: Yes, sir. The basis is hearsay  
 19 on each. And just so -- let me try to get them in order so  
 20 Mr. Hardin and I can literally be on the same page.  
 21 MR. HARDIN: Let me ask one more time, real  
 22 quickly, the ones you object to, Dan.  
 23 MR. COGDELL: Sure.  
 24 MR. HARDIN: Make sure I got all of them.  
 25 MR. COGDELL: Yes, sir. The ones I'm

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1 objecting to are in order, Rusty, are: 649 -- that's the  
 2 work product, if you're with me. You want me to come over  
 3 there? I'm happy to do that if that's easier for you.  
 4 MR. HARDIN: No. Go ahead.  
 5 MR. COGDELL: 649, 650, 686, 687, 689, 690,  
 6 and 691.  
 7 MR. HARDIN: And the type of objection, Your  
 8 Honor, the basis?  
 9 MR. COGDELL: Hearsay. And I don't know if  
 10 you -- Judge, do you have -- Mr. President, do you have them  
 11 in front of you?  
 12 PRESIDING OFFICER: We don't have them.  
 13 MR. HARDIN: May I do this? May I do this?  
 14 Let me go right now to discuss the ones that he has no  
 15 objection to and ask that they be admitted.  
 16 MR. COGDELL: Sure.  
 17 PRESIDING OFFICER: Okay. We'll admit the  
 18 items that you have no objection to. And to be certain we  
 19 have those right numbers, would you repeat those numbers that  
 20 you do not object to?  
 21 MR. COGDELL: The numbers that I -- and I'm  
 22 not sure these are in order, but 677, no objection.  
 23 PRESIDING OFFICER: Yes. Okay.  
 24 MR. COGDELL: 678, no objection.  
 25 PRESIDING OFFICER: Yes.

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1 MR. COGDELL: 680.  
 2 PRESIDING OFFICER: Yes.  
 3 MR. COGDELL: 681.  
 4 PRESIDING OFFICER: Uh-huh.  
 5 MR. COGDELL: 682.  
 6 PRESIDING OFFICER: Yes.  
 7 MR. COGDELL: 683.  
 8 PRESIDING OFFICER: Yes.  
 9 MR. COGDELL: 684.  
 10 PRESIDING OFFICER: Yes.  
 11 MR. COGDELL: 685.  
 12 PRESIDING OFFICER: Yes.  
 13 MR. COGDELL: And 693.  
 14 PRESIDING OFFICER: What about 679?  
 15 MR. HARDIN: All right.  
 16 PRESIDING OFFICER: Hold on one second. Just  
 17 checking this.  
 18 MR. COGDELL: You inquired on 679? I don't  
 19 have that one in front of me.  
 20 PRESIDING OFFICER: Okay. You originally said  
 21 you had no objection to 679, but you may have misspoken.  
 22 MR. COGDELL: I'm certainly capable of doing  
 23 that. No, 670 -- you're correct, Mr. President, 679, I --  
 24 we do object to 679.  
 25 PRESIDING OFFICER: Okay. So 679. So to the

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1 court reporter -- and forgive my "uh-huh" for a moment there,  
 2 something I said the witnesses shouldn't do.  
 3 So to be clear to the court reporter, no  
 4 objection to 677, 678, 680, 681, 682, 683, 684, 685, 693.  
 5 And it's my understanding, Mr. Hardin, to  
 6 begin, you will just focus on those. And if you want to  
 7 refer to the others, you'll have to give us an answer on why  
 8 it's not hearsay at that time.  
 9 MR. HARDIN: That's correct. Your time --  
 10 PRESIDING OFFICER: I'm admitting -- so we are  
 11 admitting into evidence 677, 678, 679, 680 -- I'm sorry --  
 12 677, 678, not 679 at this time, 680, 681, 682, 683, 684, 685,  
 13 and 693.  
 14 (HBOM Exhibit Nos. 677, 678, 680, 681, 682,  
 15 683, 684, 685, and 693 were admitted)  
 16 MR. HARDIN: And, Your Honor, can I have ten  
 17 minutes' credit back because of the housekeeping we did here?  
 18 PRESIDING OFFICER: Did you say you needed ten  
 19 minutes?  
 20 MR. HARDIN: Can I have ten minutes' credit  
 21 back for the conversation we had --  
 22 PRESIDING OFFICER: I'll give you five.  
 23 MR. HARDIN: Thank you.  
 24 PRESIDING OFFICER: All right.  
 25 MR. HARDIN: All right. One has to take what

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1 they can get.  
 2 Q. (BY MR. HARDIN) All right. Mr. Cammack --  
 3 A. Yes, sir.  
 4 Q. -- did you start receiving assistance to get these  
 5 grand jury subpoenas done as to who they would be from  
 6 Mr. Wynne?  
 7 A. Yes, sir.  
 8 Q. And is it still on? I didn't hear. Yeah.  
 9 A. Can you hear me?  
 10 Q. Yes.  
 11 A. Okay.  
 12 Q. Yeah. All right. And what form of assistance were  
 13 you getting from him?  
 14 A. Well, I -- I started to get a lot of information  
 15 from Mr. Paul and Mr. Wynne through emails. That included  
 16 the list of individuals who were, I guess, suspects or  
 17 somehow witnesses or somehow related to that first initial  
 18 referral.  
 19 Q. And were these people that were to be put on the  
 20 list of subpoenas?  
 21 A. Some of them were, yes, sir.  
 22 Q. All right. And were you receiving from Mr. Wynne,  
 23 regularly, information of people to include on the grand jury  
 24 subpoenas?  
 25 A. Yes, sir.

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1 Q. Now, what was your thought process in terms of your  
 2 investigation as to why you would automatically put those  
 3 people on if they're asking? In your mind, you were doing  
 4 what?  
 5 A. Well, I didn't independently source any of these  
 6 individuals' name. I walk into a -- I walked into this  
 7 referral, and I'm just -- I'm given a lot of information  
 8 about different people who were involved and how they may be  
 9 related to that first referral. And so I trusted that that  
 10 was the information that -- that they were giving me was the  
 11 same information that the Attorney General's Office,  
 12 Mr. Penley, would have already had to conduct his  
 13 investigation.  
 14 Q. All right. So you assumed that you were just  
 15 getting information that already existed --  
 16 A. Yes, sir.  
 17 Q. -- in the hands of the OG -- the AG?  
 18 A. Yes, sir.  
 19 Q. But you hadn't talked to anyone in the AG, correct?  
 20 A. Other than Mr. Paxton, that's correct.  
 21 Q. All right. And each time that you had a course of  
 22 action in this case and thought you were going to do  
 23 something, did you have a practice of contacting the Attorney  
 24 General to update him?  
 25 A. Yes, sir.

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1 Q. And so as you went along and gathered all of this  
 2 information from Mr. Wynne and Mr. Paul, were you keeping the  
 3 Attorney General involved -- informed of all this?  
 4 A. Yes, sir. I would discuss it on the phone, or  
 5 anytime I got, like, a document emailed me -- emailed to me  
 6 from Mr. Wynne, I would forward that onto the Attorney  
 7 General's email address. And then when we spoke again, if we  
 8 did, I would say, hey, you know, I sent you this or sent you  
 9 that.  
 10 Q. So let me see if I understand. Whenever you  
 11 received information from Mr. Wynne and/or Mr. Paul by email,  
 12 you would then forward that information to the Attorney  
 13 General?  
 14 A. The majority of the time, yes, sir.  
 15 Q. All right. So when they were sending you lists of  
 16 people that should be subpoenaed by the grand jury, were you  
 17 making sure you kept Mr. Paxton informed of that?  
 18 A. I'm sorry. Do you mean if, like, I sent that  
 19 information to him or just letting him know that I received  
 20 that information or --  
 21 Q. Just letting him know that you received that  
 22 information.  
 23 A. Yes, sir.  
 24 Q. All right. So would it be an accurate statement  
 25 that as you proceeded in this -- well, let me put it another

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1 way.  
 2 As you proceeded in your information -- in  
 3 your investigation and as you determined what to do with the  
 4 grand jury and what to do about grand jury subpoenas, were  
 5 you at each stage keeping the Attorney General informed?  
 6 A. Yes, sir.  
 7 Q. At any time did the Attorney General contact you  
 8 and say no, no, no, no, let's don't do that?  
 9 A. No, sir.  
 10 Q. So from your own state of mind, in every single  
 11 thing you did in this investigation, what is your testimony  
 12 to the jury as to whether you believed you had the full  
 13 support and agreement of the Attorney General of the State of  
 14 Texas?  
 15 A. That's true. I -- I did everything at his  
 16 supervision. Kept him informed on everything. When I  
 17 reached out to Travis County District Attorney's Office and  
 18 introduced myself regarding the grand jury subpoenas -- I  
 19 mean, I got affirmation the entire time that everything was  
 20 good, and no one said anything different until I, you know,  
 21 got a cease and desist letter at the end of --  
 22 Q. And so was one of your frustrations that you didn't  
 23 have anything official to tell people that's what you were  
 24 doing; is that correct?  
 25 A. That's right.

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1 MR. COGDELL: Excuse me. Objection, leading.  
 2 THE WITNESS: I'm sorry.  
 3 MR. HARDIN: Well --  
 4 PRESIDING OFFICER: Sustained.  
 5 Q. (BY MR. HARDIN) Were you frustrated about not  
 6 having any identification and documents and means to tell  
 7 others in this outside world?  
 8 A. Yes. Because, I mean -- yes, sir.  
 9 Q. All right. And what was the reason? What was the  
 10 reason for being so frustrated?  
 11 A. Well, for example, when I issued -- I had some  
 12 subpoenas issued for Microsoft, and I got an email back  
 13 saying without a governmental email address, we can't execute  
 14 these subpoenas. So I knew that as I'm continuing to work in  
 15 the course of this deal that I would need to have some type  
 16 of identification, whether it's a governmental email address,  
 17 you know, some number. I don't know what their processes  
 18 are, but I knew that I would need some type of credential to  
 19 be able to do what I was asked to do.  
 20 Q. What were you subpoenaing Microsoft for?  
 21 A. Email records, I believe, for certain individuals  
 22 that were involved in that first referral.  
 23 Q. All right. So in the first referral, you were --  
 24 you were seeking email information, everything from Microsoft  
 25 about all of these individuals?

1 A. Whoever had, like, an Outlook email address.  
 2 Q. And in addition to the people involved in the  
 3 execution of the search warrant, were you receiving from  
 4 Mr. Wynne other names that should be added in?  
 5 A. I -- I don't recall all of the names that were on  
 6 the list.  
 7 Q. Oh, yeah. I'm not asking you what the names were.  
 8 But were you receiving during this time that you were  
 9 conducting the investigation continued lists and suggestions  
 10 of people to investigate and to list a grand jury subpoena  
 11 for?  
 12 A. Yes, sir.  
 13 Q. At this stage did you reach a stage of discomfort  
 14 that you were getting all of this information from the lawyer  
 15 of a man that you knew was already under investigation by law  
 16 enforcement?  
 17 A. I didn't know that -- that Mr. Paul was under  
 18 investigation at the time. I knew about this search,  
 19 obviously, but I didn't know that he was under any kind of --  
 20 at the time it would have been a current investigation.  
 21 And then just with respect to Michael Wynne, I  
 22 trust -- had no reason not to trust that Michael was giving  
 23 me information that he had already collected and that I  
 24 thought that the Attorney General's Office already had. So I  
 25 thought that whatever he gave me was for the purposes of

1 investigating that referral.  
 2 Q. Okay. I want you to -- I want you to look -- I put  
 3 some hard copies up there for you.  
 4 A. Yes, sir.  
 5 Q. It's in evidence now. Exhibit 678.  
 6 A. 678.  
 7 MR. HARDIN: And it's going to be Bates  
 8 stamp -- well, do you need the Bates stamp? No. Okay.  
 9 Thank you.  
 10 Q. (BY MR. HARDIN) Can you tell us what that is,  
 11 please?  
 12 A. So this is an email that I sent to Ryan Vassar  
 13 with -- so this is same day that I met with Mr. Paxton on  
 14 9-4, and I -- when I got back home, I signed the draft  
 15 contract that they sent me and sent it back, and I asked for  
 16 an executed copy back.  
 17 Mr. Vassar had asked me to see if there were  
 18 any kind of conflicts, so I reached out. I never had -- I  
 19 didn't have any clients that had any cases pending where the  
 20 AG's Office was opposing counsel, and I reached out to the  
 21 State Bar Ethics Hotline and said, hey, is this okay? You  
 22 know, I don't have any cases pending against them. And they  
 23 said it's fine, you know, congratulations on the job.  
 24 Q. All right. Trying to look at these -- I'm trying  
 25 to look at these subpoenas in terms of what's admitted.

1 I want you, if you would, to turn to 681. I'm only going to  
 2 ask you -- not put it up because I believe that's one they --  
 3 no. That is one that's in evidence.  
 4 Can you help me out? Look at 681 and identify  
 5 this for the jury, please.  
 6 A. So this was an email from me to Michael Wynne and  
 7 it says Sample form, grand jury -- Google grand jury  
 8 subpoena.  
 9 Q. All right. And then look over to the -- why did  
 10 you send it to Michael Wynne?  
 11 A. Michael Wynne had initially -- so I had never  
 12 issued a grand jury subpoena before.  
 13 Q. Pardon me?  
 14 A. I had never done -- I had never issued a grand jury  
 15 subpoena before.  
 16 Q. Right.  
 17 A. And so I asked Michael -- once I put this draft  
 18 together, I said, Can you take a look at it -- it's the same  
 19 information that they had already given me -- and make sure  
 20 that the form here is correct?  
 21 Q. And so did Mr. Wynne respond to you and tell you it  
 22 was okay?  
 23 A. He said, Form is fine.  
 24 Q. And then what -- at the end of the day, what did  
 25 that help you do?

1 A. What did it -- I'm sorry, what did it help me do?  
 2 Q. Yes. Did that help you decide how you were going  
 3 to do the subpoenas and what language you were going to use  
 4 and everything?  
 5 A. I sent this to him. I mean, I knew he was a  
 6 federal prosecutor at this point in the past, you know,  
 7 Harvard educated. I just sent it to him to -- you know, does  
 8 the form look okay here. So it helped me to know that  
 9 this -- this was the right way to do it.  
 10 Q. All right.  
 11 MR. HARDIN: Your Honor, I'm looking here.  
 12 I'm having to order up the ones they've objected to. And  
 13 there are some of these that I very much want to get into  
 14 evidence, and I don't believe there is a legitimate  
 15 objection. I'm trying to figure out how to handle this  
 16 without taking any undue time now.  
 17 But, for instance, if I could -- do we have  
 18 hard copies for the Court, Stella, of these exhibits? Do we  
 19 have any more stacks?  
 20 Q. (BY MR. HARDIN) You have before you 691. Without  
 21 referring -- without -- without saying anything about what is  
 22 in its contents, I want you to identify for the record and  
 23 tell us what it is.  
 24 MR. COGDELL: Mr. Hardin, you said 691?  
 25 PRESIDING OFFICER: Yes.

1 MR. HARDIN: Yes. I wrote that down as one  
 2 you objected to.  
 3 MR. COGDELL: I don't have a 6- -- oh, I do  
 4 too. I stand corrected. Thank you.  
 5 PRESIDING OFFICER: We have that on the list  
 6 you objected to, correct?  
 7 MR. COGDELL: Yes, sir. I'm sorry.  
 8 PRESIDING OFFICER: Well, we're waiting for us  
 9 to see it. We don't have a copy before we can rule.  
 10 MR. COGDELL: Yes, sir.  
 11 Q. (BY MR. HARDIN) All right. Do you see 691? Would  
 12 you -- without talking about the internal contents yet, would  
 13 you describe what that document is?  
 14 A. This was an email from Michael Wynne on September  
 15 21st, 2020, with an attached Excel spreadsheet that appears  
 16 to have individuals' names listed there with various  
 17 demographic information.  
 18 Q. Does -- does it list -- does it list names,  
 19 addresses, and identifying data that had been blacked-out for  
 20 purposes of this exhibit, but does it list names, addresses,  
 21 and personal data of people to be investigated and included  
 22 on the grand jury subpoena?  
 23 A. Yes, sir.  
 24 Q. All right.  
 25 MR. HARDIN: I don't understand what the

1 objection was to that, Your Honor.  
 2 PRESIDING OFFICER: Well, again -- go ahead.  
 3 I'm sorry.  
 4 MR. COGDELL: The objection is hearsay. It's  
 5 not a list created by Mr. Cammack but by Mr. Wynne, and it is  
 6 being offered for the truth of the matter asserted because  
 7 they're going to --  
 8 MR. HARDIN: Your Honor -- go ahead, excuse  
 9 me. No, I thought you were through. Go ahead.  
 10 MR. COGDELL: That's okay. It is going to be  
 11 offered for the truth of the matter asserted because  
 12 they're -- they're going to be arguing that these were the  
 13 names ultimately where subpoenas were being used on. So  
 14 objection, hearsay.  
 15 MR. HARDIN: There are a series of these, Your  
 16 Honor, that, first of all, not offered for the truth of the  
 17 matter, only that it was provided to him. We are not  
 18 suggesting that these people should be and were witnesses for  
 19 the grand jury -- should have been a grand jury subpoena.  
 20 But more important part is, Article XVI is a  
 21 conspiracy article that says that General Paxton engaged in  
 22 conspiracy with others. We are not alleging that they  
 23 engaged in a conspiracy with Mr. Cammack. We are alleging  
 24 that he engaged in a conspiracy with Mr. Paul and Mr. Wynne.  
 25 And any statements that are made in pursuant of that

1 conspiracy would be admissible whether or not it is hearsay.  
 2 It's an exception to the hearsay rule.  
 3 I know I am springing that on the Court, and  
 4 you might want a moment to think about it or so. But that's  
 5 why, A, it's not hearsay; but, B, even it were -- was, it is  
 6 an act in furtherance of the conspiracy.  
 7 MR. COGDELL: They are admissible through the  
 8 testimony of a coconspirator, not through Mr. Cammack who Mr.  
 9 Hardin admits is not a coconspirator.  
 10 PRESIDING OFFICER: Give us a moment.  
 11 MR. HARDIN: Pardon me? Okay.  
 12 MR. COGDELL: And just -- Judge, while  
 13 you're -- Mr. President, while you're considering this, I  
 14 would -- I would -- based upon Mr. Hardin's argument for the  
 15 admissibility of it, there is no suggestion that General  
 16 Paxton created or participated in the creation or the  
 17 assimilation of this exhibit.  
 18 PRESIDING OFFICER: Okay. Give us a moment.  
 19 MR. HARDIN: Your Honor, if I may, there's a  
 20 business records affidavit, Exhibit 547, a business records  
 21 affidavit for all of Mr. Cammack's files. So the idea that  
 22 it's hearsay goes out the window. It would have to be -- it  
 23 would have to be kept out for some other reason. These are  
 24 all -- have been certified.  
 25 Can we bring up -- if you would like, I'll

1 bring up the affidavit for you to look at. 547.  
 2 MR. COGDELL: You can't put a business record  
 3 on something that is -- you can't make a coconspirator  
 4 statement admissible or whatever through a business records  
 5 affidavit.  
 6 PRESIDING OFFICER: As you said, Mr. Hardin,  
 7 you didn't mean to spring this on the Court at the last  
 8 second, but it has -- it is to us at the last second. I  
 9 think this is a good time for a lunch break.  
 10 MR. HARDIN: Sure.  
 11 PRESIDING OFFICER: And give us a chance to  
 12 review all this.  
 13 MR. COGDELL: And just for your edification,  
 14 Mr. President, I think the majority of these -- I think,  
 15 Rusty -- correct me if I'm wrong, but I think the ones we're  
 16 objecting to are very similar to -- our objection to these is  
 17 going to be consistent with the majority of the other ones  
 18 that you want in, right?  
 19 PRESIDING OFFICER: That was going to be my  
 20 next question. Is the objection on all of these --  
 21 MR. COGDELL: I don't know on all of them, but  
 22 most of them.  
 23 PRESIDING OFFICER: Most of them.  
 24 MR. HARDIN: Yeah. His objection would cover  
 25 those, and our response covers all those that were kept out

1 in his records.  
 2 PRESIDING OFFICER: Okay.  
 3 MR. HARDIN: Thank you.  
 4 PRESIDING OFFICE: We may reach out to you  
 5 during the lunch break. We may not. But we will come back  
 6 at 1:00 p.m.  
 7 The witness can be excused until 1:00 p.m. Be  
 8 back at 1:00.  
 9 (Recessed for lunch at 12:00 p.m.)  
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1 C E R T I F I C A T E  
 2  
 3 THE STATE OF TEXAS )(   
 4 COUNTY OF TRAVIS )(   
 5  
 6 I, Kim Cherry, Certified Shorthand Reporter in and  
 7 for the State of Texas, do hereby certify that the  
 8 above-mentioned matter occurred as hereinbefore set out.  
 9 I further certify that I am neither counsel  
 10 for, related to, nor employed by any of the parties  
 11 or attorneys in the action in which this proceeding was  
 12 taken, and further that I am not financially or  
 13 otherwise interested in the outcome of the action.  
 14 Certified to by me this 12th day of September,  
 15 2023.  
 16  
 17 /s/Kim Cherry  
 18 KIM CHERRY, CSR, RMR  
 19 Texas Certified Shorthand Reporter  
 20 CSR No. #4650 Expires: 7/31/24  
 21 kcherry.csr@gmail.com  
 22  
 23  
 24  
 25



VOLUME 6 -- PM SESSION  
SENATE IMPEACHMENT TRIAL

SEPTEMBER 12, 2023 PAGE VOL.

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PROCEEDINGS  
TUESDAY, SEPTEMBER 12, 2023  
(1:12 p.m.)

THE BAILIFF: All rise. The Court of Impeachment of the Texas Senate is now in session.

PRESIDING OFFICER: You may be seated. To both parties, you gave us a lot of homework during lunch, I assure you.

MR. COGDELL: I'm just trying to assure you, keep your day job and don't ever wander, Your Honor.

PRESIDING OFFICER: Yes, sir. Could I have both parties, come up, Mr. Hardin? Both parties.

MR. COGDELL: Yes, sir. (At the bench, off the record)

PRESIDING OFFICER: Court is back in session.

Mr. Hardin, Mr. Cogdell.

MR. COGDELL: Yes.

PRESIDING OFFICER: We're sustaining the objection on 686 and 691. And then the other ones we'll bring up one by one as we walk through.

MR. COGDELL: Yes, sir.

PRESIDING OFFICER: So 686 and 691 will

not be admitted.

Bailiff, call the witness.  
(Witness entered Senate chamber)

PRESIDING OFFICER: Mr. Hardin, your witness. And now we'll start the clock.

MR. HARDIN: Thank you, Your Honor.

PRESIDING OFFICER: Mr. Hardin, that saved you some time on the clock by resolving some of those issues, so you got your extra five minutes.

MR. HARDIN: Thank you, Your Honor.

BRANDON CAMMACK,

having been previously first duly sworn, testified as follows:

DIRECT EXAMINATION (CONTINUED)

BY MR. HARDIN:

Q. Something just came up at the -- how do we pronounce your name, by your preference? We've said "Cammack." We've said "Camock."

A. "Cammack."

Q. "Cammack." All right. Thank you.

Mr. Cammack, I have several other documents I want to go over with you. I first want to show you and ask you to look -- on that hard copy you have there, do you have a hard copy of 649 with you up there?

A. Let me take a look.  
Yes, sir.

Q. All right. And I want you to look at that 649 without testifying as to the contents yet. Tell me if that is a document that was prepared by you.

A. No, sir.

Q. All right. Who was it prepared by?

A. This document was prepared by Michael Wynne.

Q. By Michael Wynne?

A. Yes, sir.

Q. And would you tell us the circumstances real quickly as to how you got that document from Michael Wynne?

A. This was e-mailed to me.

Q. E-mailed to you.  
And did you ask for it?

A. No, sir. This was unprompted.

Q. All right. And then -- and this particular document is still not in evidence. I have a couple more questions for you.

A. Yes, sir.

Q. When you received that from Michael Wynne --

PRESIDING OFFICER: Mr. Hardin?

MR. HARDIN: Yes.

PRESIDING OFFICER: Excuse me. So there

1 was an objection on 649.  
 2 MR. HARDIN: Yes, sir. I haven't -- I  
 3 haven't asked him questions about the contents yet for  
 4 that reason.  
 5 PRESIDING OFFICER: Okay. I'm going to  
 6 sustain the objection on 649.  
 7 MR. HARDIN: I -- but I understood at  
 8 this bench you wanted us to set a predicate if we were  
 9 going to try to overcome it.  
 10 PRESIDING OFFICER: Yes.  
 11 MR. HARDIN: That's all I'm trying to do.  
 12 Q. (BY MR. HARDIN) But don't -- the -- it's  
 13 not -- you understand as a lawyer it's not in evidence.  
 14 An objection has been made. Preliminary sustained. I'm  
 15 being allowed to ask you a few more questions about it  
 16 without describing the contents.  
 17 A. Yes, sir.  
 18 Q. Okay. Now, when you -- this particular  
 19 document -- and notice here you forwarded that document  
 20 to whom?  
 21 A. I sent this document to Mr. Paxton.  
 22 Q. All right. And in the case of Mr. Paxton,  
 23 when you sent it to him, is this an example of how you  
 24 kept him informed of things that were being done?  
 25 A. Yes, sir. This was one of the ways.

1 Q. All right. And this particular document, then  
 2 did you as you -- you -- then -- that you got from  
 3 Mr. Wynne, did you use it as a basis to prepare any  
 4 documents yourself?  
 5 A. No, sir.  
 6 Q. All right. Did you do anything with this  
 7 document?  
 8 A. No, sir.  
 9 Q. So is it your testimony you received this  
 10 document from Mr. Wynne? You passed it on to the  
 11 attorney general. Did you and the attorney general ever  
 12 discuss this document?  
 13 A. No, sir.  
 14 Q. Did you ever have any personal or  
 15 over-the-phone contact with the attorney general about  
 16 this document?  
 17 A. Yes, sir.  
 18 Q. All right. When was that?  
 19 A. It would have been around the time that I  
 20 received this, on this 9/16 date, but I don't recall the  
 21 exact date that I spoke with him.  
 22 Q. Can you discuss that conversation without  
 23 referring to the contents internally of this document?  
 24 A. Yes. Just like in other -- other things that  
 25 I forwarded to Mr. Paxton, if I had a conversation about

1 it, I would have said, Yes, sir, I sent you over  
 2 something that I got from Michael Wynne or Nate Paul --  
 3 or Michael Wynne actually.  
 4 Q. Did you represent Mr. Paxton personally,  
 5 individually?  
 6 A. I'm sorry. Could you --  
 7 Q. Did you ever consider yourself Mr. Ken  
 8 Paxton's personal lawyer?  
 9 A. No, sir.  
 10 Q. All right. And at that time had you been  
 11 retained by -- and you -- I believe you testified the  
 12 attorney general's office; is that correct?  
 13 By whom did you think you had been hired  
 14 by?  
 15 A. The Office of the Attorney General.  
 16 Q. Okay. All right. So now, was anything with  
 17 this document done in your preparation for any of the  
 18 things you did?  
 19 A. No. I -- I believe I skim-read this document  
 20 and just sent it on to Mr. Paxton.  
 21 Q. Without ever discussing it with him or  
 22 anything?  
 23 A. Just discussing that I had sent him over what  
 24 this document is, but not going any -- into any detail  
 25 about what was in this document.

1 Q. And is this a fairly typical process you had  
 2 through this whole representation during the  
 3 investigation?  
 4 A. The process of forwarding him e-mails and  
 5 maybe discussing things with him?  
 6 Q. Yeah.  
 7 A. Yes, sir.  
 8 Q. All right. And were you regularly getting  
 9 e-mails from Mr. Wynne that you would just pass on to  
 10 the attorney general?  
 11 A. I don't know about regularly. I would just  
 12 have to look at the e-mails that --  
 13 Q. Let me change the word "regularly." Then,  
 14 would you frequently pass on to the attorney general  
 15 documents or -- or e-mails you were getting from  
 16 Mr. Wynne?  
 17 A. I -- I had sent him -- sent him some things.  
 18 I -- I just don't recall what those specific documents  
 19 were. So I don't know if I can say that I frequently  
 20 did it or -- but I did send him things that -- and this  
 21 is one example of it.  
 22 Q. All right. And then let me ask it another way  
 23 finally. That's all I have on this.  
 24 Did you attempt throughout your  
 25 representation or throughout your retention as

1 investigator, try to keep the attorney general updated  
 2 on all of your activities?  
 3 A. Yes, sir.  
 4 Q. All right.  
 5 MR. HARDIN: Your Honor, I'll -- I'll  
 6 move and ask the Court to reconsider exclusion of 649.  
 7 It does -- there's -- there's a basis here. There's no  
 8 privilege from anyone. There is on this document.  
 9 We -- a business record had been filed with this. It's  
 10 covered by a business record. There is no statement  
 11 here by anyone other than Michael Wynne. It is not  
 12 hearsay, though, because he's not making a statement,  
 13 that being forwarded somebody else's statement.  
 14 And so for all kinds of reasons, I  
 15 respectfully request that this be admitted.  
 16 MR. COGDELL: May I speak with  
 17 Mr. McCammack -- Cammack -- Cammack -- I'm sorry,  
 18 Brandon -- Cammack on a predicate question, Your Honor?  
 19 PRESIDING OFFICER: Yes, you may.  
 20 VOIR DIRE EXAMINATION  
 21 BY MR. COGDELL:  
 22 Q. Mr. Cammack, if you could look at the top of  
 23 House Managers' Exhibit 649, and I think the fourth line  
 24 down regarding this subject, does it -- it says, does it  
 25 not, Discovery Plan - Work Product?

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1 A. Yes, sir.  
 2 Q. I'm -- I'm assuming based upon your  
 3 designating the document with that description that you  
 4 considered this to be part of the work product that you  
 5 were performing in your role as an outside lawyer for  
 6 the attorney general's office, correct?  
 7 A. Yes, sir.  
 8 Q. You acted like that was a trick question. It  
 9 wasn't -- it wasn't meant to be.  
 10 So would you agree with me, Mr. Cammack,  
 11 that the act of reviewing it and then forwarding it was  
 12 consistent with your description at the top of being  
 13 work product, agree?  
 14 A. Yes, sir.  
 15 MR. COGDELL: So it would be covered by  
 16 the work-product privilege, Mr. President.  
 17 PRESIDING OFFICER: So your objection is  
 18 work product?  
 19 MR. COGDELL: Yes, sir.  
 20 MR. HARDIN: Your Honor, the work-product  
 21 privilege on this document belongs to this witness and  
 22 witness alone. And the question would become if he  
 23 considers this his work product, he's produced it to us,  
 24 which waives his work product. And I think I suspect he  
 25 would concur again that he's not claiming the work

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1 product, and he's the only one in this equation that has  
 2 the right to, and he's provided it to us voluntarily  
 3 through this production. So it's waived, even if he  
 4 did. But I --  
 5 MR. COGDELL: With respect, I don't agree  
 6 with the last --  
 7 MR. HARDIN: I've never heard of a third  
 8 party waiving somebody else's work-product privilege.  
 9 MR. COGDELL: I'm simply directing the  
 10 witness to answer the question, which is it was sent  
 11 pursuant to --  
 12 PRESIDING OFFICER: Hold on, Mr. Cogdell.  
 13 MR. COGDELL: I'm sorry.  
 14 Brandon, are you okay on water? You're  
 15 good?  
 16 THE WITNESS: Yes, sir.  
 17 PRESIDING OFFICER: The Court will  
 18 sustain the objection on hearsay.  
 19 MR. COGDELL: Yes, sir.  
 20 DIRECT EXAMINATION (CONTINUED)  
 21 BY MR. HARDIN:  
 22 Q. Mr. Cammack, did Michael Wynne -- what is your  
 23 testimony as to whether or not he regularly or  
 24 frequently throughout this kept providing you  
 25 information to assist you in your investigation? Did

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1 he?  
 2 A. He did send me information throughout the  
 3 course of this investigation.  
 4 Q. Many times was it unsolicited?  
 5 A. Towards the end it -- it was --  
 6 Q. All right.  
 7 A. -- yes, sir.  
 8 Q. And did -- would he send you things that were  
 9 to be -- that gave you names that he was trying to get  
 10 you to issue grand jury subpoenas for him?  
 11 MR. COGDELL: Objection. Leading.  
 12 MR. HARDIN: That's not leading. That  
 13 question was would he do so and so. He can answer yes  
 14 or no. It doesn't tell him which answer to give.  
 15 PRESIDING OFFICER: Overruled.  
 16 MR. HARDIN: Thank you.  
 17 THE WITNESS: I'm sorry. Could you  
 18 repeat?  
 19 Q. (BY MR. HARDIN) Yeah. Would he -- did he  
 20 send you things that -- did he give you names that he  
 21 was trying to get you to issue grand jury subpoenas for  
 22 him?  
 23 A. No, sir. Not -- he gave me names in an Excel  
 24 spreadsheet that I think we discussed, but it -- it was  
 25 never these are the people that you need to --

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1 Q. But, Mr. Cammack, did he also --  
 2 MR. COGDELL: Excuse me. Excuse me. May  
 3 the witness be allowed to answer -- finish answering the  
 4 question?  
 5 MR. HARDIN: Certainly. I thought you  
 6 were through.  
 7 Q. (BY MR. HARDIN) Were you through?  
 8 PRESIDING OFFICER: Were you through,  
 9 Mr. Cammack?  
 10 MR. HARDIN: Pardon me?  
 11 THE WITNESS: Yes, Judge. Yes, sir.  
 12 MR. HARDIN: Thank you.  
 13 Q. (BY MR. HARDIN) Now, when he -- what all kind  
 14 of information was Mr. Wynne regularly providing you, if  
 15 he was?  
 16 A. I'm so sorry. I --  
 17 Q. Was he regularly providing you information?  
 18 A. Yes.  
 19 Q. And what type of information was he providing  
 20 you?  
 21 A. There were -- there were a couple of Excel  
 22 spreadsheets that he had forwarded to me that had the  
 23 names and demographic information of individuals as they  
 24 related to the -- the referral that I got. There was a  
 25 timeline that I was given early on. There was a memo

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1 that was provided to me, like a prosecution memo. There  
 2 was -- and as I sit here right now, I just -- I can't  
 3 think of anything else other than those three.  
 4 Q. Would you look at 650 up there, please?  
 5 A. Yes, sir.  
 6 Q. All right. You've got 649 already. We talked  
 7 about that, correct? The contents are not in evidence  
 8 where you looked at. We talked about that, did we not?  
 9 A. Exhibit 649, yes, sir, we talked about it.  
 10 Q. And now you've got 650 in front of you?  
 11 A. Yes, sir.  
 12 Q. You just referred -- you just mentioned a  
 13 prosecution memo that he provided you?  
 14 A. Yes, sir.  
 15 Q. And what was the purpose of him giving you a  
 16 prosecution memo?  
 17 MR. COGDELL: Objection. Conjecture and  
 18 speculation.  
 19 PRESIDING OFFICER: Sustained.  
 20 Just rephrase it.  
 21 MR. HARDIN: Excuse me. I'm sorry.  
 22 Q. (BY MR. HARDIN) What was the stated purpose  
 23 of him getting a prosecution memo?  
 24 A. That was also an unprompted e-mail to me with  
 25 this prosecution memo.

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1 Q. Were all of these things you were provided  
 2 designed to help your investigation of the allegations  
 3 of Mr. Paul?  
 4 A. The information that he gave me was helpful to  
 5 my understanding of what the investigation was about and  
 6 what was to be done.  
 7 Q. Yes. And, of course, you were conducting an  
 8 investigation. Your view you've mentioned before was  
 9 that Mr. Paul was your sort of complaining witness as a  
 10 prosecutor in your mind, correct?  
 11 A. Yes, sir.  
 12 Q. Okay. And were these different things that  
 13 Mr. Wynne was providing you, were they intended to help  
 14 you in your investigation of the complaint that was  
 15 filed by Mr. Paul?  
 16 A. They were helpful to the investigation, yes,  
 17 sir.  
 18 Q. All right.  
 19 A. I don't know -- and I'm sorry. I just don't  
 20 want to speak for Mr. Wynne about what the intention  
 21 was, but they were helpful.  
 22 Q. Well, we -- Mr. Wynne was representing  
 23 Mr. Paul, wasn't he?  
 24 A. Yes, sir.  
 25 Q. We can kind of agree, can't we, that he's not

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1 going to be providing things to you that are harmful to  
 2 Mr. Paul? Can't we agree on that?  
 3 A. Yes, sir.  
 4 Q. Okay. So would you agree with me, as you  
 5 think about it, that Mr. Wynne was frequently providing  
 6 you with information that was potentially helpful to  
 7 Mr. Paul's complaint that you investigated?  
 8 MR. COGDELL: Objection. Leading.  
 9 PRESIDING OFFICER: Sustained.  
 10 Q. (BY MR. HARDIN) Were you getting information  
 11 regularly from Mr. Wynne, number one? Were you?  
 12 A. Yes, sir.  
 13 Q. And was that information, information designed  
 14 to help you in investigating Mr. Paul's complaint?  
 15 A. It was helpful.  
 16 Q. All right. You -- you know it was helpful,  
 17 then, right?  
 18 A. Yes, sir.  
 19 Q. All right. Did Mr. Wynne provide you a  
 20 prosecution memo for you to adapt into one of your own?  
 21 A. He provided the prosecution memo to me  
 22 unprompted. But that was kind of my jump-off point for  
 23 the investigative report that I was going to  
 24 ultimately -- ultimately put together and -- and turn  
 25 back into the attorney general's office.

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1 Q. Yes, sir. He actually, did he not, provided  
2 you a prosecution memo, that is 650, that was being  
3 designed for you to help write your report at the end of  
4 the investigation? Is that a fair statement?  
5 MR. COGDELL: Objection. Leading.  
6 PRESIDING OFFICER: Sustained.  
7 Q. (BY MR. HARDIN) What was the purpose of this  
8 prosecution memo?  
9 A. I viewed it as giving me information about  
10 everything that had happened, more detailed information  
11 than just the timeline that I got initially at the first  
12 meeting.  
13 Q. Yes, sir. And it was all information from the  
14 perspective of Mr. Paul, was it not?  
15 MR. COGDELL: Objection. Leading.  
16 MR. HARDIN: I'll ask it another way.  
17 Q. (BY MR. HARDIN) Was this information --  
18 PRESIDING OFFICER: Sustained.  
19 MR. HARDIN: Excuse me.  
20 Q. (BY MR. HARDIN) Was this information offered  
21 to you for (sic) help Mr. Paul?  
22 MR. COGDELL: Conjecture and speculation.  
23 He can't know what the purpose of it was.  
24 PRESIDING OFFICER: I'll overrule.  
25 THE WITNESS: I'm sorry. Could you

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1 repeat it?  
2 Q. (BY MR. HARDIN) You can answer the question.  
3 Was this information provided to you to  
4 help Mr. Hall -- Paul or to harm Mr. Paul?  
5 A. It was helpful -- it was helpful from my  
6 perspective to be able to wrap my mind around all of the  
7 different moving parts within that investigation.  
8 Q. All right, sir. I'm going to refer you to  
9 Exhibit 650 in front of you.  
10 A. 650.  
11 Q. Do you have it?  
12 A. Yes, sir.  
13 Q. It's not in evidence yet, but is this an  
14 e-mail sent -- that you got from Mr. Wynne, or is this  
15 an e-mail you created yourself?  
16 A. This is an e-mail that I created myself and an  
17 e-mail that I sent to Mr. Paxton.  
18 Q. All right. Was this -- so was this e-mail --  
19 I mean, was this -- is this the prosecution memo we've  
20 been talking about?  
21 A. Yes, sir.  
22 Q. And was the prosecution memo prepared by you?  
23 A. This -- this document was, yes.  
24 Q. All right. And did you use as a basis for  
25 this a -- a prosecution memo proposed by Mr. Wynne that

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1 he sent you?  
2 A. Yes, sir.  
3 Q. And then did you forward it on to the attorney  
4 general?  
5 A. I didn't forward Mr. Wynne's memo. I created  
6 my own.  
7 Q. All right.  
8 A. And then forwarded it on.  
9 Q. So did you forward 650 to the attorney  
10 general?  
11 A. Yes, sir.  
12 Q. As far back as the date of 9/13; is that  
13 correct?  
14 A. Yes, sir, 9/13.  
15 Q. Now, you're not here today claiming any type  
16 of privilege on this document, are you? Did you produce  
17 it to us?  
18 MR. COGDELL: Excuse me. Those are two  
19 different questions.  
20 Q. (BY MR. HARDIN) Down at the bottom I would  
21 ask you to look and see if you see your name.  
22 A. Could you repeat?  
23 MR. COGDELL: That's a third question.  
24 Q. (BY MR. HARDIN) Yes. Did you produce this  
25 document to us?

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1 A. I believe my counsel did.  
2 Q. Yes, your counsel did. I know.  
3 You -- you -- in total openness, you  
4 provided us about 2,000 documents, didn't you?  
5 A. Yes, sir.  
6 Q. It was a bunch, right? And 650 is one of  
7 those documents you provided us, correct?  
8 A. Yes, sir.  
9 Q. And you weren't claiming work-product  
10 privilege at that time or anything, were you?  
11 A. My lawyers are the ones who produced all of  
12 it. I didn't make any claim one way or the other with  
13 respect to privilege.  
14 Q. To both sides, correct?  
15 A. Correct.  
16 Q. All right. So my question to you is: Is this  
17 a document you prepared and just forwarded it to the  
18 attorney general for his information?  
19 A. Yes.  
20 Q. Did you ever discuss this document with him?  
21 A. I did.  
22 Q. When?  
23 A. I believe it was around the time either just  
24 before or just after I prepared this. I spoke with him  
25 about it to let him know that I had sent it.

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1 Q. That you intended what, to prepare a  
2 prosecution memo?  
3 A. Yes. That I had sent this, uh-huh.  
4 Q. To him?  
5 A. To him.  
6 Q. Did you discuss the contents with him at that  
7 time?  
8 A. I did briefly, just to let him know that I had  
9 sent this over here and that it had some ideas about the  
10 case.  
11 Q. All right. And so was this designed to let  
12 him know that you were working on the case and this is  
13 where you were in the middle of September?  
14 A. Yes, sir.  
15 MR. HARDIN: Okay. Now, again, Your  
16 Honor, I move to introduce Exhibit 650.  
17 MR. COGDELL: Objection. Hearsay.  
18 MR. HARDIN: Your Honor, there are about  
19 three different reasons it's not.  
20 PRESIDING OFFICER: Overruled.  
21 Q. (BY MR. HARDIN) All right. Now --  
22 PRESIDING OFFICER: The exhibit is  
23 admitted 650.  
24 (HBOM Exhibit 650 admitted)  
25 MR. COGDELL: I'm sorry, Mr. President.

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1 I couldn't hear you.  
2 PRESIDING OFFICER: I'm sorry. I said,  
3 overruled. 650 has been admitted into evidence.  
4 MR. COGDELL: Thank you.  
5 MR. HARDIN: Now, if we go over to the  
6 Bates stamp 1986 of Cammack, Stacey.  
7 Q. (BY MR. HARDIN) All right. Up at the top  
8 number 6 says, establishing a predicate to issue legal  
9 process. Do you see that?  
10 A. Yes, sir.  
11 Q. And it has a list of names there. Where did  
12 you get those names?  
13 A. I got these names from Michael Wynne.  
14 Q. All right.  
15 MR. HARDIN: And if we go over to the  
16 first page of it, Stacey.  
17 Q. (BY MR. HARDIN) Did you -- can you tell us  
18 where you got this heading and the dates of it, what it  
19 is, the factual summary where it says, A more detailed  
20 chronology is attached to this memorandum?  
21 Did you get the information that you used  
22 as a basis of that from Mr. Wynne?  
23 A. Yes, sir, from that original prosecution memo.  
24 Q. All right. So would it be a fair -- would it  
25 be a fair statement that everything you prepared in this

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1 document, that the research and writing of it was  
2 information provided by Mr. Paul or Mr. Wynne?  
3 A. So -- yes. Yes.  
4 Q. All right. I'll let you explain. You're --  
5 you said "so," so I want to give you an opportunity if  
6 you wanted to explain that.  
7 A. Sure. Well, this -- the prosecution memo that  
8 I got initially from Mr. Wynne, I had reached out to him  
9 about it after I had spoken with Mr. Paxton about  
10 sending it to him. And I -- you know, as lawyers, I  
11 checked with him. I said, you know, I need to -- I'm  
12 going to prepare this and send it over. Would it be --  
13 would it be okay if I use some of the things that you  
14 put in here, statutes, and reviewed some of the case law  
15 that was in there.  
16 So, you know, he said, No problem. Have  
17 at it.  
18 So I used that as the basis of what was  
19 going to ultimately be an investigative report to turn  
20 in at the end.  
21 Q. All right. I'm going to show you what is a  
22 new exhibit marked 696.  
23 A. 696.  
24 Q. I don't think you have it up there. I want to  
25 show you and ask you just to look at this document,

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1 first of all, and see if you recognize it. Don't  
2 testify about the contents or anything.  
3 A. Okay.  
4 Q. Okay.  
5 PRESIDING OFFICER: Mr. Hardin, I don't  
6 have 696.  
7 MR. HARDIN: No, sir. It's a proposed  
8 new exhibit.  
9 PRESIDING OFFICER: Okay.  
10 MR. COGDELL: I don't either.  
11 Q. (BY MR. HARDIN) And my question is simply do  
12 you recognize it?  
13 A. Yes, sir.  
14 Q. Can you identify what it is without talking  
15 about the internal contents?  
16 A. This is an e-mail from Michael Wynne dated  
17 9/25/2020, with what appears to be like a Word document  
18 attached to it.  
19 MR. COGDELL: Thank you.  
20 Q. (BY MR. HARDIN) And did you -- what did you  
21 do with that document, if anything?  
22 A. The truth is I read it and I kind of just one  
23 ear out the other with it.  
24 Q. All right. Now, is that -- is that additional  
25 information Mr. Wynne prepared for you?

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1 A. Yes, sir.  
 2 Q. And without going into the contents of the  
 3 documents, what was the purpose of that particular  
 4 document?  
 5 A. This document appears to be a -- a list of  
 6 individuals to approach about an interview.  
 7 Q. All right. So let me ask you this -- may I  
 8 have it back?  
 9 A. Sure.  
 10 MR. HARDIN: I move -- I move to  
 11 introduce 696.  
 12 MR. COGDELL: Objection. Hearsay.  
 13 MR. HARDIN: Hearsay? We already have a  
 14 record -- a business records' affidavit which addresses  
 15 the reliability of it. It is not a statement. It is a  
 16 suggestion to this man by a co-conspirator in this case,  
 17 not a co-conspirator with him, but a co-conspirator with  
 18 the attorney general and Mr. Paul as they keep feeding  
 19 this information in pursuit of their conspiracy. That's  
 20 the reason we offer it.  
 21 MR. COGDELL: And therein lies the  
 22 problem. Mr. Hardin suggests, as "they" keep feeding  
 23 the information. There is zero evidence that Ken Paxton  
 24 saw this document, participated in this document,  
 25 created this document before it was sent by Mr. Wynne to

1 Mr. Cammack. And for Mr. Hardin to suggest there's not  
 2 a statement is -- is belied on the face of the document.  
 3 Look at the very first --  
 4 PRESIDING OFFICER: Your objection is  
 5 sustained --  
 6 MR. HARDIN: All right.  
 7 PRESIDING OFFICER: -- as to hearsay.  
 8 MR. HARDIN: May I -- just for the  
 9 record, I have one thing.  
 10 Mr. Paxton doesn't have to have seen this  
 11 if there is an actual conspiracy going on. It only  
 12 needs to be somebody that is a member of that  
 13 conspiracy, any overt act or making any statement like  
 14 that. I just want that in the record, Your Honor. I  
 15 certainly don't want to quarrel with you.  
 16 PRESIDING OFFICER: I sustained it to  
 17 hearsay.  
 18 MR. HARDIN: All right. Thank you,  
 19 Judge.  
 20 Q. (BY MR. HARDIN) Now, let's move forward. You  
 21 are going to issue grand jury subpoenas, were you not?  
 22 A. Yes.  
 23 Q. I said "are," but you were; is that correct?  
 24 A. Yes, sir.  
 25 Q. And in preparing those grand jury subpoenas, I

1 think we've testified you used the assistance of the  
 2 AG's office or the district attorney's office to get the  
 3 forms prepared, correct?  
 4 A. That's correct.  
 5 Q. Did anybody in the district attorney's office  
 6 work with you or anything as to the content or the  
 7 people they would be sent to or the wording or anything  
 8 like that?  
 9 A. I believe I received a form from them in an  
 10 e-mail, like a sample form. That's the only thing that  
 11 I received back from them as far as assistance go.  
 12 Q. So is what you sent -- what you received from  
 13 them -- what I'm really asking is did any lawyer or  
 14 anyone working on behalf of the content, did anybody try  
 15 to talk to you about the content or the people to  
 16 subpoena or anything like that?  
 17 A. No, sir.  
 18 Q. All right. Was their -- their duty simply  
 19 aiding you to get the grand jury subpoena before a judge  
 20 decides?  
 21 A. Yes, sir, they facilitated that.  
 22 Q. Did you -- did you discuss with anybody in the  
 23 District Attorney's Office anything about who you wanted  
 24 to subpoena or anything like that, or did you simply  
 25 provide them the information, they helped you with

1 format, and presented it to a judge for you?  
 2 A. Yes, sir. So I just e-mailed the application  
 3 for the subpoenas.  
 4 Q. All right.  
 5 A. I did not offer any assistance or make any  
 6 comments or anything about the contents.  
 7 Q. All right. Was there anyone in the attorney  
 8 general's office aiding you at all in terms of  
 9 investigating this -- this complaint of Mr. -- Mr. Paul?  
 10 MR. COGDELL: Objection. Conjecture and  
 11 speculation.  
 12 PRESIDING OFFICER: Sustained.  
 13 Q. (BY MR. HARDIN) All right. Now, at the end  
 14 of the time when you issued these subpoenas -- let's go  
 15 to the dates and times you did it.  
 16 A. Yes, sir.  
 17 Q. Did you issue some subpoenas originally by  
 18 e-mail?  
 19 You've got your billing record up there?  
 20 A. Yes, sir, I'm looking at the --  
 21 Q. And your records or your memory show you when  
 22 you did it. When did you first start serving these  
 23 subpoenas?  
 24 A. It would have been September 25th, 2020.  
 25 Q. Pardon me?

1 A. It would have been September 25th, 2020.  
 2 Q. All right. And then after you sent -- do you  
 3 remember how many of those you sent out by e-mail?  
 4 A. It was roughly 35 to 40, somewhere in there.  
 5 Q. All right. And then after you sent out some  
 6 by e-mail, then did you reserve some that you were going  
 7 to serve and serve personally?  
 8 A. I think there were a few that I was going to  
 9 serve personally for the second referral.  
 10 Q. For the second one?  
 11 A. Yes, sir.  
 12 Q. So why did you decide to send an e-mail for  
 13 the e-mails in -- on Mr. Paul's complaint, but decide to  
 14 serve personally those in the second referral?  
 15 A. Because when I -- can I explain myself?  
 16 Q. Sure.  
 17 A. So some of the -- so I have this list that  
 18 I'm -- I'm given of individuals that are subject to  
 19 either the first or second referral. I get that from  
 20 Michael Wynne. And what I was -- the grand jury  
 21 subpoenas were going to go out for e-mail address, like  
 22 to and from; you know, the e-mail log; to, from, what  
 23 time, around the time that this search had taken place.  
 24 And then there were also phone numbers to  
 25 see if any contacts had been made around that time

1 between cell phone numbers. So I say all of that to say  
 2 this: Most of the people who were on this list either  
 3 had a gmail account or a hotmail or a Microsoft account.  
 4 So rather than piecemeal, you know, let me get a couple  
 5 of subpoenas here, there, there was no intention of it  
 6 to be this shock value of sending out so many subpoenas.  
 7 It was like, Let me get all of this information  
 8 together. I will go through it and then go from there.  
 9 And with respect to those that I e-mailed  
 10 out, that's the way I look it up. You know, I went to  
 11 the -- I went and looked that up, like, okay, how does  
 12 Microsoft receive a subpoena? Well, you can fax or  
 13 e-mail it.  
 14 With respect to the banks that I served  
 15 those subpoenas on, I just did it in person.  
 16 Q. Well, and then you notice -- you sent out, did  
 17 you not, on the e-mails you did also that you were  
 18 subpoenaing personal cell phones records? Did you send  
 19 that out by e-mail?  
 20 A. Those were by e-mail --  
 21 Q. Yeah.  
 22 A. -- the cell phone records.  
 23 Q. So were you sending out subpoenas for personal  
 24 phone records of law enforcement officers, state and  
 25 federal?

1 A. I would have to look that up, but I believe  
 2 some of them were.  
 3 Q. And were you sending out -- did you even send  
 4 out a subpoena for the cell phone records of somebody  
 5 who worked as a deputy for a federal magistrate, a  
 6 courtroom deputy?  
 7 A. I would have to look at that. I believe so.  
 8 Q. Okay. And then you don't happen to recall off  
 9 the top of your mind right now who all you did, correct?  
 10 A. I do not, sir.  
 11 Q. Okay. That's all right.  
 12 So then when you sent out these different  
 13 subpoenas, did you have any knowledge one way or the  
 14 other that some of the people that you were sending  
 15 subpoenas to were opposing counsel to Mr. Paul in civil  
 16 litigation? Did you know that?  
 17 A. No, sir.  
 18 Q. All right. If you had known that, would you  
 19 have done it?  
 20 A. No.  
 21 Q. All right. Who did you get the list from as  
 22 to who to subpoena?  
 23 A. I got the list from Michael Wynne and  
 24 Nate Paul.  
 25 Q. So is it an accurate statement to say that you

1 issued grand jury subpoenas on behalf of the person that  
 2 you -- that was under a state charges, you issued  
 3 subpoenas to his agency, the Securities Board?  
 4 MR. COGDELL: Objection. Assuming facts  
 5 not in evidence.  
 6 Q. (BY MR. HARDIN) Did -- did you realize that?  
 7 That's really my question. Let me restate --  
 8 PRESIDING OFFICER: Sustained.  
 9 MR. HARDIN: Thank you. Thank you,  
 10 Judge.  
 11 Q. (BY MR. HARDIN) Let me put it this way: The  
 12 first person out of the box in that prosecution memo we  
 13 went over is Mr. Rani Sabban, right? Did you know that?  
 14 A. Yes, sir.  
 15 Q. All right. And you knew him as one of the  
 16 agents involved in the search, correct?  
 17 A. That's correct.  
 18 Q. Were you aware that he was -- he was an  
 19 employee of the Securities Board and was involved in the  
 20 criminal case where charges were filed and pending at  
 21 this moment still against the attorney general?  
 22 MR. COGDELL: Objection. Assumes facts  
 23 not in evidence.  
 24 Q. (BY MR. HARDIN) Did you know that? That's  
 25 all I'm asking.

1 PRESIDING OFFICER: Sustained.  
 2 Q. (BY MR. HARDIN) Were you aware of what his  
 3 role was?  
 4 A. Of the gentleman -- I think you said Rani  
 5 Sabban?  
 6 Q. Yes.  
 7 A. No, sir.  
 8 Q. All right.  
 9 A. I just only knew him as one of the individuals  
 10 who had searched Mr. Paul's residence.  
 11 Q. Fine. All right. And then different other  
 12 people -- did you know that Mr. Ray Chester, who was on  
 13 your list, was opposing counsel in a lawsuit with the  
 14 Mitte Foundation? Just did you know?  
 15 A. No.  
 16 Q. All right. So did Mr. Wynne provide you these  
 17 names without informing you that part of what they were  
 18 seeking was information with people that were either in  
 19 litigation against the attorney general, namely the  
 20 criminal charge pending, or in litigation against  
 21 Mr. Paul --  
 22 MR. COGDELL: Okay. That's --  
 23 Q. (BY MR. HARDIN) -- namely the Mitte  
 24 Foundation?  
 25 MR. COGDELL: I'm sorry --

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1 Q. (BY MR. HARDIN) Were you aware of any of  
 2 that?  
 3 MR. COGDELL: Multifarious. Assuming  
 4 facts in evidence.  
 5 MR. HARDIN: It's all in evidence.  
 6 MR. COGDELL: No, it's not. And it's  
 7 multifarious.  
 8 MR. HARDIN: We have heard -- well,  
 9 excuse me. Let me let the Court rule.  
 10 PRESIDING OFFICER: Overruled.  
 11 MR. HARDIN: Thank you very much.  
 12 Q. (BY MR. HARDIN) Did -- were you aware of  
 13 that?  
 14 A. I'm sorry. Can you please rephrase that  
 15 question?  
 16 Q. Sure.  
 17 So did Mr. Wynne provide you these names  
 18 without informing you that part of what they were  
 19 seeking was information with people where they're either  
 20 in litigation against the attorney general, namely the  
 21 criminal charge pending, or in litigation against  
 22 Mr. Paul in the Mitte Foundation litigation? Were --  
 23 did he inform you of that?  
 24 A. No, sir.  
 25 Q. Okay. Now, then you move on to the -- the

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1 subpoenas that you were going to serve personally. And  
 2 is it your testified those -- those subpoenas were based  
 3 on the second referral that Mr. Paul had filed with  
 4 the -- originally with the DA's office on September  
 5 the 23rd?  
 6 A. Those were for the second referral, yes, sir.  
 7 Q. All right. And that's -- that's the referral  
 8 that you had said you got on the 24th, right?  
 9 A. Yes, sir.  
 10 Q. Okay. Now, at the time you sent out these  
 11 subpoenas the previous week, after you sent them out and  
 12 the judge signed them and they were ready to be sent out  
 13 and you sent them out into the world of the Internet,  
 14 did you inform the attorney general?  
 15 A. I did.  
 16 Q. How did you inform him?  
 17 A. I believe I sent him an e-mail.  
 18 Q. All right. Did you send him an e-mail at any  
 19 time letting him know which people you were subpoenaing?  
 20 A. No.  
 21 Q. All right.  
 22 A. I don't think I individually named --  
 23 Q. If you'll stay with the microphone, please.  
 24 A. I don't believe I individually named each  
 25 person, but I --

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1 Q. All right.  
 2 A. -- just don't recall that.  
 3 Q. Now, when you went out to serve the subpoenas  
 4 in person, what dates did you do it and how did you do  
 5 it?  
 6 A. That would have been on September the 29th of  
 7 2020.  
 8 Q. September the 29th?  
 9 A. Yes. Yes, sir.  
 10 Q. All right. And had you made arrangements with  
 11 Mr. Wynne for him to go on these services of subpoenas  
 12 with you?  
 13 A. So he was insistent on going.  
 14 Q. What did he -- I mean, how long had he been  
 15 insistent talking to you about wanting to go with you?  
 16 A. Just maybe a day or so. I -- you know, I told  
 17 them -- I was informing them of what I was going to do  
 18 to serve -- you know, I was going to go drop off the  
 19 subpoenas, and he insisted on going. And I was like,  
 20 you don't really need to do that. I didn't really think  
 21 it was appropriate.  
 22 But he said, you know, I'm -- I'm  
 23 Nate Paul's lawyer, and I'm -- it's important for me to  
 24 be there in case they ask you any questions about his  
 25 case or anything that's going on.

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1 And so, you know, I felt a little  
2 pressure to say okay. And he -- yeah, he rode along  
3 with me.  
4 Q. Share with us why you felt pressure to accede  
5 to that?  
6 A. It just -- kind of pressure to perform. I  
7 wanted to do a good job, and I -- I trusted -- frankly  
8 trusted Michael.  
9 Q. Okay. Did he inform you there was a statute  
10 prohibiting an interested party from serving subpoenas?  
11 A. I was not aware of that.  
12 Q. Okay. And then -- so when you made  
13 arrangements to go with him, where did you first meet  
14 up?  
15 A. I was staying -- I forgot the hotel I was  
16 staying at down here. And he was at a hotel. And I  
17 just picked him up and we went.  
18 Q. What day of the week was it? The 28th was a  
19 Monday, was it not?  
20 A. I don't know. It was September 29th.  
21 Q. September 29th. I don't think anybody is  
22 going to argue if I can say it was a Tuesday.  
23 A. Okay.  
24 Q. By the way, by this time, Tuesday the 29th,  
25 how much contact did you have with the attorney general

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1 about this investigation? How many times? First of  
2 all, go -- how many times did you talk to him by phone?  
3 A. Between phone calls and text messages, I mean,  
4 it had to be somewhere 15-to-20-times range over that  
5 three-and-a-half, four-week period.  
6 Q. So that would be 15 or 20 times that you were  
7 in contact with the attorney general about the case,  
8 correct, and leading up to the 29th? And would you  
9 agree that you really actively get involved on the  
10 3rd of September?  
11 A. Oh, I'm sorry. One more time.  
12 Q. Roughly the 3rd.  
13 A. The 3rd?  
14 Q. Yes. Remember the billing records? The first  
15 thing you billed is September 3rd.  
16 A. Yes, sir, that was a typo. The date that I  
17 actually went out there was on 9/4.  
18 Q. All right. So can we say that those 15 to  
19 20 -- 15 to 20 times that you're in personal contact  
20 about this case with the attorney general, it was 15 to  
21 20 times in the days between the 3rd and the 29th of  
22 September?  
23 A. I think that's accurate.  
24 Q. All right. And how many of those do you think  
25 they were personal phone calls?

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1 A. I'm sorry. What?  
2 Q. How many -- how many of those 15 to 20 times  
3 were phone calls?  
4 A. I would have to --  
5 Q. Roughly, just approximately.  
6 A. I mean, maybe 7 to 10 times.  
7 Q. All right. How many of them were personal  
8 visits?  
9 A. I didn't have any personal visits during that  
10 time.  
11 Q. During that time. You had the first meeting,  
12 and you described when you were hired; is that correct?  
13 A. Yes, sir. I had the 8/26, the 9/4 day, and  
14 then throughout the month of September I didn't meet  
15 anymore in person.  
16 Q. Okay. And by the middle of it, he is  
17 communicating with you by a particular type of encrypted  
18 app; is that right?  
19 A. Mostly through cell phone texts. And then I  
20 was asked to download the Signal App. And I don't think  
21 we had -- I don't even think we had a conversation on  
22 the Signal App, maybe. I mean, I had that and then my  
23 cell phone.  
24 Q. Now, did the attorney general, was -- did you  
25 give the attorney general advanced notice that you were

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1 going to go -- going out on the 29th and serving  
2 subpoenas?  
3 A. Yes, sir.  
4 Q. Had you sent him any preliminary list of who  
5 you were serving on?  
6 A. No, sir.  
7 Q. Had you told him approximately how many you  
8 were going to serve?  
9 A. No, sir.  
10 Q. How many did you -- were you planning to  
11 serve?  
12 A. I believe there were four in-person. There  
13 were the banks who were kind of -- the ones that were  
14 being accused in that second referral of the -- this  
15 bank fraud deal.  
16 Q. All right. And so the e-mail subpoenas that  
17 you sent out had to do with Nate Paul's Referral No. 1;  
18 is that correct?  
19 A. The e-mails that I sent out?  
20 Q. Yes.  
21 A. Yes, sir.  
22 Q. Those subpoenas?  
23 A. Yes, sir.  
24 Q. And then the subpoenas you served in-person  
25 had to do with Referral No. 2; is that what you're

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1 saying?  
 2 A. Yes, sir, that's -- that's correct.  
 3 Q. All right. And when you took Mr. -- would you  
 4 just tell us in your own words, recite to us how you  
 5 served those subpoenas.  
 6 A. We -- first -- we went to two banks.  
 7 Q. Now, let me stop you there just a second.  
 8 In each of these banks that you went to,  
 9 did you identify yourself as a special prosecutor for  
 10 the attorney general's office?  
 11 A. Yes, sir, I did.  
 12 Q. All right. And Mr. Wynne was with you at each  
 13 one, correct?  
 14 A. Yes, sir.  
 15 Q. Did you attempt at each of these banks to do  
 16 some interviews of the people you had served them on?  
 17 A. Just talking to them, yes, sir.  
 18 Q. Yeah.  
 19 A. And giving the subpoena.  
 20 Q. And did you talk to each of these people  
 21 during that -- on -- in some cases a little bit about  
 22 why you were there in terms of the case?  
 23 A. Yes, sir.  
 24 Q. All right. And you were there about a case  
 25 Mr. Wynne -- Mr. Paul contended was a mortgage fraud

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1 case, correct?  
 2 A. Yes, sir.  
 3 Q. And that was a case in which he wanted you to  
 4 subpoena also and investigate a federal bankruptcy  
 5 judge, correct?  
 6 A. Yes, sir.  
 7 Q. Okay. And then did you conduct an interview  
 8 of the husband of a court deputy during one of these  
 9 services of subpoena?  
 10 A. There was a -- it wasn't -- I wasn't serving a  
 11 subpoena. I don't believe it was a -- I was trying to  
 12 talk to him.  
 13 Q. All right. That was an interview without  
 14 serving a subpoena.  
 15 Who -- without giving the person's name,  
 16 unless counsel asks for it -- and I think it's in the  
 17 records. Without giving the person's name, who did you  
 18 go interview? Was it the husband of a deceased deputy?  
 19 A. Yes, I think she was a clerk of the court.  
 20 Q. And where -- where had the deceased clerk of  
 21 the court been a clerk?  
 22 A. She was -- I forget which court it was. It  
 23 was the court basically where this first initial  
 24 referral came out of, the search warrant that came out  
 25 of that made the basis of the first complaint.

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1 Q. So she was a previous clerk for the federal  
 2 magistrate?  
 3 A. Yes.  
 4 Q. And who were you talking to? Her husband?  
 5 A. Her husband.  
 6 Q. And did you actually -- did you have some  
 7 suspicions or so that made you inquire as to how she  
 8 died or anything?  
 9 A. I think there was a -- yeah, there was a -- I  
 10 can't think of the right word. There was like an  
 11 indication that maybe there was some kind of foul play  
 12 or something there with this clerk.  
 13 Q. Now, Mr. Cammack, that -- that had been a  
 14 suggestion to you by Mr. Wynne, had it not?  
 15 A. And Mr. Paul.  
 16 Q. And Mr. Paul.  
 17 A. Yes.  
 18 Q. So Mr. Paul tells you a deputy at the court  
 19 that issued the warrant that I'm complaining about died  
 20 out of suspicious circumstances. That's what Mr. Paul  
 21 tells you, right?  
 22 A. I don't remember if those are his exact words,  
 23 but it was something like that.  
 24 Q. And maybe not that tone of voice, right?  
 25 A. Yes, sir.

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1 Q. But my point is he actually led you to  
 2 somebody that you in good faith interviewed, making you  
 3 think that this husband might tell you suspicious  
 4 circumstances of his deceased wife's death, correct?  
 5 MR. COGDELL: Object -- objection.  
 6 Leading and argumentative.  
 7 Q. (BY MR. HARDIN) Is that correct?  
 8 PRESIDING OFFICER: Sustained.  
 9 MR. HARDIN: Thank you.  
 10 Q. (BY MR. HARDIN) Now, my only point was you  
 11 issued those two. You served those two. Were they on  
 12 the 29th to these two financial institutions?  
 13 A. Yes, sir.  
 14 Q. And do you remember what the names of the two  
 15 financial institutions were?  
 16 A. I don't recall. I -- I don't recall.  
 17 Q. All right. After you issued those subpoenas  
 18 on the 29th, what happened?  
 19 A. I get back to Houston the following day, and I  
 20 received an e-mail from I think Microsoft at that point  
 21 and then also an e-mail from counsel for one of the  
 22 banks saying we need some credentials to --  
 23 Q. And, of course, you had been saying all along  
 24 to the attorney general you wanted credentials, right?  
 25 A. Yes, sir.

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1 MR. COGDELL: Objection. Excuse me.  
 2 Q. (BY MR. HARDIN) In order to take care of this  
 3 particular problem --  
 4 MR. COGDELL: Excuse me.  
 5 Q. (BY MR. HARDIN) -- is that right?  
 6 MR. COGDELL: Excuse me. Third time.  
 7 Objection. Leading. Both questions.  
 8 PRESIDING OFFICER: Sustained.  
 9 Q. (BY MR. HARDIN) Well, when you -- had you --  
 10 how many conversations did you say you had had with the  
 11 attorney general trying to get credentials for this kind  
 12 of work?  
 13 A. I think four or five.  
 14 Q. All right. And then once you got those  
 15 e-mails, were those e-mails -- if you served them on the  
 16 29th, were you receiving those the day after you served  
 17 them, or would you receive them all the same day that  
 18 you served them, if you remember?  
 19 A. It would have been after. And I -- you can't  
 20 quote me on that exact day, if it was the 30th, but I do  
 21 remember receiving e-mails to the effect --  
 22 Q. And then what was the next thing that happened  
 23 in your relationship, in your conduct with this?  
 24 A. I got a cease and desist letter.  
 25 Q. From whom?

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1 A. From a gentleman named Mark Penley.  
 2 Q. What did you do?  
 3 A. I responded to his cease and desist and  
 4 said --  
 5 Q. And --  
 6 A. Okay.  
 7 Q. And then did you do anything else besides  
 8 respond to it? Did you reach out to anyone?  
 9 A. I reached out to Mr. Paxton once I got the  
 10 cease and desist.  
 11 Q. Were you successful in reaching him? How did  
 12 you reach out?  
 13 A. I believe I called him.  
 14 Q. All right. Were you able to talk to him?  
 15 A. I don't remember if it was that -- if he -- if  
 16 I spoke with him that day.  
 17 Q. Did you also get a visit from federal law  
 18 enforcement?  
 19 A. I did get -- yeah, the U.S. Marshal showed up  
 20 at my office down in Houston.  
 21 Q. Yeah. Do you remember what day that was?  
 22 A. Maybe October 1st, around there.  
 23 Q. So who was there -- the federal marshals were  
 24 at your office?  
 25 A. They came by my office.

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1 Q. When -- who was the first person you  
 2 contacted?  
 3 A. I called Mr. Paxton, blowing his phone up,  
 4 like, why are there U.S. Marshals at my office?  
 5 Q. How many times did you call him?  
 6 A. Probably five or six times, text messaging.  
 7 And he answered his phone.  
 8 Q. On the fifth time?  
 9 A. One of the times.  
 10 Q. All right. And how often were you calling him  
 11 until you got him?  
 12 A. Well, my secretary comes back and says, There  
 13 is U.S. Marshals here at the office.  
 14 And I'm like, What? What is going on?  
 15 And then I just start blowing his phone  
 16 up until he answers it.  
 17 Q. And in your mind certainly, had you done  
 18 anything wrong that would merit anybody in law  
 19 enforcement coming to see you, in your mind?  
 20 A. No, sir.  
 21 Q. All right. So the first person you called was  
 22 the attorney general?  
 23 A. Yes, sir.  
 24 Q. And when you got him, what did he say?  
 25 A. He told me, Don't talk to them without

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1 counsel.  
 2 Q. So he told you to get a lawyer before you  
 3 talked to them?  
 4 A. That's correct.  
 5 Q. Okay. Did you -- did you talk about the  
 6 merits or anything or why they were there?  
 7 What did -- do this: What did you say to  
 8 him and what did he say to you?  
 9 A. Yes. I said, There's U.S. Marshals at my  
 10 office. What is this all about?  
 11 And he told me, Well, don't talk to them  
 12 without a lawyer. I don't know what it's about either.  
 13 Q. Okay.  
 14 A. And then hung up the phone.  
 15 Q. He hung up the phone or you hung up?  
 16 A. I don't remember. We both hung up the phone.  
 17 And --  
 18 Q. Okay.  
 19 A. -- I went out there and greeted those  
 20 gentlemen and went to my conference room. And I said,  
 21 Hey, with all due respect, I can't talk to you without  
 22 having a lawyer present. And can I have a business  
 23 card?  
 24 And I got the business card from those  
 25 two gentlemen, took a picture of it. And I sent it to

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1 Mr. Paxton. Said, These are the guys who showed up at  
 2 my office. And that was -- that was that.  
 3 Q. All right. What's the next thing that  
 4 happened to you in connection with this?  
 5 A. I had sent my invoice back to Mr. -- I got a  
 6 cease and desist letter, and I sent my invoice back  
 7 over. And then I get an e-mail the following day from  
 8 Jeff -- Jeff Mateer.  
 9 Q. And what did Mr. Mateer tell you?  
 10 A. He sent me another cease and desist letter,  
 11 you know, accusing me of crimes and all of this other  
 12 stuff. I'm like, Whoa. You know, what is going on  
 13 here?  
 14 Q. All right. And then at some time, did you go  
 15 back to Mr. Vassar with a request to be paid, and then  
 16 he responded to you?  
 17 A. They said there was no valid contract, and so  
 18 I sent him the contract that I had from Mr. Paxton.  
 19 Q. And all along had you believed you had a valid  
 20 contract?  
 21 A. Yes, sir.  
 22 Q. And when you sent him the valid contract, was  
 23 it signed -- who was it signed by?  
 24 A. It was signed by Mr. Paxton.  
 25 Q. The one you sent back to him?

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1 A. The one that I -- they said that I didn't have  
 2 a valid contract. I sent him the contract that I had  
 3 from Mr. Paxton with Mr. Paxton's signature on it.  
 4 Q. Was Mr. Paxton's signature on the one you sent  
 5 them?  
 6 A. The one that I sent them -- I'm sorry.  
 7 Q. When did you get a contract that had  
 8 Mr. Paxton's signature?  
 9 A. I believe I got that on September 28th.  
 10 Q. How had that happened?  
 11 A. So this was about the time that I'm getting  
 12 ready to go with the subpoenas. And I still don't have  
 13 my badge or credentials, and I was talking with Michael.  
 14 Q. I know.  
 15 A. Went about it. And I was kind of frustrated  
 16 at the time, because I am like, Well, you know, I'm  
 17 supposed to go serve subpoenas and do this work. I  
 18 don't even have my credentials, which my contract, I  
 19 mean, I don't have a badge. I don't have a governmental  
 20 e-mail address. And Mr. Wynne asked me, I guess, well,  
 21 send me over your agreement.  
 22 And I had planned on coming out to Austin  
 23 the following day to come do these subpoenas. So I -- I  
 24 get out to Austin to go over --  
 25 Q. Now, let's put a day on it. What day do you

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1 get to Austin?  
 2 A. That was on the 28th.  
 3 Q. All right. The 28th would be a Monday.  
 4 A. September 28th.  
 5 Q. All right. And you -- you arrive in Austin on  
 6 the 28th. And what happened when you got -- who did you  
 7 go to see?  
 8 A. I'm meeting over at Nate Paul's office, and  
 9 Michael Wynne is there.  
 10 Q. All right. And what do you find when you get  
 11 there?  
 12 A. My contract was there on the table.  
 13 Q. And was it signed by who?  
 14 A. Myself and Mr. Paxton.  
 15 Q. Had you ever seen a contract signed by  
 16 Mr. Paxton before September the 28th?  
 17 A. No, sir.  
 18 Q. And, in fact, all of this time that you  
 19 thought you had a valid contract, did you have a  
 20 contract that was only signed by you?  
 21 A. I sent -- I sent Mr. Vassar my signed copy  
 22 back on the 4th and said, Please send me back an  
 23 executed contract. And I never got one. You know, I  
 24 didn't know.  
 25 Q. I just want to make sure real quickly here.

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1 You got back from Mr. -- you sent Mr. Vassar your  
 2 contract, which had only your signature on the 4th; is  
 3 that right?  
 4 A. That's correct.  
 5 Q. And then from then until the 28th in  
 6 Mr. Paul's office, did you ever see a contract that had  
 7 the attorney general's signature on it?  
 8 A. No, sir.  
 9 Q. And on -- when was it that you complained to  
 10 the attorney general, if you did, that you did not have  
 11 a contract signed by him? When was the last time you  
 12 did that before you saw it on the 28th?  
 13 A. I don't recall the exact date, but I had told  
 14 him about a badge, you know, credentials, and e-mail  
 15 address. And so I just never received it.  
 16 Q. On the morning of the 28th before you left,  
 17 did you have a conversation -- to go up there early in  
 18 the morning, did you have a conversation with Mr. Wynne?  
 19 A. I did.  
 20 Q. And what did you tell Mr. Wynne?  
 21 A. I believe he had texted me the night before  
 22 and said -- you know, because I was kind of -- I was  
 23 frustrated, so I was telling him, I don't have my  
 24 credentials, like meaning my contract or my badge or any  
 25 of that.

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1 So he -- he texted me. I think I was  
2 already sleeping. And he said, Send me your contract.  
3 So I wake up at like 5:00 in the morning, and I send it  
4 to him.

5 Q. The contract you sent to Mr. Wynne early that  
6 morning --

7 A. About 5:00 a.m.

8 Q. -- 5:00 a.m. had only your contract -- your --  
9 your signature?

10 A. Yes, sir.

11 Q. All right. And then how soon after that was  
12 it that you arrived in Mr. Wynne's office where they had  
13 a contract signed by the attorney general?

14 A. We went to Nate Paul's office, not Mr. Wynne's  
15 office.

16 Q. Okay.

17 A. And we -- that was -- had to be around  
18 lunchtime maybe.

19 Q. And you walked in and saw what?

20 A. My contract was there on the deal signed.

21 Q. Signed by the attorney general?

22 A. Yes, sir.

23 Q. And that was the first time you had ever seen  
24 one --

25 A. Yes, sir.

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1 Q. -- signed by him. All right.

2 Now, finally, when things -- things got a  
3 little hectic for you after that, did they not, after  
4 you -- after the 29th and 30th of September?

5 A. Yes, sir.

6 Q. When -- when was the next time that you saw  
7 the attorney general?

8 A. I don't remember the exact date. I'm sorry.

9 Q. On the 29th or the 30th, did you see him, or  
10 the -- or the 1st of October or the 2nd of October or  
11 any of those dates? Did you have occasion to have  
12 contact with the attorney general again?

13 A. I did.

14 Q. When?

15 A. I just don't remember the exact date. It was  
16 after I had received the second cease and desist letter  
17 from Mr. Mateer.

18 Q. And what -- how -- what were the circumstances  
19 of you seeing him?

20 A. I got a phone call from Michael Wynne, and he  
21 had said, Hey, I need you to come out to Austin. It was  
22 like last minute and it was in the evening.

23 And I'm like -- he's like, You need to  
24 come out to Austin and come over to Nate Paul's house.

25 Q. What time of the day were you supposed to get

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1 there?

2 A. I don't remember what time I got there.  
3 Maybe -- it was in the evening. The sun was going down.

4 Q. All right. And so when you drove up there to  
5 Austin to Mr. Paul's house, did you have any idea why  
6 you were there?

7 A. I mean, I figured because I -- you know, at  
8 this point I've gotten a cease and desist letter, gotten  
9 basically the rug pulled out from under me, like I'm  
10 going and working. Everything is okay. I'm getting  
11 affirmation that everything is good. And then all of a  
12 sudden, I've got cease and desist letters, U.S. Marshals  
13 showing up at my office, and I'm trying to figure out  
14 how did we go from that to -- to this.

15 And I'm just trying to get answers about  
16 what is going on because I -- I still don't know. And  
17 so that's what I figured this was all about.

18 So yeah, I get out to the house. I drive  
19 to Nate Paul's house. I tell my fiance at the time,  
20 like, Hey, I'm going out here. I'll be back later.

21 And then -- yeah. Like --

22 Q. You walk -- so what happens when you walk in?  
23 Can you basically describe the meeting?

24 A. Yeah. I go -- I go in. And Michael Wynne is  
25 there and Nate Paul is there and Mr. Paxton is there.

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1 Q. Where is Mr. Paxton and what is he doing?

2 A. Shook his hand, and he was like on the phone,  
3 and then just spent most of the time just out on the  
4 balcony on the phone.

5 Q. Was he -- was there anything surprising about  
6 him being there to you? Did you know he was going to be  
7 there?

8 A. I didn't know he was going to be there.

9 Q. Pardon me?

10 A. I didn't know he was going to be there.

11 Q. And then, you know, what were the  
12 circumstances at the scene? How was he -- how was  
13 everybody dressed? What was everybody doing? All that  
14 jazz.

15 A. I mean, I was dressed in a suit because I  
16 thought it was, you know, for business. And, you know,  
17 they were dressed casually. I think Michael had a suit  
18 on. Mr. Paxton had like running shoes and running  
19 shorts on, just casual.

20 Q. Did they talk to you while you were there?

21 A. So while Mr. Paxton was out on the balcony,  
22 you know, Michael and -- Michael Wynne and Nate Paul,  
23 they were just kind of commiserating about all of this  
24 stuff that had happened in that last few days.

25 And when Mr. Paxton came in as I was

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1 going to leave, I think I was there may be an hour, he  
 2 had mentioned, you know, that Mr. Penley didn't have any  
 3 authority to tell me to stop working. He told him to  
 4 stand down and just to continue to work on this report.  
 5 Q. At that time, you said he came in. Was he  
 6 outside the room but there when you arrived?  
 7 A. He was in the house, and then went outside on  
 8 the balcony or in the back and was on the phone the  
 9 entire time.  
 10 Q. All right. After Mr. Paxton told you that,  
 11 how long were you there?  
 12 A. Oh, I mean, I left.  
 13 Q. So what did you think? What -- what was the  
 14 meeting about?  
 15 A. Just a lot of talking about, you know, how I  
 16 can't believe that this happened. I can't believe what  
 17 these guys are doing. The fact that Mr. Penley had  
 18 reached out to Michael Wynne asking for documents, even  
 19 though Mr. Paxton had told him not to work on the case  
 20 and this type of stuff. But I still left there like  
 21 very -- in my mind, I'm like, Hey, I've got two cease  
 22 and desist letters. I'm not doing any more work.  
 23 And I haven't been paid for anything, and  
 24 so I'm just -- I'm just kind of listening trying to get  
 25 answers on what I should be doing.

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1 Q. So did you have -- did you wonder on the way  
 2 home why the hell you had been there?  
 3 A. Yeah. I mean, yes, sir. That was annoying to  
 4 have to drive out a three-hour drive for an hour meeting  
 5 and then come back.  
 6 Q. When is the next time you saw the attorney  
 7 general about this matter?  
 8 A. Within the next couple of days I got a call to  
 9 come out to his office and meet with him and some of his  
 10 staff.  
 11 Q. And what did they want?  
 12 A. Mr. Paxton wanted me to meet Brent Webster,  
 13 who --  
 14 Q. Brent Webster, did he -- did you know who he  
 15 was by that time?  
 16 A. No, sir.  
 17 Q. Did you know what position he now had?  
 18 A. I knew when I got out there that he was, I  
 19 guess, the first assistant.  
 20 Q. And when did -- when and where did y'all meet?  
 21 What did you do? Just walk us through it.  
 22 A. So we met in the conference room over at the  
 23 attorney general's office with two other individuals.  
 24 And Mr. Paxton wanted me to just debrief what I had  
 25 learned, what the first referral was about --

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1 Q. What did you tell him?  
 2 A. -- what I had done.  
 3 I spent the first few minutes kind of  
 4 just venting my frustration about how I felt like I had  
 5 been treated to that point, still not having any clear  
 6 answers. And, you know, the fact that I had a whole  
 7 entire life before all of this; you know, a docket, I  
 8 had clients. I mean, I didn't ask for any of this.  
 9 You guys reached out to me to come do a  
 10 job, and then now you're pulling the rug out from under  
 11 me, and I'm getting cease and desist letters. And now  
 12 my name is being thrown through the mud and the media.  
 13 And, you know, it's a totally new world to me.  
 14 So I let that out and just told them, you  
 15 know, what I -- what we kind of talked about here today  
 16 right now, that I had issued subpoenas, you know. I had  
 17 this PowerPoint presentation where they showed me this.  
 18 Q. And what did they say? What did he say? What  
 19 did the attorney general say?  
 20 A. I believe he asked me or Brent Webster asked  
 21 me to send him any documents that I had sent the  
 22 attorney general, to e-mail it to him.  
 23 Q. Did the attorney general apologize to you?  
 24 A. I don't think he apologized to me, no.  
 25 Q. And then did y'all stay there or did you go

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1 somewhere else?  
 2 A. No. I left there. I left there and went back  
 3 to Houston.  
 4 Q. And then when was the next time that you saw  
 5 the attorney general?  
 6 A. The next time -- and I'm sorry, but I just  
 7 don't recall the exact date, but it was within that  
 8 week. I get a call from -- well, that last meeting, it  
 9 was like, Hey, you need to, you know, just continue to  
 10 work on the report. Everything is fine.  
 11 And in the back of my mind I'm like,  
 12 Yeah, right. I'm not doing anything else.  
 13 And then a few days go by, and I get a  
 14 call to come back out and meet with him, just like in  
 15 very short notice, maybe even the same day, to come out  
 16 to Austin again.  
 17 Q. You drove up again?  
 18 A. I drove up again.  
 19 Q. Do you recall what that date is?  
 20 A. No, sir. It had to be the first week of  
 21 October sometime, though.  
 22 Q. All right. And then where did you -- where  
 23 did you go when you drove up?  
 24 A. I went to the AG's office again.  
 25 Q. And then who was there?

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1 A. Brent Webster and Mr. Paxton.  
 2 Q. And what happened there?  
 3 A. I thought we were going to meet to talk about  
 4 the contract and what is going on, and -- but instead,  
 5 you know, they were like, Well, let's not meet here in  
 6 the office. And they walked me over to a Starbucks  
 7 outside of the office to have a meeting.  
 8 Q. Did you ask why?  
 9 A. No, but it was uncomfortable. It was not  
 10 professional to me at all.  
 11 Q. So when you go to the Starbucks, who all is  
 12 there?  
 13 A. Mr. Paxton, Brent Webster, and then a couple  
 14 of other gentlemen who I don't know.  
 15 Q. And what happened at that meeting?  
 16 A. At that meeting, Mr. Webster did all the  
 17 talking and told me, Well, in fact, your contract is not  
 18 any good anymore. You know, stop working. Don't do  
 19 anything at all.  
 20 I asked him, Okay. Well, what about, you  
 21 know, paying me?  
 22 Q. Do you recall exactly how you put it about  
 23 whether you were going to get paid? Did you put the  
 24 amount in there?  
 25 A. I think I ball-parked it. I said, What about

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1 my \$14,000 invoice?  
 2 And he's like, Well, you're going to have  
 3 to eat that invoice. I've had to eat \$40,000 invoices.  
 4 Q. Webster said he had to eat a \$40,000 --  
 5 A. That sticks out in my mind, sir.  
 6 Q. Yeah. Why does that stick out in your mind?  
 7 A. Just because it -- it was offensive.  
 8 Q. Yeah. What was the attorney general doing  
 9 during this whole conversation?  
 10 A. He was just listening in.  
 11 Q. Did one of them tell you your contract was now  
 12 terminated?  
 13 A. That's what Mr. Webster said.  
 14 Q. How long were you at the Starbucks?  
 15 A. Fifteen minutes, 20 minutes tops.  
 16 Q. Did you feel better knowing that Mr. Webster  
 17 says he had eaten a \$40,000 debt before? Did that make  
 18 you feel any better?  
 19 A. Did -- I'm sorry, what do you mean?  
 20 Q. How did it make you feel?  
 21 A. I don't know if I believed him or not, but I  
 22 know it -- it was offensive to me.  
 23 Q. And then what happens? How -- anything you  
 24 remember? What happened then?  
 25 A. Yeah. They left the Starbucks and tried to

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1 get in the car and drive off.  
 2 I said, Excuse me. Can I get a ride back  
 3 to my car?  
 4 Q. So these guys take you to a -- is it -- are  
 5 you saying that these guys took you over to a Starbucks  
 6 outside the office, terminated your contract, told you,  
 7 you weren't going to get paid, and then drove off; and  
 8 if you hadn't said, Wait, wait, I've got my car, they  
 9 would have left you in the street?  
 10 A. That's what it looked like.  
 11 MR. HARDIN: Pass the witness.  
 12 PRESIDING OFFICER: Mr. Cogdell.  
 13 CROSS-EXAMINATION  
 14 BY MR. COGDELL:  
 15 Q. Good afternoon, Mr. Cammack.  
 16 A. Hi, Mr. Cogdell.  
 17 Q. We know each other distantly, I guess, is the  
 18 best way to put it?  
 19 A. Yes, sir.  
 20 Q. You also know my associate, Mr. Osso?  
 21 A. Yes, sir.  
 22 Q. Once upon a time there was a lot of discussion  
 23 in the court about young lawyers and five-year lawyers  
 24 and whatever.  
 25 At the time you got involved in the

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1 Paxton matter, Mr. Cammack, you were a five-year lawyer,  
 2 right?  
 3 A. Yes, sir.  
 4 Q. Mr. Osso younger than you or older than you?  
 5 A. He's younger than me.  
 6 Q. Let me -- let me begin sort of near the back  
 7 and the marshals coming to your office.  
 8 You learned eventually, did you not, that  
 9 the purpose or the reason the marshals came to your  
 10 office was because of the visit that you had made to  
 11 the -- the, I guess, the widow or the widower at the  
 12 clerk's office, right?  
 13 A. I learned that from my lawyer, Andy  
 14 Drumheller, yes.  
 15 Q. Okay. And Mr. Paxton hadn't sent you to that  
 16 clerk's office or anything of the sort, right?  
 17 A. No, sir.  
 18 Q. That was -- that was Nate Paul.  
 19 You met with Mr. Hardin how many times  
 20 before you testified?  
 21 A. I've spoken with him three times.  
 22 Q. When was the first time?  
 23 A. I believe it was in the last two weeks. I --  
 24 I'm sorry, I don't remember the specific date.  
 25 Q. About how long was that meeting, Brandon?

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1 A. That was approximately four to five hours, I  
2 believe.  
3 Q. And the next time you met with him?  
4 A. I met with him last week when I came out here.  
5 I thought I was going to be testifying on Friday.  
6 Q. And about how long was that?  
7 A. An hour and a half to two hours.  
8 Q. And did you meet with him again last night?  
9 A. I met with him last night for maybe an hour.  
10 Q. So that's a total of how many hours that you  
11 met with Mr. Hardin?  
12 A. Roughly seven.  
13 MR. COGDELL: Could we see Article of  
14 Impeachment, Article X?  
15 Q. (BY MR. COGDELL) Have you studied, I assume  
16 you have not, Mr. Cammack, the Articles of Impeachment  
17 in this case?  
18 A. No, sir, I've not studied them.  
19 Q. If I suggested to you this is, quote, why  
20 you're here, closed quote, could you agree with me?  
21 A. Yes, sir.  
22 Q. I've --  
23 A. I've read this. I've seen this.  
24 Q. All right. Did Mr. Hardin ask you or show you  
25 this article in any of those eight or so hours?

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1 A. Sorry, I don't recall seeing this.  
2 Q. So in the eight hours that you met with  
3 Hardin, he never showed you the relevant article that  
4 brings us here. So let's take it apart.  
5 It says, While holding office as attorney  
6 general, Warren Kenneth Paxton misused his official  
7 powers by violating the laws governing the appointment  
8 of prosecuting attorneys pro tem.  
9 Will you agree with me, Mr. Cammack, that  
10 you were not a prosecuting attorney pro tem? Agree with  
11 me on that?  
12 A. Yes, sir.  
13 Q. Okay. It goes on to say that Paxton engaged  
14 Cammack, a licensed attorney, to conduct an  
15 investigation into a baseless complaint.  
16 Mr. Hardin never asked you about that,  
17 that language?  
18 A. I'm sorry. Could you --  
19 Q. Sure.  
20 A. -- rephrase that? I'm sorry.  
21 Q. Yes, sir, sure.  
22 Mr. Hardin never went over this language  
23 in the Article of Impeachment with you, right?  
24 A. No, sir.  
25 Q. And you will agree with me, Mr. Cammack, that

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1 you certainly never believed that you were a part of an  
2 investigation into a baseless complaint, right?  
3 A. No, sir, I did not.  
4 Q. Okay. Eight hours and you were never asked  
5 that question by Mr. Hardin, right?  
6 A. We didn't talk about a baseless complaint.  
7 Q. Okay. Let's go for strike three, although you  
8 just need one.  
9 It says: During which Cammack issued  
10 more than 30 grand jury subpoenas in an effort to  
11 benefit Nate Paul or Paul's business entities.  
12 You would agree with me, Mr. Cammack,  
13 that was not your purpose? You were not there trying to  
14 benefit Nate Paul or his business entities? That's not  
15 why you agreed to get involved in this, agree?  
16 A. Absolutely not. I would -- I didn't even know  
17 Nate Paul or his entities or anything like that.  
18 Q. Mr. Hardin has a reputation as a -- not a good  
19 lawyer, a great lawyer, right?  
20 A. Yes, sir.  
21 Q. Could you give us a reason why a lawyer as  
22 good as Mr. Hardin would have never asked you those  
23 critical questions?  
24 MR. HARDIN: In the words of a great  
25 American, Your Honor, that's calling for speculation.

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1 PRESIDING OFFICER: Sustained.  
2 MR. COGDELL: Well, if that's a  
3 suggestion that I'm a great American, I'll take it.  
4 Q. (BY MR. COGDELL) Let's go back.  
5 I think what may be lost in some of this,  
6 Mr. Cammack, is this is in the late summer or fall of  
7 2020, right?  
8 A. Yes, sir.  
9 Q. And this is when -- I don't want to say COVID  
10 is raging, but COVID is ever present, omniscient. It's  
11 taken over the world, right?  
12 A. It's peak COVID, yes, sir.  
13 Q. Peak COVID. So here you are a younger lawyer.  
14 If I understand it correctly, you had just left not too  
15 long before this practice with your father, right?  
16 A. That's correct.  
17 Q. He was also, is also, a criminal defense  
18 lawyer?  
19 A. Yes, sir.  
20 Q. So you have your own practice, right?  
21 A. Yes, sir.  
22 Q. You had tried a number of cases with your dad,  
23 I assume? A number of cases with others, right?  
24 A. And myself, yes, sir.  
25 Q. And yourself.

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1 And you had tried, I guess, I'm assuming,  
2 anything from misdemeanor cases to felony cases, right?  
3 A. Yes, sir.  
4 Q. You weren't some kid straight out of law  
5 school that couldn't find a courtroom door with a seeing  
6 eye dog and a search warrant? I mean, generally  
7 speaking, you knew what you were doing at the Harris  
8 County courthouse, right?  
9 A. Absolutely.  
10 Q. So along comes COVID. And like a lot of  
11 Americans, what you took for granted suddenly was an  
12 issue, right? Meaning your business, our business,  
13 stopped. It didn't slow down. It came to a screeching  
14 halt, right?  
15 A. Yes, sir.  
16 Q. Arrests went way down. Court -- courthouses  
17 literally closed, right?  
18 A. They did.  
19 Q. So you're rolling along, I assume, and you get  
20 a call from Mr. Wynne that the attorney general might be  
21 calling you, right?  
22 A. That's right.  
23 Q. Now, I assume you never aspired to be a  
24 prosecutor or you would have applied to the DA's office,  
25 but still when the attorney general calls, that's a --

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1 that's a big moment, right?  
2 A. It was a big moment.  
3 Q. Okay.  
4 A. Yes, sir.  
5 Q. You trusted Mr. Wynne, right?  
6 A. I did.  
7 Q. He's a Harvard-educated lawyer. You're aware  
8 of that?  
9 A. He's a serious lawyer.  
10 Q. He's a serious lawyer.  
11 And I assume that up to this point in  
12 time, Mr. Cammack, you didn't have any real personal  
13 connection in the terms -- in terms of going out and  
14 having drinks or having dinner or whatever with  
15 Mr. Cammack [sic], but you knew him  
16 professionally/socially and you respected him, right?  
17 A. With Michael Wynne?  
18 Q. Yes, sir.  
19 A. Just an acquaintance who was part of a couple  
20 of clubs I was, and we had worked on that COVID-19 panel  
21 with some of the district court and federal judges. And  
22 he seemed like a nice person.  
23 Q. Okay. He had a significant practice, at least  
24 from your perspective?  
25 A. A serious practice, yes.

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1 Q. So it's good news. And if I'm remembering  
2 your direct correctly, this -- this -- the call from  
3 Mr. Paxton or from General Paxton came on your birthday?  
4 A. Yes, it was on my birthday.  
5 Q. You're thinking, What a great birthday  
6 present, right?  
7 A. Something at the time, I was like, Oh, wow,  
8 what a coincidence.  
9 Q. And look at you now, Mr. Cammack.  
10 A. I know.  
11 Q. It didn't turn out to be that perfect, did it?  
12 A. I never would have imagined in a million years  
13 getting a call to sitting in an impeachment hearing,  
14 sir.  
15 Q. Got it.  
16 So let's go completely sideways for a  
17 second. If there has been a suggestion, Mr. Cammack,  
18 that it is wrong or illegal to challenge or investigate  
19 the legality of a search, that is not your world view,  
20 right?  
21 A. I'm sorry, one more time.  
22 Q. Sure.  
23 If there has been a suggestion made in  
24 this courtroom before these 31 senators that it is  
25 somehow wrong or illegal to investigate the legality of

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1 a search or a search warrant, that is not your world  
2 view. Agree with me?  
3 A. I agree with that.  
4 Q. I mean, it's -- it's sort of born and bred in  
5 a criminal defense lawyer. That's part of what we do.  
6 You would agree with me?  
7 A. That is what we do.  
8 Q. And any criminal defense lawyer, I think,  
9 that's been practicing longer than six weeks has  
10 probably challenged the legality of a search warrant.  
11 You would agree with me?  
12 A. Yes, sir.  
13 Q. And has probably looked into the conduct of  
14 law enforcement agents in either the creation of a  
15 search warrant, right?  
16 A. That's right.  
17 Q. The execution of a search warrant, right?  
18 A. That's right.  
19 Q. Again, that's called Wednesday in our  
20 business. That's what we do?  
21 A. That's a Wednesday in our business, yeah.  
22 Q. Now, would you also agree with me that not  
23 only do we have, I guess, the choice of challenging or  
24 investigating the legality of searches, but we have the  
25 obligation to do it on behalf of our clients, right?

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1 A. Right. We're just on the other side of it,  
2 that's right.  
3 Q. Yes, sir. And if we don't do that on  
4 occasion, we can get sued by the client, right?  
5 A. That's right.  
6 Q. We can have a grievance filed against us by  
7 the client, by the State Bar, or someone else for  
8 failure to investigate that sort of claim, right?  
9 A. That's right.  
10 Q. And I guess my long-winded point there is when  
11 you were asked by Ken Paxton -- and we will get to that  
12 conversation. But when you were asked by Ken Paxton or  
13 told by Ken Paxton he wanted you to investigate the  
14 possibility of an illegal search or the creation of an  
15 illegal search warrant by agents, that didn't -- that  
16 was like, Great. That's in my wheelhouse. That's --  
17 that's what I do, right?  
18 A. Well, it was an investigation into potential  
19 violations of the Texas Penal Code, which is what I'm  
20 familiar with doing. So it would be in my wheelhouse.  
21 Q. Right. So it's in your wheelhouse and your  
22 strike zone, whatever, right?  
23 A. Right.  
24 Q. And the fact that -- and we've, Oh, my God,  
25 it's a federal agent, or, oh, my God, it's a federal

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1 magistrate. I mean, again, they -- they deserve and are  
2 owed their deference. But there's nothing sacrosanct  
3 about an AUSA in our world view, right?  
4 A. I have complete respect for government  
5 officials, but, you know, Mr. Paxton also believed that,  
6 Hey, this is a serious accusation and it requires a  
7 serious focus. And, you know, if someone is doing  
8 something like that, they should be held accountable for  
9 it.  
10 Q. And I assume, Mr. Cammack, you felt the same  
11 way?  
12 A. I did feel that way.  
13 Q. Now, jumping ahead a little bit, but I think  
14 in one of the conversations, Mr. Cammack, you had -- or  
15 one of the answers to one of Mr. Hardin's questions that  
16 somewhere along the line you heard either Mr. Wynne, I  
17 believe, or Mr. Nate Paul say something, quote -- and  
18 this is a statement attributable to Mark Penley --  
19 There's no amount of information that could be presented  
20 to him that would ever convince him that a federal  
21 official could commit a crime, right?  
22 A. That's right.  
23 Q. And which was it that -- which person said  
24 that? Was it Mr. Paul that said that about Mr. Penley,  
25 or Mr. Wynne that said that about Mr. Penley, or do you

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1 know?  
2 A. It was Mr. -- Mr. Paul said that.  
3 Q. Okay.  
4 A. Mr. -- Mr. Wynne was there when he said that.  
5 Q. Okay. And that's just not the house that you  
6 live in?  
7 A. I don't. No, I don't live in that house.  
8 Q. You don't feel that same way, right?  
9 A. I don't feel that same way, no.  
10 Q. I'm assuming --  
11 PRESIDING OFFICER: Excuse me. Can the  
12 witness be a little closer to the mic and speak up a  
13 little bit?  
14 THE WITNESS: All right, Judge.  
15 Q. (BY MR. COGDELL) I'm assuming, Mr. Cammack,  
16 that you view federal prosecutors and magistrates and  
17 judges just like defense lawyers, bankers, bakers, trash  
18 truck drivers, whatever. There are good ones out there  
19 and there are bad ones out there?  
20 A. Base people off of their character, I mean --  
21 Q. That's right.  
22 A. That's it.  
23 Q. And you do not automatically foreclose from  
24 your mind or from your obligations an inquiry into the  
25 legality of search warrants simply because it was signed

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1 off by a -- a federal magistrate, right?  
2 That's a mouthful. Nothing -- there's  
3 nothing improper in your world view about investigating  
4 a search warrant or the validity of a search warrant  
5 simply because it is signed off by a federal magistrate,  
6 right?  
7 A. No. I mean, that's -- as a defense lawyer,  
8 that's what we do, is challenge the validity of a search  
9 warrant. I mean, this was just on the other side of it  
10 where that person could be held accountable for it.  
11 Q. Now, let's get to your first meeting with  
12 Ken Paxton. On your birthday, I think the 22nd, he  
13 calls, right?  
14 A. Yes, sir.  
15 Q. And I'm sure you have been asked this question  
16 297 times. But the best of your recollection he says  
17 what to you when he called you, Mr. Cammack?  
18 A. I didn't speak with him that day. It wasn't  
19 until the 23rd that I spoke with him. And he said that  
20 he -- that he got my name from Michael Wynne. I think  
21 the words were, My name was dropped in a hat.  
22 And he got my name from Michael Wynne and  
23 wanted to see if I would be interested in coming to talk  
24 to him about working on a criminal investigation.  
25 Q. And that would have been -- if it's the day

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1 after your birthday, that would have been August  
2 the 23rd?  
3 A. Yes, sir.  
4 Q. And did he give you any detail about what he  
5 wanted -- what -- what was the job description  
6 specifically that he wanted you to do?  
7 A. Not at that time. It wasn't -- it wasn't  
8 until I went out there and met with him in person that I  
9 found that out.  
10 Q. Okay. And if I'm recalling it correctly,  
11 there was some request by someone to bring a -- a  
12 resume, right?  
13 A. Yes, sir.  
14 Q. And it had been a while since you had a  
15 resume, right?  
16 A. Yes, sir.  
17 Q. But you figured, Well, if I've got to audition  
18 for the beauty contest, I'll find a swim suit. I'll --  
19 I'll get a resume together, right?  
20 A. Just trying to remain humble and do what he  
21 asked me to do.  
22 Q. Okay. And you met with him, right?  
23 A. Yes, sir. On the 26th.  
24 Q. On the 26th, Mr. Paxton, General Paxton, is --  
25 I mean, you knew him by sight, right?

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1 A. Yes, sir.  
2 Q. He's gracious, professional, nice enough to  
3 you?  
4 A. He was nice, yes.  
5 Q. And on that day on the 26th, Mr. Cammack, can  
6 you share with us the description of what he wanted you  
7 to do?  
8 A. At that time, he told me that he was looking  
9 to hire a special prosecutor to investigate whether, I  
10 guess, these federal agents had tampered with or altered  
11 a search warrant, basically violations of -- of state  
12 law.  
13 Q. Okay. And, again, we've talked about that  
14 that's kind of been your wheelhouse?  
15 A. Correct.  
16 Q. You spend 20, 30 minutes with General Paxton?  
17 A. Probably 20, 25, something like that.  
18 Q. And he uses the phrase "special prosecutor,"  
19 right?  
20 A. Yes, sir.  
21 Q. So -- so we've heard that sort of go through  
22 the evolution of your story, but it is true that he was  
23 the person that first put those words into your mindset,  
24 right?  
25 A. Yes, sir.

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1 Q. If I heard your testimony directly, then,  
2 Mr. Cammack, you go down the hall, and you meet with  
3 Jeff Mateer, right?  
4 A. Yes, sir.  
5 Q. And he -- did he act like he knew why you were  
6 there?  
7 A. He did.  
8 Q. And just collapse the conversation succinctly  
9 that you had with Mr. Mateer.  
10 A. Yes. So I had another copy of my resume. I  
11 handed it to him. And I said -- well, it's kind of  
12 awkward for a second, just communicating with him.  
13 But he said -- I said, You know, I'm here  
14 to interview about the special prosecutor position for  
15 this investigation with respect to the search warrant.  
16 And he -- he acknowledged that.  
17 Q. Okay.  
18 A. And said, Oh, yeah. You know what, I know a  
19 little bit about that. And just kind of act disengaged.  
20 Q. Gotcha. And I think that was the phrase that  
21 you used with Mr. Hardin, "disengaged," right?  
22 A. Yes, sir.  
23 Q. But I guess my point, at least right here,  
24 Mr. Cammack, is the phrase "special prosecutor" was  
25 discussed with Jeff Mateer, right?

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1 A. That's correct.  
2 Q. And at no time did Jeff Mateer say, Oh, no,  
3 no, no, no, you're not going to be a special prosecutor.  
4 We can't hire a special prosecutor. That will not --  
5 that never happened, right?  
6 A. No, sir.  
7 Q. Did Mr. Mateer, disengaged as he was, did he  
8 ever indicate to you, Mr. Cammack, that there was no  
9 need for a special prosecutor being hired?  
10 A. He did not.  
11 Q. Did he ever indicate to you that he felt like  
12 this investigation was a baseless complaint?  
13 A. His attitude was kind of like that, like he  
14 didn't feel like it was important or worth pursuing.  
15 Q. It didn't rise to his level of importance?  
16 A. That's fair to say.  
17 Q. Okay. But he certainly never said or  
18 suggested to you that this was a crime or illegal for  
19 you to be interviewing for this -- this job?  
20 A. He did not. He did not.  
21 Q. Okay. Now, you don't get the thumbs-up that  
22 day, but you leave. You're optimistic, hopeful about  
23 it, right?  
24 A. That's right.  
25 Q. And to put -- to put us back in your world

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1 view at the time, again, we're in the middle of COVID.  
 2 Well, let me step back.  
 3 I -- I over-theatrically demonstrated or  
 4 referred to how long you had spent with Mr. Hardin. You  
 5 and I did meet last night, right?  
 6 A. Yes, sir.  
 7 Q. Spoke for 45 minutes or so?  
 8 A. About 45 minutes.  
 9 Q. It was late, right?  
 10 A. It was late.  
 11 Q. And it was after Mr. Hardin --  
 12 A. I met with Mr. Hardin, and then me and my  
 13 lawyers came and talked to you for about 45 minutes.  
 14 Q. Gotcha. So we -- we had discussed this  
 15 before. I'm not just getting lucky with every single  
 16 answer.  
 17 A. We have talked about this, yes, sir.  
 18 Q. Okay. So you're hopeful. Again, we got  
 19 COVID. You're thinking the attorney general. This is  
 20 great.  
 21 I believe that on your drive home, you --  
 22 you call your grandmother, right?  
 23 A. I think I told you that.  
 24 Q. You did.  
 25 A. I just met the attorney general.

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1 Q. Right. And -- and your grandma had said, I  
 2 guess -- would act like any other grandma, Good for you.  
 3 That's -- that's awesome.  
 4 A. Yeah. That was her attitude.  
 5 Q. So you then go through a series of exchanges  
 6 about whether or not you might have a conflict, right, a  
 7 potential conflict with any other cases at the attorney  
 8 general's office, correct?  
 9 A. Yes, sir. Mr. Vassar at some point reached  
 10 out to me about a contract.  
 11 Q. Okay.  
 12 A. And told me that I needed to do a conflicts  
 13 check.  
 14 Q. Did -- did Mr. Vassar ever suggest to you,  
 15 Mr. Cammack, that you were unqualified?  
 16 A. No, sir.  
 17 Q. Did Mr. Vassar ever express to you that  
 18 hiring -- whether we call you an outside counsel or  
 19 special prosecutor, whatever, did he ever express to you  
 20 that the hiring of you was unnecessary?  
 21 A. No, sir. He reached out to me to set up a  
 22 phone call. And then on that phone call with him, I  
 23 said, Yeah, I'm interviewing -- or he's calling me -- I  
 24 guess you're calling me about this special prosecutor  
 25 position.

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1 And then he acknowledged that, asked for  
 2 my e-mail address. And I think we talked a little bit  
 3 briefly about where he had gone to school and that type  
 4 of thing. So he, you know -- I told him the same thing  
 5 that I told Mr. Mateer as well.  
 6 Q. But he never gave you any pushback on the idea  
 7 of you getting hired for this job, right?  
 8 A. I never got any pushback from anyone at the  
 9 attorney general's office until I got a cease and desist  
 10 letter.  
 11 Q. Say that again.  
 12 A. I never got any pushback from anyone at the  
 13 attorney general's office or the Travis County District  
 14 Attorney's Office or anything until I got a cease and  
 15 desist letter.  
 16 Q. In fact, Mr. Cammack, it's true, is it not,  
 17 that in your, I guess, effort to be compliant,  
 18 appropriate, righteous -- that's probably overstating  
 19 it -- but in your effort to do the right thing, you  
 20 called the State Bar of Texas ethics hotline and  
 21 described what you were going through, right?  
 22 A. I did, sir.  
 23 Q. And without getting into what they told you,  
 24 you walked away from that conversation after explaining  
 25 to the ethics hotline at the State Bar of Texas what you

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1 wanted to do, you felt like you had a blessing from the  
 2 State Bar of Texas to do exactly what you do, right?  
 3 A. Told me, Congratulations on the job.  
 4 Q. So in the middle of this alleged  
 5 conspiratorial dark world view effort, you're calling  
 6 the State Bar just to make sure you are literally  
 7 dotting your I and crossing your T, right?  
 8 A. That's correct.  
 9 Q. Now, I think Mr. Hardin had you talk about  
 10 your expectations about your sort of bell curve or what  
 11 have you of ability. In other words, when you first met  
 12 with Mr. Paxton, I think you thought, I can investigate.  
 13 I can issue grand jury subpoenas. I can appear in front  
 14 of a grand jury. I can make recommendations to the  
 15 grand jury. Heck, I might even get to go try this case.  
 16 That was kind of your world view when you  
 17 went into this, right?  
 18 A. I thought -- I didn't think there would be any  
 19 limitation all the way up into potentially presenting  
 20 the case for a charging instrument; whether it be an  
 21 indictment, a complaint, an information, or trying the  
 22 case in front of a jury panel. So I didn't -- once I  
 23 got my contract, then I realized how limited of a scope  
 24 it was.  
 25 Q. Yes, sir. You anticipated my next -- my next

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1 area of question.  
 2                   Once you got the contract back, it was  
 3 sort of the real world of, No, I'm not going to be  
 4 presenting this case to a grand jury. No, I'm not going  
 5 to be making recommendations. No, I'm not going to be  
 6 trying the case, but I'm going to be investigating the  
 7 case, right?  
 8           A.    I was -- yes, I was still happy to be working  
 9 for the attorney general.  
 10          Q.    Got it.  
 11                   MR. COGDELL: Now -- and I don't know  
 12 when you want to break, Mr. President.  
 13                   PRESIDING OFFICER: Let's go to about  
 14 3:10, about 15 more minutes.  
 15                   MR. COGDELL: That's fine.  
 16          Q. (BY MR. COGDELL) At some -- at some point  
 17 along the way, you and General Paxton had a discussion  
 18 about your hourly rate. You said \$300 an hour, right?  
 19          A.    Yes, sir.  
 20          Q.    And you would agree with me that all things  
 21 being equal, that's a pretty reasonable moderate rate,  
 22 right?  
 23          A.    Yes, sir.  
 24          Q.    I guess, Mr. Cammack, the -- more important  
 25 than the money was sort of the prestige or the

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1 opportunity or the resume, if you will, of getting to  
 2 work for the AG's office on this particular matter?  
 3           A.    I thought it was a fair rate, and it was  
 4 not -- it was not about the money. And I have a whole  
 5 business before all of this. I still have today. So it  
 6 was not about the money. It was about trying to help  
 7 out.  
 8           Q.    All right. So you get -- refresh my memory of  
 9 when you get a contract from and -- refresh my memory.  
 10 I should know, but I don't.  
 11                   You got a contract from whom and on what  
 12 date, the first contract you received?  
 13          A.    I received a contract -- this was my mistake.  
 14 But the contract came in on September 3rd in my e-mail,  
 15 and Mr. Paxton asked me did I receive it.  
 16          Q.    Okay.  
 17          A.    And -- but I didn't see it. It got lost in  
 18 the shuffle of all the other e-mails. So I responded  
 19 back and said, No, I didn't get it.  
 20                   And then Mr. Vassar re-sent it to me on  
 21 September the 4th of 2020.  
 22          Q.    So you have a recollection of Vassar  
 23 specifically sending you this contract, right?  
 24          A.    I do, sir.  
 25          Q.    And when you received this contract from

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1 Mr. Vassar, you think that is an off -- I mean, neither  
 2 one of us are contract lawyers, but you think that's an  
 3 offer. And by signing and sending it back, you think  
 4 that's an acceptance?  
 5          A.    Yes, sir. I spoke with him, Mr. Vassar, about  
 6 the contract.  
 7          Q.    Right.  
 8          A.    I spoke with Mr. Paxton about the contract.  
 9 He followed up to see if I got the contract.  
 10          Q.    Right.  
 11          A.    He said he could get me the hourly rate. I  
 12 told him I was coming back out there. I mean, to me it  
 13 was very clear that I was being hired for this position.  
 14 And so I signed it and returned it to Mr. Vassar that  
 15 day when I got home.  
 16          Q.    Gotcha.  
 17                   And no one suggested to you during that  
 18 month of September that they had their fingers crossed  
 19 and you really didn't have an agreement?  
 20                   In other words, you went through that  
 21 month believing you had a valid contract with the State  
 22 of Texas to be an outside lawyer, right?  
 23          A.    Yes, sir.  
 24          Q.    Now, I think you told us that you,  
 25 Mr. Cammack, attended a meeting with Nate Paul on

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1 September 4th, right?  
 2          A.    Yes, sir, I did.  
 3          Q.    And that's here in Austin, right?  
 4          A.    Yes, sir.  
 5          Q.    Let me back up.  
 6                   So Michael Wynne tells you, Hey, the AG  
 7 might be calling.  
 8                   The AG calls, right. And then you  
 9 learned at some point that Michael Wynne not only had  
 10 recommended you, but was Nate Paul's lawyer who was the  
 11 complainant, for lack of a better description, in this  
 12 illegal search warrant claim, right?  
 13          A.    Yes, sir.  
 14          Q.    Do you know when it was, Mr. Cammack, that you  
 15 learned that Wynne was representing Nate Paul?  
 16          A.    Yes, sir. It was once I got -- I got  
 17 confirmation about the job, I guess. And I sent --  
 18 Michael reached out to me and said to come meet with him  
 19 and the complainant, Michael -- or Nate Paul on  
 20 September 4th.  
 21          Q.    Now, Mr. Hardin asked you if you did any  
 22 research about Nate Paul or you Googled Nate Paul or  
 23 words to that effect, right?  
 24          A.    He asked me that, yes, sir.  
 25          Q.    And when is the first time you had a

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1 recollection of doing that? Before you met with Paul or  
2 after you met with Paul?  
3 A. Before I met with him. I just Googled him.  
4 Q. And you knew obviously at some point that he  
5 had a search warrant run on his home and his properties  
6 and his business and all of that, right?  
7 A. Yes, sir.  
8 Q. You didn't come across news articles about  
9 that in your search, however long that was or wasn't,  
10 right?  
11 A. No, sir.  
12 Q. But what you came across were articles where,  
13 for lack of a better description, he's the new golden  
14 child of commercial real estate in Austin. He's the --  
15 he's the new king or whatever, right?  
16 A. There were just headlines about his career as  
17 a real estate developer.  
18 Q. From your perception, Mr. Cammack, you thought  
19 you were sitting in front of or meeting with a valid  
20 gentleman or person of substantial economic means, I  
21 guess.  
22 A. I thought, Okay. Serious guy, businessman,  
23 serious lawyer, serious case. He took it very  
24 seriously.  
25 Q. Okay. So nothing about this, I guess, I'm --

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1 I'm stumbling into -- nothing about this was off-putting  
2 to you? You didn't think that there was -- in fact, you  
3 thought this was -- this case just keeps getting better  
4 and better for me, right?  
5 A. I was just trying to focus on the facts of  
6 what I was being presented with. I didn't have any -- I  
7 didn't know any of these people.  
8 Q. Okay. So you meet with him in Austin. I  
9 believe you said you met with him for an hour and a  
10 half, two hours, right?  
11 A. Yes, sir.  
12 Q. And it's -- and I say "him." Nate Paul is  
13 there. Michael Wynne is there, right?  
14 A. Yes, sir.  
15 Q. Ken Paxton is not at this first meeting, if I  
16 understand it, correct?  
17 A. No, sir. He was not there.  
18 Q. And they are explaining to you, that is  
19 Mr. Wynne and Mr. Paul are explaining to you their  
20 theory about why the search warrants may be invalid and  
21 why they might have been altered, right?  
22 A. Yes, sir.  
23 Q. And I wasn't there, but as I understand it,  
24 Mr. Paul showed you -- made a pretty convincing  
25 presentation utilizing a computer diving into the

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1 metadata, which at least convinced you that this  
2 probably happened or this might have happened, right?  
3 A. I was convinced --  
4 Q. You were convinced?  
5 A. -- there was something there.  
6 Q. Okay.  
7 A. I didn't make a judgment either way, but I --  
8 it was a persuasive presentation.  
9 Q. How computer literate are you, Mr. Cammack?  
10 And that's a -- that's a vague question.  
11 Do you know much about metadata?  
12 A. No. I've -- I've never really worked with  
13 metadata in that way.  
14 Q. Okay. But it at least appeared to you at that  
15 time that Mr. Paul was literate in that area, made this  
16 explanation, made this -- this explanation, and you  
17 accepted it, right?  
18 A. Yes, sir. I think -- I mean, I was told that  
19 this presentation was also given to Mr. Penley and  
20 Mr. Maxwell --  
21 Q. Okay.  
22 A. -- as well, so it was just me -- you know, my  
23 set of eyes looking at it. And I was -- I thought it  
24 was persuasive.  
25 Q. And you leave there, I think, and go meet with

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1 Ken Paxton at his office here in Austin the same day.  
2 A. Yes, sir, that's correct.  
3 Q. Do you -- do you recall how you described your  
4 world view of the explanation that -- I don't know why I  
5 can't talk. I should -- I'm paid to talk.  
6 You told Ken Paxton, I think,  
7 Mr. Cammack, words to the effect of, I think there may  
8 be something there, General?  
9 A. I told him I was -- it was -- I was convinced,  
10 like it was convincing what I was shown. And he agreed  
11 with that.  
12 Q. Okay. Now, let's go there.  
13 When you say "it's convincing," exactly  
14 what words did you say?  
15 A. I said, It was -- it was convincing. It was  
16 persuasive, and he -- he agreed with that. He said  
17 he --  
18 Q. Paxton agreed with you, right?  
19 A. Yes, sir.  
20 Q. Now, at no time, you would agree with me, I  
21 think, that -- did Paxton ever suggest to you that this  
22 investigation was a baseless investigation, right?  
23 A. No. He -- he never indicated that it was a  
24 baseless --  
25 Q. You believed, recognizing that you don't know

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1 what's in his head, but you believed that he believed  
 2 the same thing that you believed, right?  
 3 A. Yes, sir.  
 4 Q. At some point during this meeting with  
 5 Ken Paxton after you had met with Nate Paul, I think it  
 6 is then that General Paxton says to you, Get me a  
 7 wet-ink copy of the search warrant, right?  
 8 A. He said that after we got back from the press  
 9 conference and I was getting ready to go.  
 10 Q. Is that the same day?  
 11 A. The same day.  
 12 Q. Okay. So --  
 13 A. He did say that.  
 14 Q. And they probably understood it after  
 15 Mr. Hardin explained it, but just so that I'll be on the  
 16 same page with it, a wet-ink copy is a copy that is  
 17 actually signed by -- with ink by a judge, right?  
 18 A. It would just be the original document.  
 19 Q. And the -- your understanding of why a wet-ink  
 20 copy was important is it could -- if not definitively,  
 21 then -- then go a long way in establishing whether that  
 22 warrant had been improperly altered or not, right?  
 23 A. Yes, sir, that was my understanding.  
 24 Q. And the words of General Paxton to you, I  
 25 think, were along the lines of, If you can find me a

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1 wet-ink copy of this search warrant, that's all I need.  
 2 game's over, right?  
 3 A. It was, If the wet-ink copy is the same as the  
 4 PDF document that was provided to Nate Paul and his  
 5 lawyers, if they're the same, then it's over.  
 6 Q. "It's over" meaning he would be satisfied?  
 7 A. He would be satisfied with that. And if -- if  
 8 they were different, then obviously this thing is going  
 9 to take a little longer --  
 10 Q. Okay.  
 11 A. -- to figure out.  
 12 Q. Now, did General Paxton ever pressure you to  
 13 find a given or a specific result?  
 14 A. With respect to the ultimate --  
 15 Q. Yes, sir.  
 16 A. -- my conclusions --  
 17 Q. Yes, sir.  
 18 A. -- about what I thought happened?  
 19 Q. Yes, sir.  
 20 A. No, he never pressured me one way or the  
 21 other.  
 22 Q. He didn't say, You've got to do this, dude. I  
 23 need one. I mean, if you get this done for me, you've  
 24 got a big job.  
 25 I mean, there was never any suggestion of

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1 you engaging in any sort of impropriety or a request for  
 2 any sort of impropriety on the part of General Paxton.  
 3 Do you agree with me?  
 4 A. I agree with that.  
 5 Q. Did he use verbiage like, Look, I just want to  
 6 know the truth? Just tell me the -- find the truth in  
 7 this thing.  
 8 Do you remember that?  
 9 A. I do.  
 10 Q. And when was it, Mr. Cammack, that  
 11 General Paxton first told you, I just want to know the  
 12 truth, or find the truth?  
 13 A. That would have been in our first meeting on  
 14 August 26th when I first went out for the job interview.  
 15 Q. So to be clear, before you are ever hired,  
 16 that was his directive to you: I just want to know the  
 17 truth? Find me the truth?  
 18 A. It was, Yeah, I just want to know the truth.  
 19 And if something happened, that that would be an  
 20 injustice.  
 21 Q. Okay. Now, there has been a lot of  
 22 discussion, Mr. Cammack, about evidence and what's not  
 23 evidence and that sort of thing.  
 24 At the time that you first met with  
 25 Mr. Paul and Mr. Wynne, do you believe they gave you at

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1 least some type of evidence for you to begin an  
 2 investigation in good faith based upon?  
 3 A. They gave me -- they -- they told me the story  
 4 about what happened. And I took some handwritten notes.  
 5 And then when I left there, I was given like this  
 6 timeline of events to kind of, I guess, help me digest  
 7 everything.  
 8 Q. Okay. And so you set about doing what a  
 9 lawyer should do. That is investigating, right?  
 10 A. That's right.  
 11 Q. And you could have done a number of things in  
 12 this investigation. I assume one of the things you  
 13 could have done is knocked on doors and started  
 14 interviewing people, right?  
 15 A. Yes, sir.  
 16 Q. But you didn't do that, if I understand it  
 17 correctly. Instead of knocking on doors, if I'm  
 18 understanding what you did, you issued subpoenas or  
 19 chose to have grand jury subpoenas issued, right?  
 20 A. Yes, sir.  
 21 Q. Would you agree with me, Mr. Cammack, that the  
 22 very intent and purpose of having the grand jury  
 23 subpoenas issued was for you to be able to obtain that  
 24 information without causing any alarm or concern on the  
 25 part of the people of whom you were seeking the -- the

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1 information?  
 2 A. That is correct.  
 3 Q. All right. So for a week and a half, we have  
 4 heard, Oh, my God. The grand jury subpoenas would  
 5 intimidate these people and frighten these people and  
 6 scare these people.  
 7 It was exactly 180 degrees opposite from  
 8 that. Your intention was to do the exactly opposite of  
 9 that, right?  
 10 A. Can I explain that?  
 11 Q. Yes, sir.  
 12 A. But yes, sir, to answer your question, I  
 13 just -- when I spoke with Mr. Paxton about the idea of  
 14 grand jury subpoenas, he said it was a smart idea  
 15 because some of these individuals were people in  
 16 positions of power and this would be the most discrete  
 17 way to get that information.  
 18 Q. So if I'm understanding that conversation  
 19 then, not only did you believe that was the most  
 20 discrete way to obtain the information without alarming  
 21 or frightening somebody, so did General Paxton, right?  
 22 A. Yes, sir.  
 23 MR. COGDELL: Can we break now, Judge, if  
 24 it's okay?  
 25 PRESIDING OFFICER: Members, we will

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1 stand at ease until 3:30, so a 25-minute break.  
 2 (Recess from 3:04 p.m. to 3:36 p.m.)  
 3 PRESIDING OFFICER: You may resume,  
 4 Mr. Cogdell.  
 5 MR. COGDELL: Thank you.  
 6 Q. (BY MR. COGDELL) Mr. Cammack, by my notes I'm  
 7 about halfway done, but let me see if I can speed this  
 8 up and get you --  
 9 PRESIDING OFFICER: Mr. Cogdell, would  
 10 you move your -- raise your mic up. There you go.  
 11 THE WITNESS: Yes, sir.  
 12 Q. (BY MR. COGDELL) We had to talk a little bit,  
 13 Mr. Cammack, about grand jury subpoenas and the reason  
 14 for that. At some point I think I heard you discuss  
 15 with my colleague, Mr. Hardin, that Paxton made a  
 16 statement to the effect that he was being critical of  
 17 Mr. Penley and Mr. Maxwell because they won't do any  
 18 work.  
 19 Recall -- do I recall that correctly?  
 20 A. I don't remember the exact question that I was  
 21 asked by Mr. Hardin.  
 22 Q. Okay. Do you remember back during this time,  
 23 that is back in September of 2020, that happening; that  
 24 is Mr. Paxton being critical of Mr. Penley and  
 25 Mr. Maxwell believing that -- or stating that they

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1 didn't do any work?  
 2 A. Wasn't critical in the sense that like he gave  
 3 me any detail about what they were or weren't doing. He  
 4 just said that he couldn't get the people in his office  
 5 to do what he was asking them to do.  
 6 Q. Fair enough. Now, there are different ways of  
 7 conducting an investigation, you would agree with me?  
 8 A. Yes, sir.  
 9 Q. They're all kinds of different tools that law  
 10 enforcement can use; TCIC, NCIC, every initial in the  
 11 book sort of stuff, right?  
 12 A. Yes, sir.  
 13 Q. And even laypeople can do computer searches,  
 14 Google searches, Intelius, TruthFinder, LexisNexis, all  
 15 that sort of stuff, right?  
 16 A. Yes, sir.  
 17 Q. Are you literate on LexisNexis, or were you at  
 18 the time?  
 19 A. Yes, but more proficient in Westlaw.  
 20 Q. Okay. And PACER. Do you do much work on  
 21 PACER?  
 22 A. No, sir, but I'm familiar with it.  
 23 Q. And PACER is Public Access to Computer (sic)  
 24 Electronic Records, something like that?  
 25 A. I believe so.

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1 MR. COGDELL: Okay. May I approach, Your  
 2 Honor?  
 3 PRESIDING OFFICER: Yes, you may. And  
 4 the witness, if you can speak up, Mr. Cammack.  
 5 THE WITNESS: Yes, sir.  
 6 PRESIDING OFFICER: Make sure all of our  
 7 senators can hear you.  
 8 THE WITNESS: Yes, sir.  
 9 PRESIDING OFFICER: Acoustics -- not your  
 10 fault, acoustics aren't the best. And some of our  
 11 hearing collectively is not the best either, so.  
 12 MR. COGDELL: I want to show you --  
 13 PRESIDING OFFICER: Hold on. Back to  
 14 your microphone. There you go.  
 15 MR. COGDELL: Yes.  
 16 Q. (BY MR. COGDELL) I'm showing you what is  
 17 marked as AG Exhibit 1047. And I don't know that you've  
 18 ever seen this, but I'm going to see if I can walk you  
 19 through it.  
 20 MR. COGDELL: I would offer AG 1047,  
 21 which is a docket sheet on the Contego matter.  
 22 PRESIDING OFFICER: Any objection,  
 23 Mr. Hardin?  
 24 MR. HARDIN: Judge, if I may, Your Honor,  
 25 just a second.

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1 If I may, please.  
 2 PRESIDING OFFICER: Take your time.  
 3 MR. HARDIN: No objection.  
 4 PRESIDING OFFICER: No objection. Admit  
 5 into evidence AG Exhibit 1047.  
 6 (AG Exhibit 1047 admitted)  
 7 MR. COGDELL: All right, Erick. If you  
 8 can kind of blow up the top. And, again, I'm using you  
 9 as a -- as my ventriloquist right now because I don't  
 10 think you've ever seen this, or tell me if you have.  
 11 Q. (BY MR. COGDELL) Have you ever seen this  
 12 before?  
 13 A. No, sir.  
 14 MR. COGDELL: Erick, blow up the top of  
 15 it, which says obviously the -- the style of the case,  
 16 which is Contego Information Management.  
 17 Q. (BY MR. COGDELL) Are you familiar with that  
 18 name, Contego Information Management?  
 19 A. Yes, sir.  
 20 Q. And that is one of the entities, is it not,  
 21 Mr. Cammack, that Mr. Nate Paul was complaining that an  
 22 illegal search may have potentially occurred at -- at  
 23 that place right there, Contego, right?  
 24 A. Yes, sir.  
 25 MR. COGDELL: Now, if you will go to the

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1 second page, Erick, of 1047.  
 2 Go back to the first page. My bad.  
 3 Q. (BY MR. COGDELL) And on the first page, it --  
 4 it shows, does it not, that Judge Mark Lane is the judge  
 5 in this case, right? Upper left-hand corner,  
 6 Mr. Cammack.  
 7 A. Yes, sir.  
 8 Q. That -- that's obviously public information.  
 9 And that Mr. Gupta with the U.S. Attorney's Office is  
 10 representing the Government, right?  
 11 A. Yes, sir.  
 12 Q. So the -- the whole world can see that based  
 13 on anybody that has a PACER account has access to that  
 14 sort of information, right?  
 15 MR. COGDELL: Now, if you can go to the  
 16 second page, Erick, and what that shows -- give us the  
 17 top half of that page.  
 18 Q. (BY MR. COGDELL) And what we see, do we not,  
 19 Mr. Cammack, is there's a motion for leave to disclose a  
 20 sealed search warrant that was filed on September 5th,  
 21 right?  
 22 A. Yes, sir.  
 23 Q. And an order granting that motion for leave to  
 24 disclose a sealed search warrant, right?  
 25 A. Yes, sir.

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1 Q. So that would allow -- and that was granted on  
 2 the 5th. And then it is closed again on the 17th, where  
 3 someone files an order -- someone files a motion to  
 4 extend the sealing, right?  
 5 A. Yes, sir.  
 6 Q. But for those, whatever that is, 12 days, that  
 7 search warrant would have been -- the warrant, not the  
 8 probable cause affidavit -- they probably understand by  
 9 now, but I know you do; there's a difference between the  
 10 search warrant and the search warrant affidavit, right?  
 11 A. That's right.  
 12 Q. But the search warrant would have been visible  
 13 via PACER for those 12 days back in September. Again,  
 14 anybody with a PACER account could have logged in and  
 15 looked at that, at least during those 12 days. Agree  
 16 with me?  
 17 A. It was -- it was not sealed during those 12  
 18 days.  
 19 Q. Fair enough.  
 20 Now, when you were working on this  
 21 matter, did you ever see, Mr. Cammack, any evidence that  
 22 Mr. Penley or Mr. Maxwell had done anything in terms of  
 23 investigating the same complaints that you were  
 24 investigating? Meaning did you see any reports, any  
 25 memoranda, any conclusion, any -- anything?

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1 A. No, sir.  
 2 Q. It is possible, is it not -- let -- let's say  
 3 that I want to investigate whether or not a given  
 4 prosecutor might have at least been accused in a  
 5 pleading of doing something improper. You or I can get  
 6 on PACER and enter that person's name and pull up every  
 7 case that lawyer has ever been assigned -- assigned to,  
 8 right?  
 9 A. Yes, sir.  
 10 Q. And they can do the same to us as well, right?  
 11 A. That's correct.  
 12 Q. But if we wanted to investigate whether or not  
 13 a given prosecutor was doing something, we could look at  
 14 their history, or at least their history that's visible  
 15 on PACER, right?  
 16 A. That's right.  
 17 Q. Same with the judge, correct?  
 18 A. That's -- it should be public record.  
 19 Q. Now, let me be -- let me be Captain Obvious  
 20 because it's a cape I wear a lot. Every single search  
 21 warrant that is a bad search warrant was signed by a  
 22 judge somewhere, wasn't it?  
 23 A. Theoretically speaking, it -- yes.  
 24 Q. Okay. Well, I guess my point is if someone is  
 25 arguing, Well, a judge signed it, therefore, it must be

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1 good; well, if it's a search warrant that was executed,  
 2 chances are a judge signed it. That doesn't necessarily  
 3 make it a good search warrant. It's just a -- one more  
 4 search warrant that one more judge signed. Agree with  
 5 me?  
 6 A. I agree with that.  
 7 Q. I think we heard you testify that Mr. Wynne,  
 8 during, I guess, the latter part of September, stated  
 9 that Penley had reached out to him out of the clear blue  
 10 and asked for documents. Do you recall that?  
 11 A. Yes, sir. That's what I was told.  
 12 Q. Do you know when, Mr. Cammack, ballpark, that  
 13 was?  
 14 A. It would have been I believe the fourth --  
 15 sometime in the fourth week of September 2020.  
 16 Q. Okay. So if you were hired on September 4th,  
 17 you had been working on this case for several weeks, or  
 18 this investigation for several weeks, by the time you  
 19 heard that. Agree with me?  
 20 A. So approximately three weeks.  
 21 Q. Okay. Now, let's get into the time. Mr. --  
 22 Mr. Hardin had you walk through sort of the frequency of  
 23 contact that you had with Mr. Paxton during this, and  
 24 it's about a month. That's probably the easiest way to  
 25 describe it, is about 30 days, right?

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1 A. Yes, sir.  
 2 Q. And Mr. Hardin had you describe your contacts  
 3 with Agent Paxton. And I think you said, I don't know,  
 4 15 to 20 times, something like that, right?  
 5 A. Yes, I did say that.  
 6 Q. And during that month or so period, you saw  
 7 him a grand total of how many times face-to-face? Two  
 8 or three?  
 9 A. Well, I can -- I can tell you the days. So  
 10 the 26th was one time.  
 11 Q. Okay.  
 12 A. November -- I mean, I'm sorry, September 4th  
 13 was the second time.  
 14 Q. Right.  
 15 A. And then there was the time at the end of  
 16 September at Nate Paul's house.  
 17 Q. That's three.  
 18 A. And then there was another time when I drove  
 19 out to meet with him and Brent Webster.  
 20 Q. That's four.  
 21 A. And then there was another time when we met at  
 22 the Starbucks.  
 23 Q. That's five, right?  
 24 A. That's five times.  
 25 Q. So let -- let's use as a demarcation,

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1 artificial or not, I'm going to call it when the stuff  
 2 hit the fan, and that is September 30th or October 1st.  
 3 Okay?  
 4 A. Yes, sir.  
 5 Q. So before the stuff hit the fan, and we're  
 6 going to get to there, you had seen him a grand total of  
 7 three times; that is Mr. Paxton, right?  
 8 A. Two times.  
 9 Q. Two times. Okay.  
 10 Now, you said, I think, in reference to a  
 11 question by Mr. Hardin that you had talked to him 7 to  
 12 10 times on the phone, something like that?  
 13 A. Yes, sir.  
 14 Q. And there were some occasional texts as well,  
 15 right?  
 16 A. Yes, sir.  
 17 Q. Would you agree with me, generally speaking,  
 18 Mr. Cammack, that those phone calls are generally short,  
 19 to-the-point calls?  
 20 A. Yes, sir.  
 21 Q. Do any of them stand out in your memory for  
 22 one reason or another?  
 23 That's not -- that's not meant to be a  
 24 trick question. That's just an open-ended question.  
 25 A. I'm just thinking about what stands out in my

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1 mind about the conversations.  
 2 Q. Okay. Let me keep going. And if it comes to  
 3 you, we'll come back to it. Fair?  
 4 A. Okay.  
 5 Q. Would you agree with me, Mr. Cammack, that  
 6 Mr. Paxton has -- General Paxton, whatever we want to  
 7 call him, has a, let's say, unique style of  
 8 communication? I'm sure it's not exclusive to him, but  
 9 what I mean by that is when he wants you, he -- he  
 10 reaches out to you and you're, generally accessible,  
 11 right?  
 12 A. Yes, sir.  
 13 Q. But the reverse isn't always true. When you  
 14 need him, it ain't always -- he doesn't pick up the  
 15 phone as quickly as you pick up the phone?  
 16 A. I would agree with that.  
 17 Q. Okay. And you had three or four of these  
 18 occasions where you were saying, Look, Mr. Paxton, or,  
 19 Look, General Paxton, I need an e-mail address, and I  
 20 need some identification, or I need a badge or  
 21 something, right?  
 22 A. Yes, sir.  
 23 Q. And the response that you get is, more or  
 24 less, Yeah, yeah, yeah. I'm working on it. Yeah, yeah,  
 25 yeah, right?

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1 A. Yeah, I mean every time that's -- that was  
2 kind of the --  
3 Q. Fair enough.  
4 A. -- response that I got.  
5 Q. And -- and you would also agree with me that  
6 just about every time you're in the presence of  
7 General Paxton, he's either on the phone some of the  
8 time or on the phone all of the time? Is that -- is  
9 that fair?  
10 A. The first two times that I met with him, he  
11 was not on the phone.  
12 Q. And those were the -- the interview, right?  
13 A. The interview, and then the second time that I  
14 went there.  
15 Q. Yes, sir.  
16 A. And then after that, he was on the phone quite  
17 a bit of time.  
18 Q. He's -- I mean, in your mind, I think, not  
19 unlike perhaps others, he's kind of notorious for being  
20 on the phone when you need the man's attention. That's  
21 just how he rolls. Agree with me?  
22 A. I mean, I didn't -- I didn't know him before  
23 all of this.  
24 Q. Okay. I'm just talking about your experience  
25 with him.

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1 A. I just figured he was busy.  
2 Q. And he is, as far as you know, right?  
3 Now, let's get to -- speaking of busy,  
4 let's get to that point in time, Mr. Cammack, when you  
5 were asking for a signed contract, and you told  
6 Michael Wynne you hadn't gotten the signed contract.  
7 And I think that was the night before. And then you  
8 roll into Mr. Paul's office the next morning, leaving at  
9 5:00 or thereabouts. And lo and behold, there is a  
10 signed contract on the desk of -- or at Nate Paul's  
11 office, right?  
12 A. Yes, sir.  
13 Q. Do you know whether or not, Mr. Cammack, that  
14 on that date that Mr. Paxton was out of town? Do you  
15 know one way or the other if he was?  
16 A. No, sir.  
17 Q. Okay. Would you agree with me that based upon  
18 your observations of the man, he traveled frequently,  
19 agree?  
20 A. There was at least one other time that, yes,  
21 sir, that he said he was traveling.  
22 Q. Okay. So let's jump to the second. And,  
23 again, I'm going to be quick running through these. But  
24 we've talked generally speaking about the first referral  
25 that you received from the Travis County DA's Office,

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1 right? And that is the complaint about the search  
2 warrant, correct?  
3 A. Yes, sir.  
4 Q. Not too long after you're involved, you get  
5 this second complaint, right?  
6 A. Yes, sir.  
7 Q. And that complaint is referred to you  
8 directly. It is mailed to your office, right?  
9 MR. COGDELL: Somebody find that for me,  
10 a copy of it, the second complaint.  
11 THE WITNESS: I believe it was e-mailed  
12 to me from Mr. Clemmer.  
13 Q. (BY MR. COGDELL) Okay. Whether it was  
14 e-mailed or mailed, my mistake.  
15 A. Yes, sir.  
16 Q. It was sent to you directly? Agree with me?  
17 A. Yes, sir.  
18 Q. And if someone were to come in here and state  
19 that Travis County DA's Office had no idea who you were  
20 or what you were doing and you were just some sort of  
21 ghost out there in space; you would disagree with that,  
22 would you not?  
23 A. That would be a falsehood.  
24 Q. And, in fact, Mr. Clemmer knew exactly who you  
25 were and where to find you, right?

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1 A. Yes, sir.  
2 Q. And can you -- can you estimate for us,  
3 Mr. Cammack, how many touches -- for lack of a better  
4 description, how many touches you had with employees of  
5 the Travis County DA's Office? And when I say  
6 "touches," I mean, interfaces, e-mails, phone calls,  
7 personal visits. How many -- how many touches are we  
8 talking about?  
9 A. Well -- and there's no disrespect to the folks  
10 over there. I just don't remember everyone's name.  
11 Q. Of course not. I'm not giving you that pop  
12 quiz. I'm just asking you to estimate it, of course.  
13 A. So I'm just -- I spoke with one individual who  
14 referred me to Don Clemmer. And then I think there was  
15 another woman named Amy maybe. Amy Meredith maybe.  
16 Q. Okay.  
17 A. Then I got referred to a woman named Bailey.  
18 Q. Well, now, we're up to four, right?  
19 A. I think we're up to four. And then from  
20 there, there were multiple --  
21 Q. Repeat visits?  
22 A. Well, just back and forth on -- in the e-mail  
23 exchange about the subpoenas. And then five or six  
24 times there, like with Mrs. Molnar. And then -- and  
25 then I got that other referral from Mr. Clemmer

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1 directly.  
 2 Q. So if we are counting each subpoena as a  
 3 touch, we've got 35 or 40 subpoenas?  
 4 A. Well, I sent them in a -- on the application,  
 5 just multiple per -- you know, just sent them out.  
 6 There were several e-mails to their office.  
 7 Q. Several -- I'm interrupting you. I'm sorry.  
 8 I'm sorry. I apologize.  
 9 But there were several tranches of  
 10 subpoenas sent to the Travis County DA's Office?  
 11 A. Yes, sir, I agree with that.  
 12 Q. And -- and there were several people you  
 13 communicated with, right?  
 14 A. Yes, sir.  
 15 Q. Some were staff and some were lawyers, right?  
 16 A. Yes, sir.  
 17 Q. And -- and at least in your mind, Mr. Cammack,  
 18 they were well aware of who you were and what you were  
 19 doing, right?  
 20 A. Yes, sir.  
 21 Q. And you certainly never tried to hide that  
 22 fact from anybody? When you were working with the  
 23 Travis County DA's Office, you told them who you were.  
 24 You told them your job description. You told them what  
 25 you need. It's not like you were hiding, right?

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1 A. I was not hiding.  
 2 Q. The second complaint is different,  
 3 Mr. Cammack, in kind, is it not, from the first  
 4 complaint, meaning, the first complaint is --  
 5 MR. COGDELL: May I approach, Your Honor?  
 6 PRESIDING OFFICER: Yes.  
 7 MR. COGDELL: Just to satisfy you, and  
 8 it's in, Mr. Hardin, as 124, AG 124.  
 9 Q. (BY MR. COGDELL) And, again, it's not -- not  
 10 a trick question. That is the copy of the second  
 11 complaint, correct?  
 12 A. Yes, sir, that's the second referral.  
 13 Q. So, again --  
 14 PRESIDING OFFICER: I'm sorry,  
 15 Mr. Cammack. I really need for you to speak louder when  
 16 you're answering because I know --  
 17 THE WITNESS: Yes, Judge, that's the  
 18 second referral.  
 19 Q. (BY MR. COGDELL) And, again, like the point I  
 20 made before you saw the document, although I don't think  
 21 there was a dispute about you, that was sent to you  
 22 directly with your name on it, with your address on it.  
 23 Clearly they know who you are, right?  
 24 A. Yes, sir.  
 25 Q. Okay. Now, the first complaint again focused

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1 on the potential illegality of the search warrants. The  
 2 second complaint focused on an alleged fraud concerning  
 3 people trying to steal -- my words, not the complaint --  
 4 Nate Paul's property too cheaply, right?  
 5 A. Yes, sir.  
 6 Q. And I believe, correct me if I'm wrong, but  
 7 you utilized the resources of the Travis County DA's  
 8 Office to issue search warrants -- or I'm sorry, grand  
 9 jury subpoenas for the first complaint, correct?  
 10 A. Yes, sir.  
 11 Q. And you did the same thing with the second  
 12 complaint, meaning part of the thing that you did to  
 13 investigate it was send out grand jury subpoenas to try  
 14 to obtain information, correct?  
 15 A. Yes, sir.  
 16 Q. Now, I think I heard you say, Mr. Cammack,  
 17 correct me if I'm wrong, that you were not keeping  
 18 General Paxton apprised of the names of the individuals  
 19 that you had issued the -- the grand jury subpoenas  
 20 before, right?  
 21 A. I never spoke with him about like who  
 22 specifically I was issuing subpoenas for, but that's not  
 23 to say that I -- I don't know if -- I don't remember if  
 24 I has sent a -- forwarded an e-mail list or something  
 25 like that.

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1 Q. Fair enough.  
 2 It's possible that you sent him on one or  
 3 more occasion a list of folks that -- or some sort of  
 4 detail on names, right?  
 5 A. That's possible.  
 6 Q. Not certain one way or the other if it  
 7 happened, but it's certainly possible?  
 8 A. As I am sitting here right now, I don't recall  
 9 that.  
 10 Q. Fair enough.  
 11 But you didn't, in any conversation, as  
 12 far as you can recall, Mr. Cammack, get gran -- get so  
 13 granular with General Paxton about the names of the  
 14 people that were being subpoenaed that you said, Look,  
 15 Joe Smith on this date, Bob Hunt on that date, Travis  
 16 Smith on the other? That didn't happen, right?  
 17 A. No, sir.  
 18 Q. And I assume it is a safe bet to say that if  
 19 you sent General Paxton an e-mail containing a list with  
 20 names on it, you don't know one way or the other whether  
 21 or not he opened that e-mail and read through it and  
 22 assimilated or understood what was entered or not?  
 23 Agree with me?  
 24 A. I'm sorry. Could you just rephrase that one  
 25 for me?

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1 Q. That's a \$500 question. I don't know why I  
2 asked it that way.  
3 You don't know if he ever opened up any  
4 e-mail you sent to him and read it or not, right?  
5 A. That's right. I don't know.  
6 Q. Okay. Now, in the -- thank you.  
7 In the investigation of the second  
8 complaint, did you think your marching orders from  
9 General Paxton had changed? Meaning, if I recall your  
10 testimony correctly, Mr. Cammack, in the first referral  
11 he told you to go get the truth, find out the truth or  
12 whatever, right?  
13 Were you -- I assume you were operating  
14 under the same belief system that General Paxton wanted  
15 you to do the same thing in the second complaint,  
16 correct?  
17 A. That was my belief and my understanding.  
18 Q. And at any point, Mr. Cammack, that you were  
19 dealing with Ken Paxton, did he ever ask you to  
20 misrepresent anything?  
21 A. No.  
22 Q. Did he ever ask you to, for lack of a better  
23 description, lie, cheat, or steal?  
24 A. Lie, cheat, or steal?  
25 Q. Yes, sir.

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1 A. No, sir.  
2 Q. And I'm including that in a broad sense, not  
3 in the literal sense.  
4 But also in the broad sense, not the  
5 literal sense, Mr. Cammack, never asked you to hide,  
6 secrete, destroy? Never asked you to hide any record,  
7 conceal anything you did, dispose of anything that you  
8 obtained? There was never any suggestion of that, I  
9 don't think, was there?  
10 A. No, sir.  
11 Q. Now, there was the time when the stuff hit the  
12 fan, right?  
13 A. Yes, sir.  
14 Q. And that was October 1st?  
15 A. I believe it was October 1st, whatever day  
16 that I got a cease and desist letter from Mr. Penley.  
17 Q. Okay. And, again, whether it's the 1st, or  
18 2nd, 30th, whatever, you get the cease and desist  
19 letter. And what was your reaction when you -- when you  
20 got that? What was your thought?  
21 A. I mean, I was shocked. I was confused and  
22 felt like a rug had been pulled out from under me.  
23 And --  
24 Q. I heard shocked and confused, and then I  
25 didn't hear the last thing that you said.

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1 A. I just felt like the rug had been pulled out  
2 from under me.  
3 Q. Okay.  
4 A. It just seemed that it came out of nowhere.  
5 Q. And it really did come out of nowhere, if I'm  
6 understanding your -- your story, right?  
7 A. It did come out of nowhere. I had never  
8 spoken with Mr. Penley over the course of those three  
9 and a half, four weeks.  
10 Q. And after Mr. Penley sent you that letter,  
11 Mr. Mateer sent you another letter, right?  
12 A. That's correct.  
13 Q. And this is the -- and he's basically saying,  
14 This is unauthorized. You're performing illegal  
15 activity, whatever.  
16 This is the very same Jeff Mateer whose  
17 office you sat in interviewing for the job that you  
18 took, right?  
19 A. That's correct.  
20 Q. If I'm recalling it correctly, Mr. Cammack,  
21 when you got the first letter from the Penley letter,  
22 you responded very professionally, very appropriately,  
23 very succinctly. What -- he sends you this cease and  
24 desist letter. And what do you reply back?  
25 A. I think I told him that I would just stand

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1 down and -- something along those lines.  
2 Q. Unlike some other people that you might have  
3 heard of, you didn't get volcanic on him? You didn't  
4 pick up the phone and slur a bunch of invectives or  
5 worse at him, right?  
6 A. No. That would have been unprofessional.  
7 Q. And -- and to be fair to you, Mr. Cammack, all  
8 you were trying to do was do a job, do it well, do it  
9 professionally, right?  
10 A. Yes, sir.  
11 Q. Then it gets even worse because the press  
12 starts blowing up, right?  
13 A. Yes, sir.  
14 Q. And speaking for you, you are a five-year  
15 lawyer. And you have authors, writers, people in the  
16 press that you've never spoken to, that you've never  
17 communicated with, that you've never heard of just  
18 saying horrible things about you, right?  
19 A. There were a lot of articles written, and I  
20 read a couple of them and then chose just to put that  
21 out of my scope of view, just move on with my life.  
22 Q. That was probably a wise decision.  
23 But it went into really needless detail  
24 about disagreements that you had with your family and  
25 just blowing everything out of proportion. And it was a

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1 nightmare for you, simply put, was it not?  
 2 A. It had nothing to do with anything involving  
 3 this. It was just a bunch of trash. I'm sorry.  
 4 Q. That's all right.  
 5 And it was -- if you understand the  
 6 timeline -- or I guess if I understand the timeline, I'm  
 7 asking you if you understand it the same way,  
 8 Mr. Cammack, that by this point, the so-called  
 9 whistleblowers had gone to the FBI, and that's when all  
 10 of this volcanic eruption occurred, right?  
 11 A. I'm sorry. Could you repeat?  
 12 Q. Sure.  
 13 When the negative press started coming  
 14 out, it was after the time, at least insofar as what the  
 15 articles were claiming, that several individuals that  
 16 used to be with the attorney general's office had gone  
 17 and made a complaint with the FBI or made the so-called  
 18 whistleblower complaint. Is that consistent with your  
 19 memory?  
 20 A. I remember reading, I think, about that.  
 21 Q. And after this eruption, that is when you  
 22 drive to Nate Paul's house, right?  
 23 A. Yes, sir.  
 24 Q. And, I mean, it's just a surreal time, fairly  
 25 put, for you and for everybody else, right?

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1 A. Yes, sir.  
 2 Q. You go to his house. You had never been to  
 3 his house before. You're hoping to resolve whatever  
 4 issues are outstanding.  
 5 Oh, by the way, you would like to get  
 6 paid for your work, right?  
 7 A. Right.  
 8 Q. And everybody is kind of standing around  
 9 shell-shocked. When I say "everybody," I mean you,  
 10 Mr. -- Mr. Wynne, your -- your friend or whatever,  
 11 Mr. -- Mr. Paul and Mr. Paxton, right?  
 12 A. That's what -- that's who was at that meeting.  
 13 Q. And, I mean, again, without engaging in  
 14 hyperbole, it's kind of like everybody is sitting around  
 15 with PTSD; just like what the hell was that, right?  
 16 A. Right.  
 17 Q. You were asked to continue the good fight,  
 18 keep working. And in your own mind, you say, No. I --  
 19 I'm done with that.  
 20 A. No.  
 21 Q. Right?  
 22 A. That's right, I was done.  
 23 Q. Okay. And then you have another occasion that  
 24 you detailed for Mr. Hardin where Mr. -- thank you --  
 25 Mr. Webster and -- and Mr. Paxton asked you to come to

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1 Austin. You come to Austin. And it's just as weird as  
 2 the time before.  
 3 You don't go into the AG's office. You  
 4 go over to Starbucks. Brent Webster says, 15 grand  
 5 ain't nothing. I had to eat 40 grand. And you're  
 6 thinking, That's not going to put, you know, Post  
 7 Toasties in my -- in my bowl here. I don't really care.  
 8 My words, not yours, right?  
 9 A. That happened.  
 10 Q. Okay. And to this day, you've never been paid  
 11 anything, right?  
 12 A. Zero dollars.  
 13 Q. Okay. And the reward that you have gotten is  
 14 not really a good reward, right?  
 15 A. I don't -- I mean, I don't -- I haven't  
 16 received any benefit from any of this.  
 17 Q. Let me -- let me -- let me apologize for that  
 18 situation.  
 19 A. Thank you.  
 20 Q. That should have never happened.  
 21 A. Thanks.  
 22 Q. That should have never happened.  
 23 All of that having been said,  
 24 Mr. Cammack, it is still true, is it not, that what  
 25 Ken Paxton asked you to do: Find the truth?

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1 A. That was -- that's what he told me when we  
 2 first met. He just wanted to find out the truth about  
 3 this first referral.  
 4 Q. And that's what you were trying to do?  
 5 A. Yes, sir, that's correct.  
 6 MR. COGDELL: I pass the witness.  
 7 PRESIDING OFFICER: Mr. Hardin, redirect?  
 8 MR. HARDIN: No, Your Honor.  
 9 PRESIDING OFFICER: Are both of you --  
 10 MR. COGDELL: He can be excused.  
 11 PRESIDING OFFICER: Can I excuse the  
 12 witness?  
 13 MR. COGDELL: Yes.  
 14 PRESIDING OFFICER: You may be. Thank  
 15 you, sir.  
 16 (Witness left the Senate chamber)  
 17 PRESIDING OFFICER: Call your next  
 18 witness.  
 19 MR. DONNELLY: Thank you, Mr. President.  
 20 The House calls Joe Brown.  
 21 PRESIDING OFFICER: Bailiff, please bring  
 22 in Joe Brown.  
 23 (Witness entered the Senate chamber)  
 24 PRESIDING OFFICER: This way.  
 25 Mr. Brown, if you'll raise your right

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1 hand.  
 2 (Witness was sworn by Presiding Officer)  
 3 PRESIDING OFFICER: Thank you.  
 4 Please have a seat. And as they will  
 5 instruct you, talk as close into the mic as you can get.  
 6 Thank you.  
 7 MR. DONNELLY: May I proceed,  
 8 Mr. President?  
 9 PRESIDING OFFICER: Yes, you may.  
 10 MR. DONNELLY: Thank you.  
 11 JOSEPH DAVID BROWN,  
 12 having been first duly sworn, testified as follows:  
 13 DIRECT EXAMINATION  
 14 BY MR. DONNELLY:  
 15 Q. Sir, please introduce yourself to the  
 16 honorable members of the Senate.  
 17 A. Joseph David Brown. I go by "Joe."  
 18 Q. Mr. Brown, how are you currently employed?  
 19 A. I have a private law practice in Sherman.  
 20 Q. Could you please summarize for us, albeit  
 21 briefly, your history as an attorney, your jobs,  
 22 positions you've held?  
 23 A. I graduated from SMU Law School in 1985. I  
 24 started with a civil law firm in Dallas, about 100  
 25 lawyers, Cowles & Thompson. I did that work for about

1 five years. Returned to my hometown. Ran for district  
 2 attorney in 2000 in Grayson County. Was elected. Spent  
 3 17 years as the district attorney in Grayson County.  
 4 And then I was appointed as the Eastern District United  
 5 States Attorney in 2018.  
 6 Q. Was that a presidential appointment, senate  
 7 confirmation?  
 8 A. Nominated by the senators of Texas and  
 9 presidentially appointed and senate approved.  
 10 Q. And which -- under which administration were  
 11 you appointed?  
 12 A. I was appointed by President Trump.  
 13 Q. I'll ask you, sir, at some point were you  
 14 contacted by or on behalf of Attorney General Ken  
 15 Paxton?  
 16 A. Yes, sir.  
 17 Q. Can you tell us the substance of that?  
 18 A. I received a call in late August of 2020 from  
 19 a friend in McKinney who was a mutual friend of the  
 20 attorney general. He asked -- told me that Attorney  
 21 General Paxton would like to visit with me, if I would  
 22 be willing to, about a potential criminal special  
 23 investigation.  
 24 Q. Did you meet with the then -- excuse me, with  
 25 Mr. Paxton?

1 A. Within the hour, I received a call from  
 2 Attorney General Paxton. He introduced himself. We  
 3 visited a little bit. And he asked me if I would come  
 4 to Austin to visit about a matter that he had.  
 5 He did not give much detail at that  
 6 point. I knew it was criminal and it was a special  
 7 investigation. But I didn't know the role really. And  
 8 he said he would explain that to me if I came to Austin.  
 9 Q. Did you go to Austin?  
 10 A. I -- I came to Austin on August 27th of 2020.  
 11 Q. Did you meet personally with Mr. Paxton?  
 12 A. I did in his office, about 45 minutes. And I  
 13 met about 15 minutes with Jeff Mateer.  
 14 Q. Can you give us a summary -- I'll ask you, did  
 15 he provide you some information concerning this  
 16 potential complaint?  
 17 A. Are -- are you asking me to --  
 18 Q. Well, I'm asking you, did he give you  
 19 information about the complaint?  
 20 A. Attorney General Paxton told me about the  
 21 complaint, yes.  
 22 Q. And if you could, in just a few words, tell me  
 23 what the substance of the report was.  
 24 A. Well, I didn't know what role I would be  
 25 playing, whether I was going to be an independent

1 prosecutor or under the authority of the attorney  
 2 general, so we talked about that. But he told -- he  
 3 told me it involved a guy that was -- had a warrant  
 4 executed, and he believed the warrant could have been  
 5 possibly executed unlawfully. So we continued to visit  
 6 about that and -- and flesh that out.  
 7 Q. On the information that he provided you, just  
 8 off the top of your head, did you have any -- well, let  
 9 me -- let me retract that.  
 10 Did he -- did you ask of him whether or  
 11 not he had individuals within his own office who might  
 12 be able to investigate this matter?  
 13 A. Yes. We talked about the fact -- I remember  
 14 him talking about that it involved potentially a phone  
 15 line cut on some execution of a search warrant and the  
 16 warrant affidavit being changed. And, you know, I -- I  
 17 learned during that meeting that it was involving the  
 18 FBI and the Securities Board and DPS, and the  
 19 investigation would be involving that.  
 20 So, yes, we -- we talked about that. And  
 21 he said he could not get the people in his office to do  
 22 anything about it. And we talked a little bit more  
 23 about that. And he talked about the Ranger -- the  
 24 retired ranger that worked for him that wouldn't do  
 25 anything about it.

1 Q. Let me stop you there.  
 2 Did you ask him a question after he told  
 3 you that his own people weren't getting work done on it?  
 4 A. Yeah. I said, Why don't you fire them?  
 5 Q. What was his response?  
 6 A. It was complicated, and it just didn't work  
 7 that way.  
 8 Q. Fair enough.  
 9 Did he advise you whether or not there  
 10 were any other people in the race, whether you had  
 11 competition?  
 12 A. He told me that there was another lawyer, a  
 13 young lawyer that he was considering, but that he didn't  
 14 have the credentials that I did. And so I assumed that  
 15 if I wanted that, that he would choose me to do that.  
 16 Q. You said that he had identified, if I'm  
 17 correct, the FBI, the State Securities Board, and DPS;  
 18 is that accurate?  
 19 A. I remember those entities.  
 20 Q. Did those raise any concerns for you, just  
 21 that first question?  
 22 A. Now, as we're talking --  
 23 Q. Let me stop you there just so I don't get an  
 24 objection. The answer to the question is yes, correct?  
 25 A. Yes.

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1 Q. Did you relay those concerns to Mr. Paxton?  
 2 And if so, what did you say?  
 3 A. Yes. I was aware of the fact that his  
 4 indictment involved those three agencies. And I said, I  
 5 have some concern about the fact that it would be  
 6 involving -- that I would be under your authority in  
 7 investigating the same agencies that were involved in  
 8 your indictment. As we talked about it, I eventually --  
 9 you know, I'm having to process this during this meeting  
 10 and learn all of this, and the red flags are going off.  
 11 So eventually I say, My preference is  
 12 that I would write a report and be able to evaluate  
 13 these conflicts before I would commit to any level of  
 14 prosecution. And he said, We have people that can  
 15 prosecute the case. That would be fine.  
 16 Q. From your recollection, did he appear affected  
 17 by these concerns that you raised? Did he indicate that  
 18 it was a problem?  
 19 MR. COGDELL: I'm sorry, conjecture and  
 20 speculation as to whether or not he was affected.  
 21 MR. DONNELLY: Your Honor --  
 22 PRESIDING OFFICER: Sustained.  
 23 Go ahead.  
 24 Q. (BY MR. DONNELLY) From what you observed,  
 25 sir, did you have any personal observations for how you

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1 believed he took that news?  
 2 MR. COGDELL: Same objection.  
 3 THE WITNESS: He --  
 4 MR. DONNELLY: Your Honor, if I may,  
 5 we're talking about a lay witness opinion. This  
 6 individual was in the room with him and spoke directly  
 7 with Mr. Paxton and can testify as to what he observed.  
 8 PRESIDING OFFICER: I will sustain. I  
 9 think you can phrase it better, so try one more time.  
 10 MR. DONNELLY: Sounds like a challenge,  
 11 Your Honor. And I'm up for it, I hope.  
 12 Q. (BY MR. DONNELLY) You told him these concerns  
 13 that you raised; is that correct?  
 14 What did you observe, if anything?  
 15 A. He -- he told me -- when I said, I'm concerned  
 16 about these, he said, I understand. I'm not worried  
 17 about that. I just want to find the truth.  
 18 Q. Fair enough.  
 19 Did he tell you -- excuse me.  
 20 Did he indicate to you whether the  
 21 individual involved was a donor?  
 22 A. I did not learn he was a donor until I went to  
 23 talk to Jeff Mateer.  
 24 Q. Did you learn from Mr. Paxton that he had any  
 25 other relationship with this individual?

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1 A. No. I -- I had no idea when I left the  
 2 attorney general that there was anything other than a  
 3 guy that he was -- that was wronged, and I was unclear  
 4 on why it was going to a special prosecutor, other than  
 5 what he had told me.  
 6 Q. So let's fast-forward. At some point do you  
 7 speak with Mr. Vassar about a potential contract?  
 8 A. Within a few days, he made contact --  
 9 Ryan Vassar made contact with me by e-mail and  
 10 eventually gave me a contract. It didn't have any  
 11 specific terms. It was just a general contract. And we  
 12 exchanged e-mails about the scope and some details of  
 13 the contract.  
 14 Q. What was your purpose in defining the scope?  
 15 A. I -- I repeated what I had told to the  
 16 attorney general, that -- that because of my concerns  
 17 about the conflicts, I would commit to investigating, to  
 18 writing a report, and would not commit to prosecution  
 19 until I had been able to evaluate the conflicts further.  
 20 Q. Was there an hourly rate that was addressed?  
 21 A. The hourly rate was -- I can't remember. It  
 22 was -- it didn't come from me. It was suggested with  
 23 the contract by Mr. Vassar.  
 24 Q. Would a rate of \$300 an hour be accurate?  
 25 A. That was the rate that was -- was given to me.

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1 Q. Did you have any concerns about that rate?  
 2 A. I was -- had just been -- I was in two months  
 3 out from the U.S. Attorney's Office, and just starting  
 4 this was giving me an opportunity to stay involved in  
 5 something relevant. I mean, the attorney general is  
 6 asking me to help with an investigation, so it intrigued  
 7 me, so I didn't -- I wasn't worried about the money.  
 8 Q. You were prepared to do any sort of  
 9 investigation if you cleared conflicts for \$300 an hour;  
 10 is that accurate?  
 11 A. What was described to me, yes. I mean, I knew  
 12 I could -- if I needed to, you know, get out of it, I  
 13 could.  
 14 Q. Were you prepared to secure any insurance that  
 15 was necessary as provided by the contract?  
 16 A. Well, the insurance thing didn't come up  
 17 until -- when I get the contract it says you have to  
 18 have malpractice insurance. And I was two months out of  
 19 the U.S. Attorney's Office, so I did not have it. But,  
 20 you know, it was not -- that was not what kept me from  
 21 doing it.  
 22 Q. Did you, as a matter of fact, indicate to  
 23 anybody that you were willing to get insurance within 30  
 24 days?  
 25 A. I would have gotten insurance if that was

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1 necessary. I thought it was something they could waive.  
 2 Q. And did you explain that to Mr. Vassar?  
 3 A. Yes.  
 4 Q. Did you feel in your opinion that that in any  
 5 way stood in the way of you getting the job, if you were  
 6 to be chosen?  
 7 A. Yeah. That would never --  
 8 MR. COGDELL: Excuse me, Mr. Brown.  
 9 Objection. Conjecture and speculation. He doesn't know  
 10 if it was in his way or not.  
 11 PRESIDING OFFICER: You also can speak  
 12 up, Mr. Cogdell, when you speak.  
 13 Sustained.  
 14 You can rephrase that.  
 15 Q. (BY MR. DONNELLY) Did you get a response when  
 16 you indicated that you could get insurance within 30  
 17 days?  
 18 A. We e-mailed, and he said it was something that  
 19 he thought they could take care of, or words to that  
 20 effect.  
 21 Q. Very good.  
 22 After you have raised concerns to the  
 23 general, Paxton, after you've indicated that you wanted  
 24 to limit the scope of your work so that you could make  
 25 sure that those conflicts and concerns were taken care

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1 of, after you've indicated that you would work for \$300  
 2 an hour and get insurance, were you chosen?  
 3 A. No. I followed up a couple of times with  
 4 e-mails, and it just -- nothing happened after that.  
 5 Q. Are you familiar with federal filings of the  
 6 process of -- of performing federal filings as it  
 7 relates to search warrants?  
 8 A. Yes.  
 9 Q. You ran an entire office of assistant United  
 10 States attorneys, correct?  
 11 A. Yes. I mean, I wasn't on the front line of  
 12 the search warrants, but I certainly am familiar.  
 13 Q. Fair enough.  
 14 Are you familiar, sir, that when an  
 15 application for a search warrant is filed, there's an  
 16 application with an accompanying affidavit?  
 17 A. Correct.  
 18 Q. And then there's a search warrant order; is  
 19 that accurate?  
 20 A. Correct.  
 21 Q. Okay. And what we would call the application  
 22 and the warrant; is that fair?  
 23 A. Right.  
 24 MR. DONNELLY: Ms. Manela, if you would  
 25 please pull up AG 1047.

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1 I apologize, Your Honor. We didn't have  
 2 a digital copy so we're putting it on the ELMO.  
 3 Q. (BY MR. DONNELLY) If you could look at line  
 4 number 1, please. Would you agree with me that on  
 5 August 16th, 2019, there's a seal -- there's a motion to  
 6 seal the search warrant application and the search  
 7 warrant?  
 8 A. That's what's reflected.  
 9 Q. And the search warrant application again  
 10 contains the application and the affidavit; is that  
 11 accurate?  
 12 A. And the proposed warrant.  
 13 Q. Okay. If we could go to line number 6 on the  
 14 second page, please.  
 15 At the top would you agree with me here  
 16 that it indicates that there's a motion for leave to  
 17 disclose the search warrant -- excuse me, the sealed  
 18 search warrant, correct?  
 19 A. That's the entry.  
 20 Q. Would you agree with me that there's nothing  
 21 on that entry that indicates that there is a motion for  
 22 leave to disclose the sealed search warrant application,  
 23 which would include the affidavit?  
 24 A. There's nothing that mentions the application.  
 25 Q. Very good.

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1 Sir, are you familiar with OPR as it  
2 relates to federal government?  
3 A. Yes.  
4 Q. Could you tell us what those initials stand  
5 for, please?  
6 A. The Office of Professional Responsibility.  
7 Q. Do all assistant United States attorneys who  
8 enter on duty, at least during your time, are they made  
9 aware of the Office of Professional Responsibility and  
10 their jurisdiction to investigate complaints regarding  
11 United States attorneys?  
12 MR. COGDELL: Objection. Conjecture and  
13 speculation.  
14 MR. DONNELLY: I'm asking from his direct  
15 knowledge, Your Honor.  
16 MR. COGDELL: No. You asked for recall.  
17 PRESIDING OFFICER: Overruled.  
18 Q. (BY MR. DONNELLY) Please answer the question.  
19 A. Assistant United States attorneys are familiar  
20 with what the OPR is and what their jurisdiction is,  
21 yes.  
22 Q. If there was a complaint regarding an AUSA and  
23 the conduct in any one of their investigations, would  
24 the Office of Professional Responsibility be charged  
25 with investigating them?

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1 MR. COGDELL: Objection. Conjecture and  
2 speculation.  
3 PRESIDING OFFICER: Overruled.  
4 Q. (BY MR. DONNELLY) Please, sir.  
5 A. That's one agency that could.  
6 Q. As a former United States attorney,  
7 presidentially appointed, are you aware, if there is an  
8 OPR investigation ongoing, whether the United States  
9 Attorney's Office where that employee who is complained  
10 of works has any jurisdiction over the matter or if it  
11 is entirely within Office of Professional  
12 Responsibility?  
13 MR. COGDELL: I'm sorry. Objection.  
14 Vague. I don't understand the question.  
15 MR. DONNELLY: Your Honor, if I may, I  
16 think it's more important if the witness understands it.  
17 PRESIDING OFFICER: Overruled.  
18 You may answer.  
19 THE WITNESS: I -- I'm not sure I do,  
20 so --  
21 Q. (BY MR. DONNELLY) That answers Mr. Cogdell's  
22 question.  
23 Would it be fair to say -- or let me ask  
24 you this: In your experience as a presidentially  
25 appointed United States attorney, if somebody within

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1 your office, an AUSA within your office was being  
2 investigated by the Office of Professional  
3 Responsibility, would your office, the office in which  
4 they worked, have any sort of responsibility for the  
5 investigation or would it be entirely OPR?  
6 A. No. My understanding goes to OPR out of  
7 Washington, D.C., and they keep it separate.  
8 Q. So the -- the office where the AUSA works has  
9 no responsibility for that, correct?  
10 A. That was my experience.  
11 Q. Are you familiar with OIG?  
12 A. Yes, the Office of Inspector General.  
13 Q. Similarly, based on your experience, working  
14 as a presidentially appointed United States attorney,  
15 are AUSAs within your office made aware of and trained  
16 on the Office of Inspector General and their  
17 jurisdiction?  
18 A. They're certainly aware of it. What the level  
19 of training on it is, it doesn't take very long before  
20 they know that there's oversight organizations within  
21 the different areas of the Department of Justice.  
22 Q. If there's a complaint for an agent within the  
23 Department of Justice, not an AUSA anymore, but an  
24 agent, would the Office of Inspector General have  
25 oversight and jurisdiction?

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1 A. It's my understanding they do. That's the  
2 investigating -- that's who investigates the  
3 investigators.  
4 Q. Same question. Investigates the  
5 investigators, and it is taken out of the hands of the  
6 regional or local United States Attorney's Office; is  
7 that correct?  
8 A. That's my understanding.  
9 Q. Thank you, sir.  
10 MR. DONNELLY: Pass the witness.  
11 PRESIDING OFFICER: Thank you,  
12 Mr. Donnelly.  
13 Mr. Cogdell.  
14 CROSS-EXAMINATION  
15 BY MR. COGDELL:  
16 Q. Hi, Mr. Brown.  
17 A. Good afternoon.  
18 Q. I think we met?  
19 A. We have.  
20 Q. Okay. In -- in Sherman?  
21 A. The courtroom in Sherman, yes, sir.  
22 Q. A lovely courtroom, lovely judge. Nice to see  
23 you again.  
24 When you were meeting with Mr. Mateer,  
25 Mr. Brown, did he tell you that this is a bogus

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1 investigation and it shouldn't be investigated?  
 2 A. No, sir.  
 3 Q. Did he, that is Mr. Mateer, give any  
 4 indication to you that the investigation or that the --  
 5 that the job that you were applying for was -- was  
 6 unnecessary?  
 7 A. No. I sensed a little -- I sensed something,  
 8 but he never said anything directly, other than he was  
 9 glad that I was being considered because I would tell  
 10 the attorney general the truth.  
 11 Q. Okay. And the same with Mr. Vassar. When you  
 12 were communicating with -- with Mr. Vassar about the  
 13 details of the contracts, did -- did he suggest in any  
 14 shape, form, or fashion that the job that you were  
 15 applying for was unneeded, unnecessary, a sham, anything  
 16 of the sort?  
 17 A. No.  
 18 Q. And I hear you, Mr. Brown, on the troubling  
 19 fact, potentially troubling fact, that these are the  
 20 same agencies or some of the same agencies that had  
 21 charged Mr. Paxton with the State Securities fraud case,  
 22 which, by the way, do you know of your own personal  
 23 knowledge if that thing is still pending after eight  
 24 years?  
 25 MR. DONNELLY: Objection, Your Honor, as

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1 to the relevance as it relates to this witness.  
 2 PRESIDING OFFICER: Overruled.  
 3 Q. (BY MR. COGDELL) Are you aware, Joe, that  
 4 that case is still pending?  
 5 A. The case against the attorney general?  
 6 Q. Yes, sir.  
 7 A. Yes, I'm aware of that.  
 8 Q. Okay. That was what was potentially troubling  
 9 to you, right?  
 10 A. That was part of it.  
 11 Q. Yes, sir, but not -- the allegations or the  
 12 claim, or whatever, that the FBI or these different  
 13 agencies had potentially engaged in misconduct, you were  
 14 still willing to investigate it, right?  
 15 A. I left it open that that could happen. I was  
 16 willing to.  
 17 Q. And you are the former United States Attorney  
 18 for the Eastern District, right?  
 19 A. Yes, sir.  
 20 Q. In fact, I think -- and somebody said that  
 21 you -- the other applicant wasn't as qualified as you.  
 22 Probably true because there are very few people in the  
 23 Eastern District that, on paper at least, would be more  
 24 qualified than the former DA from Grayson County and the  
 25 Eastern District United States Attorney, right?

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1 A. I -- that's your words.  
 2 Q. Okay. In any event, you're a very qualified  
 3 person. You weren't chosen, but you did make two or  
 4 three calls trying to follow up to see if you could get  
 5 the job. Am I recalling that correctly?  
 6 A. I was willing to do the job. And I didn't  
 7 know what happened, yes.  
 8 MR. COGDELL: Thank you. Fair enough.  
 9 Thank you, Joe. Nice to see you.  
 10 MR. DONNELLY: No redirect, Your Honor.  
 11 PRESIDING OFFICER: Are both parties  
 12 finished with the witness?  
 13 MR. COGDELL: No problem.  
 14 MR. DONNELLY: Excused, Your Honor.  
 15 PRESIDING OFFICER: Okay. You're  
 16 excused, Mr. Brown. Thank you, sir.  
 17 (Witness left the Senate chamber)  
 18 PRESIDING OFFICER: The next witness?  
 19 MS. EPLEY: Thank you, Mr. President.  
 20 The House calls Kendall Garrison.  
 21 PRESIDING OFFICER: Bailiff, please bring  
 22 in Kendall Garrison.  
 23 (Witness entered the Senate chamber)  
 24 PRESIDING OFFICER: Mr. Garrison, if  
 25 you'll raise your right hand.

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1 (Witness was sworn by Presiding Officer)  
 2 PRESIDING OFFICER: Please be seated.  
 3 And speak as closely into the microphone as you can.  
 4 Thank you.  
 5 Ms. Epley, your witness.  
 6 MS. EPLEY: Thank you. May I proceed?  
 7 KENDALL GARRISON,  
 8 having been first duly sworn, testified as follows:  
 9 DIRECT EXAMINATION  
 10 BY MS. EPLEY:  
 11 Q. Please introduce yourself to the ladies and  
 12 gentlemen of the Senate.  
 13 A. Hi. My name is Kendall Garrison.  
 14 Q. Mr. Garrison, could you speak up a little for  
 15 me? It's a big room.  
 16 A. My name is Kendall Garrison.  
 17 Q. Thank you. And where do you work?  
 18 A. Amplified Credit Union.  
 19 Q. What is your role at Amplified Credit Union?  
 20 A. I'm president and chief executive officer.  
 21 Q. As you might have heard, I want to get through  
 22 this a little quickly so I'm going to jump right in.  
 23 I'm going to turn your attention to 2020.  
 24 During that time frame, were you familiar with Nate Paul  
 25 or World Class Holdings?

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1 A. Yes.  
 2 Q. How so?  
 3 A. Mr. Paul and World Class Holdings obtained  
 4 loans from Amplified Credit Union.  
 5 Q. Okay. And what was the status of those loans  
 6 in the summer of 2020?  
 7 A. In the summer of 2020, we had issued a demand  
 8 letter inasmuch as those loans were delinquent and were  
 9 working their way toward foreclosure.  
 10 Q. Okay. Did your -- in the course of your  
 11 employment, and does your staff create records specific  
 12 to Amplify, their banking, and their foreclosures?  
 13 A. Yes.  
 14 Q. Have you provided those to the House?  
 15 A. I have.  
 16 Q. Would it surprise you to know that we have  
 17 provided copies to the defense?  
 18 A. It would not surprise me.  
 19 Q. Okay. Did you provide a business record  
 20 affidavit for those documents?  
 21 A. Yes.  
 22 MS. EPLEY: And for the Senate, for  
 23 Mr. President, that's been on record for over 14 days,  
 24 the business records affidavit. And as such I've  
 25 provided a copy to defense. And I have a copy for the

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1 court.  
 2 Mr. President, you'll notice I provided  
 3 you an external document. I'll refer to that in a  
 4 moment. In the meantime, the -- Exhibit 657 has been  
 5 pre-admitted.  
 6 Q. (BY MS. EPLEY) Mr. Garrison, I would like to  
 7 talk to you a little bit about those records. Do you  
 8 remember three loans in particular related to Nate Paul  
 9 in the summer of 2020?  
 10 A. I do.  
 11 Q. And I would like to move you forward to the  
 12 end of July, early August of that year. What was the  
 13 status at that point of those loans?  
 14 A. Those three loans had been posted for  
 15 foreclosure.  
 16 Q. And when you say "posted for foreclosure,"  
 17 what does that mean?  
 18 A. That means a -- we had requested a substitute  
 19 trustee, and we had filed notice with the various  
 20 counties on where those three properties were located,  
 21 that we intended to foreclose on those on the first  
 22 Tuesday of August.  
 23 Q. Was Nate Paul aware of your intent to file and  
 24 proceed with foreclosure?  
 25 A. He was aware.

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1 Q. Is documentation consistent with that provided  
 2 in Exhibit 657?  
 3 A. Yes.  
 4 Q. Now, after providing notice to Nate Paul, does  
 5 he immediately file a bankruptcy?  
 6 A. He does not.  
 7 Q. And just so that we're all aware, does the  
 8 filing of a bankruptcy create a legal automatic stay  
 9 foreclosing the ability to move forward with the  
 10 foreclosure, for example?  
 11 A. The filing of a bankruptcy does create a stay.  
 12 Q. Would we call that a nuclear option, though,  
 13 for Mr. Paul?  
 14 MR. LITTLE: Objection. Leading.  
 15 Argumentative.  
 16 PRESIDING OFFICER: Sustained.  
 17 Q. (BY MS. EPLEY) Does Mr. Paul make an effort  
 18 to prevent foreclosure and avoid bankruptcy?  
 19 MR. LITTLE: Objection. Calls for  
 20 speculation as to Mr. Paul's intent.  
 21 MS. EPLEY: If he knows, Your Honor,  
 22 which he does.  
 23 PRESIDING OFFICER: I'll overrule it. He  
 24 can answer the question.  
 25 THE WITNESS: I'm sorry. Can you repeat

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1 the question?  
 2 Q. (BY MS. EPLEY) Yes, sir.  
 3 So at the end of July, early August of  
 4 2020, does Mr. Paul make any efforts to avoid  
 5 foreclosure and also avoid bankruptcy?  
 6 A. He had discussions with our staff, and his  
 7 counsel had discussions with ours about options to avoid  
 8 foreclosure.  
 9 Q. Yes, sir.  
 10 MS. EPLEY: Stacey, if you would for me,  
 11 would you pull up Exhibit 657, specifically .190?  
 12 Q. (BY MS. EPLEY) Can you see that -- excuse me.  
 13 Can you see that, Mr. Garrison?  
 14 A. It's small, but I can see it. It's more  
 15 legible now. Thank you.  
 16 Q. And what does this appear to be?  
 17 MR. LITTLE: Hang on a second. We don't  
 18 have anything on our monitor.  
 19 PRESIDING OFFICER: Hold on one moment.  
 20 Ms. Epley, you said it was admitted. We  
 21 do not have that on our sheet as being previously  
 22 admitted. Did I mishear you?  
 23 MS. EPLEY: It is possible, Your Honor.  
 24 And I'm happy to lay a predicate right now. This is  
 25 easily correctable.

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1 MR. LITTLE: Mr. President, I can't see  
2 anything. It's not on my screen. I don't know if the  
3 jury can see it. I hope you can. But I don't have  
4 anything on my monitor. Hopefully everybody can see it.  
5 MS. EPLEY: And, Your Honor --  
6 PRESIDING OFFICER: Hold on one second.  
7 Is it up now? Do you have it?  
8 MR. LITTLE: No, it is not.  
9 PRESIDING OFFICER: Okay. Hold on.  
10 Do the jurors have it? I have it. Can  
11 we have -- Damian, if you can take a look. And we'll  
12 just pause there for a second.  
13 MS. EPLEY: Your Honor, can I ask that  
14 this not count towards my time?  
15 PRESIDING OFFICER: Yes, ma'am. It won't  
16 count towards your time.  
17 MS. EPLEY: Thank you.  
18 PRESIDING OFFICER: Jurors, are your  
19 monitors black now?  
20 THE JURY: Yes.  
21 PRESIDING OFFICER: Okay. They're all  
22 black now, Damian.  
23 MR. LITTLE: It's up now, Mr. President.  
24 PRESIDING OFFICER: All right.  
25 MS. EPLEY: Your Honor -- or,

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1 Mr. President, for the record, I want to ensure, I'm  
2 getting confirmation that 657 was pre-admitted by  
3 agreement with defense. If, however, you would like me  
4 to lay a predicate, I can do that quickly.  
5 MR. LITTLE: That's not necessary. No  
6 objection.  
7 PRESIDING OFFICER: Okay. We just didn't  
8 have it on our list.  
9 MS. EPLEY: Thank you, Your Honor.  
10 PRESIDING OFFICER: Go ahead, and I will  
11 be sure you get a minute back.  
12 MS. EPLEY: Thank you. Thank you.  
13 Q. (BY MS. EPLEY) Now, Mr. Garrison, I'm going  
14 to draw your attention back to Exhibit 657 at page 190.  
15 Does this appear to be an e-mail from Nate Paul?  
16 A. It does.  
17 Q. And what's the date?  
18 A. The date is August the 3rd of 2020. Monday,  
19 August 3rd.  
20 Q. Now, the senators and people viewing at home  
21 can read, so I want to move you directly to the link  
22 embedded in that e-mail. Do you know what that is?  
23 A. I do.  
24 Q. And what is it?  
25 A. This was a link to an attorney general's

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1 opinion that we referred to internally as "the midnight  
2 opinion."  
3 Q. Yes, sir. We refer to it the same. And I  
4 think the senators are familiar with the foreclosure  
5 letter or the midnight letter.  
6 Let me ask you: What was the impact of  
7 receiving that at Amplified Bank?  
8 A. We had lots of discussions internally and with  
9 our counsel on how to proceed. This -- this was highly  
10 unusual. And I am in my 44th year of banking, and this  
11 is the first time I've seen something of this nature.  
12 As a direct result --  
13 MR. LITTLE: I object to the narrative.  
14 PRESIDING OFFICER: Sustained.  
15 MS. EPLEY: That's okay. I'd be happy to  
16 break it up.  
17 Q. (BY MS. EPLEY) You mentioned that it's the  
18 first time you'd seen something like this. But to be  
19 fair, because I'm sure Mr. Little will ask, wasn't it in  
20 the middle of COVID?  
21 A. It was.  
22 Q. So that's kind of unprecedented time anyway,  
23 correct?  
24 A. In many ways.  
25 Q. So other than COVID, what was surprising about

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1 this?  
2 A. It was surprising to see a ruling issued on a  
3 Sunday night or Sunday morning, I believe, maybe it was  
4 Monday morning, that essentially prohibited foreclosures  
5 in the state of Texas.  
6 Q. What's the impact of that for Amplify and for  
7 your resources and assets?  
8 A. We had no choice, other than to pull those  
9 bankruptcy filings -- I'm sorry, those foreclosure  
10 filings.  
11 Q. Thank you. We've heard that no foreclosures  
12 in Texas were stopped because of the foreclosure letter.  
13 Is that your experience?  
14 MR. LITTLE: Objection. Leading.  
15 MS. EPLEY: We'll come back --  
16 PRESIDING OFFICER: Sustained.  
17 Reask.  
18 MS. EPLEY: Yes, Mr. President.  
19 In that case I provided defense a copy of  
20 Exhibit 676. They received a copy of this over the  
21 weekend. It is external to the business record you  
22 already have. And I'll approach the Court.  
23 PRESIDING OFFICER: Is there any  
24 objection, Mr. Little?  
25 MR. LITTLE: To 676?

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1 PRESIDING OFFICER: Yes.  
 2 MR. LITTLE: No objection.  
 3 PRESIDING OFFICER: Please enter 676 into  
 4 evidence.  
 5 (HBOM Exhibit 676 admitted)  
 6 Q. (BY MS. EPLEY) And, Mr. Garrison, what is  
 7 this?  
 8 A. This is an e-mail from Anh Nguyen to Brian  
 9 Elliott, who was the in-house counsel for World Class.  
 10 Q. You mentioned a moment ago that you had  
 11 changed your course in regards to the foreclosure; is  
 12 that right?  
 13 A. That's correct.  
 14 Q. What -- what did you choose to do?  
 15 A. We chose to withdraw those foreclosure notices  
 16 and not proceed with foreclosure on that Tuesday, the --  
 17 the 4th of August.  
 18 Q. On all three properties tied to Nate Paul?  
 19 A. Correct.  
 20 Q. What was the value of their bank's assets in  
 21 regards to those properties?  
 22 A. We had --  
 23 MR. LITTLE: Objection. Vague.  
 24 PRESIDING OFFICER: Overruled.  
 25 THE WITNESS: We had loans outstanding to

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1 the World Class entities with Mr. Paul as a guarantor to  
 2 the tune of about \$11 and a half million.  
 3 Q. (BY MS. EPLEY) And were you receiving  
 4 payments on that note?  
 5 A. We were not.  
 6 Q. Hence the foreclosure, correct?  
 7 A. Correct.  
 8 Q. And by forestalling or delaying that  
 9 foreclosure, did it help make you money or cost you  
 10 money?  
 11 A. It was a cost to us.  
 12 Q. After delaying the foreclosure, did the bank  
 13 sell the properties?  
 14 A. Can you ask that question again?  
 15 Q. I sure can.  
 16 So on August 4th, the properties were  
 17 going to be foreclosed but were not, correct?  
 18 A. Correct.  
 19 Q. Did you maintain control of those notes?  
 20 A. We did maintain control of those notes for  
 21 some period of time after that.  
 22 Q. Okay. And then ultimately what happened?  
 23 A. Ultimately on -- I believe the date was  
 24 September the 9th, we sold those three loans and  
 25 assigned the deeds of trust to a third-party buyer.

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1 Q. And just to be clear, because of allegations  
 2 made by Nate Paul's side of things, did you sell those  
 3 at a great deficit? Did you lose money?  
 4 A. We did not. We essentially sold the loans at  
 5 par, and we received our past due interest and some  
 6 attorney's fees as I recall.  
 7 Q. So in regards to your dynamic with Nate Paul  
 8 and foreclosures in August of 2020, who benefited from  
 9 the foreclosure letter?  
 10 A. Nate Paul.  
 11 MR. LITTLE: Objection. Calls for  
 12 speculation.  
 13 PRESIDING OFFICER: Overruled.  
 14 MS. EPLEY: Thank you.  
 15 Q. (BY MS. EPLEY) I don't think we heard you.  
 16 Can you repeat that?  
 17 A. Nate Paul and the World Class entities.  
 18 MS. EPLEY: Pass the witness.  
 19 PRESIDING OFFICER: Mr. Little.  
 20 MR. LITTLE: Mr. President, thank you.  
 21 PRESIDING OFFICER: Counsel, can we have  
 22 just a moment?  
 23 MR. LITTLE: Please.  
 24 PRESIDING OFFICER: Ms. Epley, could you  
 25 come up?

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1 Mr. Little.  
 2 MR. LITTLE: I'm happy to. Can I ask the  
 3 witness to step down?  
 4 (Witness steps down)  
 5 (At the bench, off the record)  
 6 PRESIDING OFFICER: Jurors, if you can  
 7 take your seats again, we are ready to resume.  
 8 MR. LITTLE: Mr. President, if I may.  
 9 PRESIDING OFFICER: Yes.  
 10 CROSS-EXAMINATION  
 11 BY MR. LITTLE:  
 12 Q. All right. Mr. Garrison, in front of you I  
 13 think somewhere, did you get a thick pile of papers like  
 14 I did from Ms. Epley? Is it in front of you over there  
 15 somewhere?  
 16 A. No. No, I don't have any documentation before  
 17 me at this moment.  
 18 Q. I don't like working in 2-inch piles of paper,  
 19 okay. I'm going to show you exactly what happened.  
 20 We're going to go document by document. Okay?  
 21 MR. LITTLE: Your Honor, may I approach  
 22 the witness?  
 23 PRESIDING OFFICER: Yes, you may.  
 24 MS. EPLEY: Your Honor, may I approach as  
 25 well?

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1 (At the bench, off the record)  
 2 PRESIDING OFFICER: You can start the  
 3 clock again. It was a brief pause.  
 4 Mr. Little.  
 5 Thank you for helping to clarify,  
 6 Ms. Epley.  
 7 Q. (BY MR. LITTLE) Now, Mr. Garrison,  
 8 interesting times during COVID as a banker, yeah?  
 9 A. Without a doubt.  
 10 Q. I'm sure your clients had -- your customers  
 11 took out PPP loans, yes?  
 12 A. They did.  
 13 Q. And you were probably working that all from  
 14 March forward, yes?  
 15 A. We were.  
 16 Q. With major clients of the bank, I'm sure,  
 17 true?  
 18 A. Yes.  
 19 Q. You had loans in workout from customers who  
 20 couldn't -- or customers who couldn't transact as much  
 21 business probably as they wanted to, true?  
 22 A. No.  
 23 Q. You didn't have any loans in workout during  
 24 COVID?  
 25 A. Three.

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1 Q. Three? Three total for the bank?  
 2 A. Yes, sir.  
 3 Q. All right. We're going to go one by one  
 4 through them here in just a minute.  
 5 A. Yes.  
 6 Q. Are you familiar with the CARES Act that --  
 7 that prompted the PPP loans?  
 8 MS. EPLEY: Objection, Your Honor --  
 9 Mr. President. Relevance.  
 10 MR. LITTLE: It's about to get real  
 11 relevant.  
 12 PRESIDING OFFICER: I'm willing to let  
 13 that question in. Overruled.  
 14 Q. (BY MR. LITTLE) Okay. Are you familiar with  
 15 the CARES Act?  
 16 A. I am familiar inasmuch as I know it exists. I  
 17 did not read it in its entirety.  
 18 Q. There was an eviction moratorium, wasn't  
 19 there?  
 20 MS. EPLEY: Objection. Providing facts  
 21 not in evidence. He said he's not familiar with it.  
 22 PRESIDING OFFICER: Sustained.  
 23 Q. (BY MR. LITTLE) Let me try again. Did you  
 24 know there was an eviction moratorium under the CARES  
 25 Act?

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1 A. Yes.  
 2 Q. Did you know there was a foreclosure  
 3 moratorium under the CARES Act?  
 4 A. Yes.  
 5 Q. Did you know that it went until July 30th of  
 6 2020?  
 7 A. I did not.  
 8 Q. As the president or CEO of your bank -- you're  
 9 president or CEO or both?  
 10 A. Both.  
 11 Q. As the president and CEO of the bank, or  
 12 Amplified Credit Union, why don't you tell the ladies  
 13 and gentlemen of the jury when the foreclosure  
 14 moratorium ended under the CARES Act?  
 15 MS. EPLEY: Objection. Relevance.  
 16 PRESIDING OFFICER: Overruled.  
 17 Q. (BY MR. LITTLE) If you would.  
 18 A. I don't know.  
 19 Q. You don't know. Okay.  
 20 A. No.  
 21 Q. Amplified wasn't Nate Paul's senior lender or  
 22 anything, was it, that three months?  
 23 MS. EPLEY: Objection. Speculation.  
 24 PRESIDING OFFICER: Sustained.  
 25 Q. (BY MR. LITTLE) Was Nate Paul -- was

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1 Amplified Nate Paul's senior lender?  
 2 MS. EPLEY: Objection. Speculation.  
 3 Q. (BY MR. LITTLE) If you know.  
 4 PRESIDING OFFICER: He asked the  
 5 question. Overruled.  
 6 You can answer.  
 7 THE WITNESS: We were with respect to  
 8 these three properties.  
 9 Q. (BY MR. LITTLE) Three special purpose  
 10 entities that Mr. Paul set up, true?  
 11 A. Yes.  
 12 Q. Okay. I want you to take a look at what's  
 13 been marked as Exhibit AG 1031.  
 14 MR. LITTLE: And, Your Honor, at this  
 15 time we move for admission in bulk of Exhibits AG 1031  
 16 through 1044?  
 17 PRESIDING OFFICER: Any objection?  
 18 MS. EPLEY: Your Honor, I don't know. He  
 19 has not provided me a copy.  
 20 MR. LITTLE: I handed it to you, didn't  
 21 I? The big stack right there.  
 22 MS. EPLEY: Well, I don't know.  
 23 MR. LITTLE: It's got a sticky note.  
 24 It's purple. That's the ticket.  
 25 MS. EPLEY: I stand corrected.

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1 Your Honor -- or, Mr. President, I think  
 2 they're an exact duplicate of what I've already  
 3 provided. No objection.  
 4 MR. LITTLE: Not quite. These are  
 5 actually in chronological order. But no objection,  
 6 right?  
 7 PRESIDING OFFICER: No objection,  
 8 Ms. Epley?  
 9 MS. EPLEY: No objection, Mr. President.  
 10 MR. LITTLE: Mr. Arroyo, if you would --  
 11 PRESIDING OFFICER: Hold on one second.  
 12 MR. LITTLE: Sorry.  
 13 PRESIDING OFFICER: Let me put it into  
 14 evidence.  
 15 AG 1031 through 1044 please -- AG 1031  
 16 through 1044, please admit into evidence.  
 17 (AG Exhibits 1031 through 1044 admitted)  
 18 MR. LITTLE: Mr. Arroyo, if you would, AG  
 19 Exhibit 1031.  
 20 Q. (BY MR. LITTLE) Your lawyers are Streusand,  
 21 Landon, Ozburn & Lemmon, correct?  
 22 A. Yes.  
 23 Q. And Steve Lemmon is a partner in that law  
 24 firm, correct?  
 25 A. His name is on the letterhead so one would

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1 presume.  
 2 Q. Yeah. And he was actually the lawyer  
 3 representing the receiver in a separate Nate Paul case,  
 4 correct?  
 5 MS. EPLEY: Objection. Speculation and  
 6 relevance.  
 7 PRESIDING OFFICER: Overruled.  
 8 THE WITNESS: I don't know.  
 9 Q. (BY MR. LITTLE) You don't know, hmm.  
 10 Okay. What's the date of this item here?  
 11 A. The date is May 27th of 2020.  
 12 Q. Okay. And what is this document?  
 13 A. This is a notice of default and demand for  
 14 payment.  
 15 Q. Okay. May -- at least as of May 27, 2020, the  
 16 bank had hired -- I'm referring to Amplified Credit  
 17 Union as "the bank." Is that okay with you?  
 18 A. Perfectly fine.  
 19 Q. Great. The bank had hired an attorney. And  
 20 it had hired an attorney to make a demand on WC Alamo  
 21 Industrial Center LP, a Nate Paul entity, true?  
 22 A. In this case, yes.  
 23 MR. LITTLE: Mr. Arroyo, Exhibit 1032,  
 24 please.  
 25 Q. (BY MR. LITTLE) Same thing with regard to WC

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1 707 Cesar Chavez, yes?  
 2 A. Yes.  
 3 MR. LITTLE: AG 1033, Mr. Arroyo.  
 4 Q. (BY MR. LITTLE) Same thing with regard to WC  
 5 Custer Creek Center Property, LLC, correct?  
 6 A. Yes.  
 7 Q. All three of those entities are in default at  
 8 the bank as of May 27 of 2020, right?  
 9 A. Yes.  
 10 Q. So you posted them for foreclosure in July of  
 11 2020, right?  
 12 A. We would have had to post those --  
 13 MR. LITTLE: I object. Nonresponsive.  
 14 PRESIDING OFFICER: Sustained.  
 15 Answer the question.  
 16 Q. (BY MR. LITTLE) So -- so you posted them for  
 17 foreclosure in July 2020, right?  
 18 A. Yes.  
 19 Q. No. You never did, did you?  
 20 MS. EPLEY: I object to relevance, Your  
 21 Honor.  
 22 Q. (BY MR. LITTLE) Did your bank post --  
 23 MS. EPLEY: I would ask --  
 24 PRESIDING OFFICER: Well, overruled.  
 25 Q. (BY MR. LITTLE) Did your bank post these

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1 three properties for foreclosure in July of 2020?  
 2 MS. EPLEY: Objection. Relevance.  
 3 PRESIDING OFFICER: Overruled.  
 4 THE WITNESS: Can you ask the question  
 5 again?  
 6 Q. (BY MR. LITTLE) Let me try for the fourth  
 7 time.  
 8 Did your bank post these three properties  
 9 for foreclosure in July of 2020? Yes or no.  
 10 A. I don't know when we posted them for  
 11 foreclosure, but they were posted for foreclosure.  
 12 Q. That wasn't my question. And I believe the  
 13 answer to my question is you don't know, right?  
 14 A. If that's my only choice, then I don't know  
 15 when we posted them for foreclosure.  
 16 Q. They weren't posted for foreclosure in July of  
 17 2020 because there was a foreclosure moratorium under  
 18 the CARES Act, true?  
 19 A. If -- I am not aware of that -- how long that  
 20 moratorium was actually in place. But if you want to  
 21 foreclose on a property, you have to file a foreclosure,  
 22 I believe, 21 days before the scheduled foreclosure  
 23 date.  
 24 Q. That's right.  
 25 A. So filing is not a foreclosure. It is the

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1 notice of intent to foreclose on the first Tuesday of  
 2 every month, as foreclosures take place in Texas.  
 3 Q. And surely the bank wanted to get its money  
 4 back through foreclosure as fast as possible, right?  
 5 MS. EPLEY: Objection. Argumentative.  
 6 PRESIDING OFFICER: Sustained.  
 7 Q. (BY MR. LITTLE) Did the bank want to get its  
 8 money back as fast as possible through foreclosure?  
 9 A. We wanted to receive repayment by whatever  
 10 means necessary.  
 11 Q. Very good.  
 12 MR. LITTLE: Mr. Arroyo, Exhibit AG 1034,  
 13 if you would.  
 14 Q. (BY MR. LITTLE) Now, this is an affidavit of  
 15 posting of a property for foreclosure, right?  
 16 A. It appears to be, yes.  
 17 Q. And the date of this is July 10 of 2020, yes?  
 18 A. Yes.  
 19 Q. And the entity that's being foreclosed upon is  
 20 WC Custer Creek Center Property, LLC, yes?  
 21 A. Yes.  
 22 Q. And that's in Plano, Texas, my neck of the  
 23 woods, Collin County, Texas, right?  
 24 A. Yes.  
 25 Q. So you posted this one on August 10th for

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1 August foreclosure, yes?  
 2 A. It appears to be that, yes.  
 3 Q. Your testimony on direct was you posted all  
 4 three of them for August foreclosure, correct?  
 5 A. That is my recollection.  
 6 Q. But that's not right, is it?  
 7 Let's take a look at what is marked as  
 8 Exhibit AG 1035. This is an e-mail from Nate Paul to  
 9 some people at the bank, yes?  
 10 A. It is.  
 11 Q. And Nate Paul says, I am writing to confirm  
 12 you are aware of the attached announcement.  
 13 Ms. Epley went through that with you,  
 14 correct? Correct?  
 15 A. Can you ask that once again, please?  
 16 Q. Ms. Epley went through this e-mail with you,  
 17 correct?  
 18 A. Yes. And I saw the e-mail at the time.  
 19 Q. The last sentence of that first paragraph, it  
 20 says, In light of foregoing, please confirm before  
 21 5:00 p.m. today that you will not be attempting to  
 22 proceed with a foreclosure tomorrow.  
 23 A foreclosure tomorrow, not three, true?  
 24 That's what Nate Paul says in this  
 25 e-mail, right?

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1 A. He does use the words "a foreclosure."  
 2 Q. And Anh Nguyen responds the next day. That's  
 3 House Board of Managers Exhibit 676, that was on the  
 4 screen earlier. And she says, Brian, it is -- she's  
 5 writing to Brian Elliott at World Class.  
 6 It is our position that the restrictions  
 7 cited in the unsigned, informal guidance would not apply  
 8 to our particular foreclosure sales. However, as a  
 9 courtesy to borrowers and per your/their request,  
 10 Amplify is willing to postpone the foreclosure sale to  
 11 September 1, 2020.  
 12 Right?  
 13 A. I don't have that document on my screen, so I  
 14 can't confirm or deny that's what it says.  
 15 Q. Would you like to look at my copy?  
 16 A. Sure.  
 17 MS. EPLEY: Mr. President, the House is  
 18 willing to concede that the e-mail written by them, his  
 19 client, is in the singular.  
 20 MR. LITTLE: It's a little late for your  
 21 concessions. I would like the witness to answer my  
 22 question, if I could, Mr. President.  
 23 PRESIDING OFFICER: Let him read it, and  
 24 then you can repeat the question.  
 25 MR. LITTLE: Thank you.

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1 THE WITNESS: He does use the word "the."  
 2 MR. LITTLE: Mr. Arroyo, Exhibit AG 1036,  
 3 please.  
 4 Q. (BY MR. LITTLE) You didn't even notice the  
 5 substitute trustee sale for WC 707 Cesar Chavez until  
 6 August 7, after the AG's opinion was issued, correct?  
 7 Correct?  
 8 A. I have a different recollection of those  
 9 events.  
 10 Q. Well, that's why we have documents, right?  
 11 A. I believe this was the second posting --  
 12 Q. Oh, really?  
 13 A. -- to make it for the September sale.  
 14 Q. Do you have a document with you perhaps, or in  
 15 that massive pile of documents somewhere, where your  
 16 bank posted the other two properties for foreclosure in  
 17 August?  
 18 A. I do not.  
 19 Q. It seems kind of importantish, isn't it?  
 20 You don't have that, do you?  
 21 A. I do not have a document of that nature before  
 22 me.  
 23 Q. Well, in any event we know for sure that  
 24 there's an August 7 posting of that after the  
 25 foreclosure sale, yes?

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1 A. It appears to be a notice regarding a  
2 substitute trustee sale, yes.  
3 MR. LITTLE: Exhibit AG 1037, if you  
4 would, Mr. Arroyo.  
5 Q. (BY MR. LITTLE) WC Alamo Industrial Center  
6 also posted on August 7 of 2020, after the opinion was  
7 issued, true?  
8 A. Yes.  
9 MR. LITTLE: Exhibit AG 1038, if you  
10 would.  
11 Q. (BY MR. LITTLE) A separate notice regarding  
12 substitute trustee sale, August 7 of 2020, for WC Alamo,  
13 true?  
14 A. Yes.  
15 Q. After the opinion, yes?  
16 A. Yes.  
17 Q. And just to be clear for the ladies and  
18 gentlemen of the jury, and for the media who is  
19 gathering information on this, you told the media you  
20 had all three properties posted for foreclosure in  
21 August of 2020. And we read about it in the newspaper,  
22 true?  
23 A. Yes.  
24 MS. EPLEY: Facts not in evidence.  
25 Objection.

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1 Q. (BY MR. LITTLE) But you don't have --  
2 MS. EPLEY: Objection.  
3 PRESIDING OFFICER: What is your  
4 objection?  
5 MS. EPLEY: Facts not in evidence.  
6 Relevance. And counsel is testifying.  
7 MR. LITTLE: He just said yes.  
8 PRESIDING OFFICER: Sustain the  
9 objection.  
10 Q. (BY MR. LITTLE) You told the media you had  
11 all three properties posted for foreclosure in August of  
12 2020, correct?  
13 A. I don't recall my exact words, but I did tell  
14 the media that we had those -- that we had World Class  
15 properties posted for foreclosure, yes.  
16 Q. You don't have a document to prove the other  
17 two, do you?  
18 A. No.  
19 Q. I'll show you what is marked as Exhibit AG  
20 1039. This is the affidavit of posting for WC 707 Cesar  
21 Chavez, correct?  
22 A. Yes.  
23 MR. LITTLE: Exhibit AG 1040, if you  
24 would, Mr. Arroyo. We're going fast, but I think you  
25 can keep up.

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1 Q. (BY MR. LITTLE) Mr. Garrison, wasn't -- we're  
2 in August 10 of 2020. It says, Notice regarding  
3 substitute trustee sale. This is for WC Custer  
4 Creek, true?  
5 A. Yes.  
6 Q. You re-noticed it for the next month; is that  
7 right?  
8 A. Yes.  
9 Q. Tell the ladies and gentlemen of the jury,  
10 were any foreclosures being stopped in Collin County,  
11 Texas, at this time?  
12 A. I wouldn't have knowledge of that.  
13 Q. You don't know, do you?  
14 A. No.  
15 Q. So when you testified on direct that for  
16 whatever reason this opinion disrupted the business of  
17 foreclosing these properties at the bank, you don't  
18 really know whether Collin County stopped doing any  
19 foreclosures at all, do you?  
20 MS. EPLEY: Objection. Asked and  
21 answered as to Collin County.  
22 PRESIDING OFFICER: Overruled.  
23 Q. (BY MR. LITTLE) You don't know, right?  
24 A. I only have knowledge of what Amplified Credit  
25 Union did in response to the midnight opinion.

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1 Q. That really wasn't my question. So let me try  
2 again.  
3 Do you know whether Collin County was  
4 doing foreclosures at this period of time or not?  
5 A. I do not.  
6 MR. LITTLE: Mr. Arroyo, Exhibit AG 1041,  
7 if you would.  
8 Q. (BY MR. LITTLE) And this is your affidavit of  
9 posting of WC Custer Creek Center Property for  
10 foreclosure on August 10 of 2020, correct?  
11 A. Yes.  
12 Q. Now, you sold all three notes, right?  
13 A. We did.  
14 Q. So you didn't have to foreclose any of the  
15 three properties, correct?  
16 A. Ultimately we did not have to foreclose on any  
17 of the three properties.  
18 Q. And you didn't have to foreclose any of them  
19 because your bank lost zero dollars. You sold all three  
20 notes, and your bank lost zero dollars as a result of  
21 whatever this informal legal guidance was, correct?  
22 A. That is correct. We ultimately sold those  
23 notes.  
24 Q. And you didn't lose a single dollar? Just  
25 tell the jury.

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1 A. We did not.  
 2 Q. Why -- well, let's put our heads together.  
 3 How did all three notes get sold at the  
 4 same time? Doesn't that seem coincidental?  
 5 A. It was not a coincidence at all.  
 6 Q. It wasn't a coincidence because Bryan  
 7 Hardeman -- it's a man who his name has -- may or may  
 8 not have come up in this trial at some point. He put  
 9 together three special purpose entities, and he had his  
 10 agents come and buy these notes from your bank. Yes?  
 11 A. I have no idea. I know that the notes were  
 12 purchased. I do not know who formed the special purpose  
 13 entities. I only know who I interacted with.  
 14 Q. Isn't it true that all three of these notes  
 15 were sold to special purpose entities of Bryan Hardeman?  
 16 A. I don't know.  
 17 Q. Isn't it true this is the same Bryan Hardeman  
 18 who is the subject of the bid rigging investigation in  
 19 Travis County District Attorney's Office Referral No. 2,  
 20 and the same man who sent Ken Paxton a picture of --  
 21 MS. EPLEY: Objection, Your Honor --  
 22 MR. LITTLE: I'm sorry --  
 23 (Simultaneous crosstalk)  
 24 MS. EPLEY: -- Mr. President, no,  
 25 absolutely not.

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1 Facts not in evidence. And absolutely  
 2 staining someone who is not here without any basis.  
 3 MR. LITTLE: I wasn't quite finished,  
 4 but --  
 5 PRESIDING OFFICER: Sustained.  
 6 MR. LITTLE: Mr. President?  
 7 PRESIDING OFFICER: Sustained.  
 8 MR. LITTLE: very well.  
 9 Q. (BY MR. LITTLE) Do you know who Bryan  
 10 Hardeman is?  
 11 A. I do not.  
 12 Q. Who did you interact with on the sale of these  
 13 three notes?  
 14 A. Justin Bayne.  
 15 Q. Justin Bayne, okay.  
 16 So I guess what we would need to do if we  
 17 wanted to see if there was any connection between Justin  
 18 Bayne and Bryan Hardeman, we could probably just Google  
 19 Justin Bayne and Bryan Hardeman, right?  
 20 MS. EPLEY: Objection, Mr. President.  
 21 PRESIDING OFFICER: Sustained.  
 22 MS. EPLEY: Thank you.  
 23 MR. LITTLE: If you would, Mr. Arroyo,  
 24 Exhibit AG 1042, please.  
 25 Q. (BY MR. LITTLE) You sold that note to

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1 somebody called Alamo Lanark, right?  
 2 A. Yes.  
 3 Q. Justin Bayne entity, B-A-Y-N-E, true?  
 4 A. Yes.  
 5 Q. Didn't lose a dime, yes?  
 6 A. I'm sorry, say again.  
 7 Q. The bank didn't lose a dime, right?  
 8 A. Right.  
 9 MR. LITTLE: Exhibit AG 1043, if you  
 10 would, Mr. Arroyo.  
 11 Q. (BY MR. LITTLE) You sold this note to  
 12 something called Cesar or Cesar Rainy Street, LLC,  
 13 right?  
 14 A. Yes.  
 15 Q. The bank didn't lose a dime, right?  
 16 A. Right.  
 17 Q. Justin Bayne entity, B-A-Y-N-E, right?  
 18 A. Yes.  
 19 MR. LITTLE: Exhibit AG 1044, please,  
 20 Mr. Arroyo.  
 21 Q. (BY MR. LITTLE) You sold this note to  
 22 something called Spring Custer LLC. And the bank didn't  
 23 lose a dime, right?  
 24 A. Yes.  
 25 Q. Justin Bayne entity, B-A-Y-N-E, right?

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1 A. Yes.  
 2 Q. You've been in banking 44 years. Did I hear  
 3 that?  
 4 A. Yes.  
 5 Q. That's a long time, right?  
 6 A. It is.  
 7 Q. If somebody wanted to, I don't know, foreclose  
 8 on a piece of property themselves and wipe out the  
 9 existing owner's equity, this is probably a good place  
 10 to start, isn't it?  
 11 MS. EPLEY: Objection, Your Honor. The  
 12 default has to occur first. He's implying things that  
 13 aren't relevant.  
 14 PRESIDING OFFICER: Sustained.  
 15 MR. LITTLE: No further questions.  
 16 PRESIDING OFFICER: Redirect, Ms. Epley?  
 17 MS. EPLEY: No, Mr. President.  
 18 PRESIDING OFFICER: Do both of you excuse  
 19 the witness?  
 20 Mr. Little, excuse the witness?  
 21 MR. LITTLE: He is, Mr. President.  
 22 PRESIDING OFFICER: Okay. You're  
 23 excused. Thank you, sir.  
 24 MR. LITTLE: And I believe this was the  
 25 last noticed witness of the day, if I'm not mistaken.

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1 (Witness left the Senate chamber)  
 2 MS. EPLEY: That's inaccurate.  
 3 MR. LITTLE: I am mistaken.  
 4 PRESIDING OFFICER: Ms. Epley, who are  
 5 you calling? Or Mr. DeGuerin. I'm not sure who is  
 6 calling the witness.  
 7 MR. DeGUERIN: Yes, Your Honor. The  
 8 House Board of Managers calls Darren McCarty.  
 9 PRESIDING OFFICER: Bailiff, if you'll  
 10 bring in Darren McCarty.  
 11 Bailiff, hold -- just hold the witness  
 12 outside for a moment.  
 13 Mr. Buzbee and Mr. DeGuerin, I understand  
 14 that both sides have agreed to exhibits, I guess, that  
 15 was earlier today, this morning.  
 16 MR. BUZBEE: That is correct, Your Honor.  
 17 PRESIDING OFFICER: And we're going to  
 18 read the exhibits into the record now, correct,  
 19 Mr. DeGuerin?  
 20 MR. DeGUERIN: Yes.  
 21 PRESIDING OFFICER: Both of you have  
 22 agreed?  
 23 Okay. You may read these exhibit  
 24 numbers.  
 25 MR. HOLLER: I'm going to start --

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1 PRESIDING OFFICER: Turn on the  
 2 microphone. It's right behind the laptop there. There  
 3 you go.  
 4 MR. HOLLER: I'm going to start with the  
 5 House Board of Managers' exhibits first, Judge.  
 6 PRESIDING OFFICER: And read through them  
 7 relatively slowly. Don't race through them.  
 8 MR. HOLLER: Yes, Judge.  
 9 House Board of Managers 55, 62, 77, 85,  
 10 86, 91, 92, 94, 324, 346, 657, 677, 678, 680, 681, 682,  
 11 683, 684, 685, 693, and 694.  
 12 And, Judge --  
 13 PRESIDING OFFICER: You may continue.  
 14 MR. HOLLER: And, Judge, Attorney General  
 15 Number -- Exhibit Numbers 17, 33, 42, 47, 48, 84, 85,  
 16 141, 151, 155, 161, 165, 219, 223, 305, 307, 332 through  
 17 354, 371, 398 through 422, 428, and 429.  
 18 PRESIDING OFFICER: Thank you, sir.  
 19 Mr. DeGuerin, hold on one moment.  
 20 You may bring in the witness now.  
 21 (Witness entered the Senate chamber)  
 22 PRESIDING OFFICER: Please step over  
 23 there, Mr. McCarty. Raise your right hand.  
 24 (Witness was sworn by Presiding Officer)  
 25 PRESIDING OFFICER: Please be seated.

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1 And is that stack of papers there from  
 2 the last witness?  
 3 MR. DeGUERIN: It must be.  
 4 PRESIDING OFFICER: Okay. Let me pick  
 5 those up.  
 6 And as closely as you can speak into the  
 7 microphone. You might want to raise that. You're a  
 8 little taller. Just a little bit. There you go.  
 9 Mr. DeGuerin, your witness.  
 10 DARREN MCCARTY,  
 11 having been first duly sworn, testified as follows:  
 12 DIRECT EXAMINATION  
 13 BY MR. DeGUERIN:  
 14 Q. Mr. McCarty, we've had trouble with the sound  
 15 in here, so please get close to the microphone.  
 16 A. Absolutely.  
 17 Q. And tell the senators your name, please.  
 18 A. My name is Darren McCarty.  
 19 Q. And what -- what is your occupation?  
 20 A. I'm a lawyer.  
 21 Q. Give us the benefit of a brief statement of  
 22 your training and experience.  
 23 A. After law school, I clerked for Karen Williams  
 24 on the United States Federal Court of Appeals, the  
 25 Fourth Circuit. After that, I went to work for Gibson,

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1 Dunn & Crutcher in Dallas. I spent -- I did do a couple  
 2 of stints at smaller firms and sort of finished my  
 3 original stint in private practice at Alston & Bird's  
 4 Dallas office, actually helped found that office. And  
 5 then after that, I came to the attorney general's  
 6 office.  
 7 Q. What year did you come to the -- month and  
 8 year did you come to the attorney general's office?  
 9 A. I believe it was maybe late April or early May  
 10 of '17.  
 11 Q. And how did you get that job?  
 12 A. Jeff Mateer. He was the first assistant at  
 13 the time, was somebody that I had known -- I had met  
 14 actually working as an intern for Congressman Dick Arney  
 15 in DC when we were both quite young. I think I was 17  
 16 or 18 years old. And I think Jeff was a couple of years  
 17 older than that.  
 18 We lost touch over time, but got  
 19 reacquainted because we were both doing pro bono work on  
 20 religious freedom cases. And, you know, sort of kept of  
 21 up our friendship, et cetera. And when he took the job  
 22 here, he initially approached me. I initially declined  
 23 because I just had a lot of things going on at the time.  
 24 I -- I couldn't move to Austin. But then eventually,  
 25 maybe six, eight months later, recontacted him, or he

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1 recontacted me, something like that.  
 2 Q. When did you first meet Ken Paxton?  
 3 A. When I was interviewing.  
 4 Q. And did General Paxton interview you himself?  
 5 A. He did.  
 6 Q. Okay. It may not matter, but are you a RINO,  
 7 a Republican in Name Only?  
 8 A. Well, no. I wouldn't say that. I think I  
 9 started out when I was in eighth grade of my own  
 10 volition hanging door hangers for Ronald Reagan and was  
 11 a youth delegate to the Republican National Convention.  
 12 I took a semester off of college to help  
 13 staff a congressional campaign. It was actually the  
 14 last campaign of Republican against Jim Wright before he  
 15 stepped down from his Congressional office. And then,  
 16 you know, I continued working sort of in politics while  
 17 I was at the University of Texas.  
 18 I think I was the press secretary for the  
 19 University Republicans. And, you know, that's what I've  
 20 done for a long time.  
 21 MR. DeGUERIN: Okay. Could we have the  
 22 organizational chart up, please?  
 23 Q. (BY MR. DeGUERIN) I want to put on the screen  
 24 in front of you and in front of the senators the  
 25 organizational chart of the Office of the Attorney

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1 General. Highlighted to the far right of the chart is  
 2 your name and photograph.  
 3 What was your role in the year of 2020 in  
 4 the attorney general's office?  
 5 A. I was a deputy attorney general for civil  
 6 litigation. In that -- with -- in that role, I oversaw  
 7 all of the civil litigation for the office. I think it  
 8 was 12 divisions, roughly 325 attorneys, and I think  
 9 total personnel somewhere north of 600.  
 10 Q. Among those duties, among those  
 11 responsibilities, was the charitable trust division  
 12 within your purview?  
 13 A. Yes. It was the financial litigation and  
 14 charitable trust division.  
 15 Q. And briefly what is the attorney general's  
 16 role statutorily with regard to charitable trusts,  
 17 charitable foundations?  
 18 A. Very briefly, the attorney general sort of has  
 19 broad powers to protect the public interest in charity.  
 20 Q. The public interest in a charity, does that  
 21 sometime include protecting a charity from attacks from  
 22 without?  
 23 A. Absolutely.  
 24 Q. And does it sometimes include protecting a  
 25 charity from itself, from mismanagement?

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1 A. Yeah. From breaches of fiduciary duties, some  
 2 sort of mismanagement, yes.  
 3 Q. Is there a requirement under Texas law that  
 4 when a lawsuit involving a charity occurs, that the  
 5 attorney general is to get notice of that lawsuit?  
 6 A. Yes.  
 7 Q. What does the attorney general do then? What  
 8 does your charitable trust division do then when given  
 9 notice?  
 10 A. They look at the lawsuit, and, you know, do --  
 11 do some investigation to determine whether the charity  
 12 is qualified to protect itself and is protecting itself.  
 13 In other words, if there's some sort of management --  
 14 mismanagement issue with the charity or there's some  
 15 inability to legally represent itself, the charity in  
 16 the litigation, that might be a place where the attorney  
 17 general's office steps in to protect -- again, to  
 18 protect the charity.  
 19 Q. Give us a rough estimate of how many  
 20 charitable trusts exist in the state of Texas, if you  
 21 know.  
 22 A. I do not. Quite a number.  
 23 Q. Is it in the hundreds of thousands?  
 24 A. That would not surprise me.  
 25 Q. Okay.

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1 A. Yes.  
 2 Q. And give us a rough estimate, if you will, of  
 3 how many times the attorney general's office in, let's  
 4 say a year, involves itself in some way in a charitable  
 5 trust litigation.  
 6 A. It's a handful.  
 7 Q. It's a handful?  
 8 A. At most.  
 9 Q. Okay.  
 10 A. So it may be, you know -- again, it may be a  
 11 management problem. Sometimes charitable trusts, you  
 12 know, are falling into a state where they sort of can't  
 13 be self-sustaining anymore, et cetera, and so, you know,  
 14 the AG's office will get involved. But it's not a --  
 15 it's not a common occurrence.  
 16 Q. How -- what -- what procedure does the  
 17 attorney general's office go through to determine  
 18 whether to involve itself in litigation involving a  
 19 charitable trust?  
 20 A. Well, first, the financial litigation and  
 21 charitable trust division, as it was organized then,  
 22 they have a group obviously within that that looks at  
 23 charitable trusts. So they analyze the situation. They  
 24 make -- the staff attorney will make a recommendation, I  
 25 think initially to the head of the charitable trust

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1 group within the division, as to whether to intervene or  
 2 not. And then that's sort of -- if it's  
 3 nonintervention, typically it sort of stops at the  
 4 division level. It won't necessarily come up to me  
 5 unless they think it's a close call and they would need  
 6 someone in my role's advice.  
 7 If that's not the case and they believe  
 8 that they should intervene in the case -- in the case,  
 9 then there would be an executive approval memorandum,  
 10 and that would be signed off on -- that would be signed  
 11 off by the division chief. It would be signed off by  
 12 me. I believe it would have been signed off by the  
 13 Deputy First Assistant Attorney General and also by the  
 14 first assistant.  
 15 Q. I want to ask you some questions about the  
 16 Mitte Foundation and some litigation involving the Mitte  
 17 Foundation and Nate Paul or World Class Holdings.  
 18 You're familiar now with that litigation, aren't you?  
 19 A. Of course, yes.  
 20 Q. We -- we do not have an agreement on  
 21 Exhibit 54, but I'm going -- going to hand you  
 22 Exhibit 54.  
 23 MR. DeGUERIN: And ask that it be  
 24 introduced once he identifies it, Your Honor.  
 25 THE WITNESS: Thank you.

1 PRESIDING OFFICER: Any objection from  
 2 the --  
 3 MR. BUZBEE: No, Your Honor. We'll allow  
 4 this.  
 5 PRESIDING OFFICER: We'll admit  
 6 Exhibit 054 into evidence.  
 7 (HBOM Exhibit 54 admitted)  
 8 MR. DeGUERIN: Will you pull that up,  
 9 please?  
 10 Q. (BY MR. DeGUERIN) I want to direct your  
 11 attention to the first paragraph of this memo. First,  
 12 what is the memo?  
 13 A. This looks like a memorandum that  
 14 recommends -- I shouldn't say it looks like. It is a  
 15 recommendation by --  
 16 Q. Keep your voice up and get close to the  
 17 microphone.  
 18 A. I'm sorry. I was busy trying to read this.  
 19 This appears to be the memorandum that --  
 20 PRESIDING OFFICER: I'm sorry. It is on  
 21 the screen, if that's easier for you.  
 22 THE WITNESS: Okay. That is easier.  
 23 Thank you.  
 24 This is the memorandum that declined to  
 25 involve -- for the AG's office to become involved with

1 the Mitte Foundation. So this would have been prepared  
 2 at the division level and highly unlikely that it would  
 3 have come to me initially.  
 4 Q. (BY MR. DeGUERIN) All right. I want to draw  
 5 your attention to the first paragraph. And I'll just  
 6 read it as you look at it, if you'll highlight that  
 7 first paragraph.  
 8 I recommend waiving the attorney  
 9 general's interest in this matter regarding a private  
 10 real estate company's breach of fiduciary duties to its  
 11 investors, one of which is a charitable trust, the Mitte  
 12 Foundation.  
 13 Did I read that correctly?  
 14 A. You did.  
 15 Q. And that's a memoranda recommending to waive  
 16 the attorney general's interest?  
 17 A. That's correct.  
 18 Q. On the second side of that letter, if you'll  
 19 go to the second page, I want to highlight the paragraph  
 20 in the middle. In my opinion, starting there.  
 21 A. I see that.  
 22 Q. This office does not have a role in this  
 23 matter. The trust is zealously represented by counsel.  
 24 Counsel stated that once the receiver sells the 1st and  
 25 Trinity LP and WC 3rd and Congress LP, the trust will

1 likely make a massive return on its investment.  
 2 Did I read that correctly?  
 3 A. You did.  
 4 Q. And, finally, at the bottom: I recommend the  
 5 attorney general file a waiver for the following  
 6 reasons: The trust is represented by counsel, the  
 7 trust's assets are diversified, and the litigation will  
 8 not critically impact the trust's 2020 distributions.  
 9 Is that right?  
 10 A. Yes, that's what mine reads.  
 11 Q. So following this, did the attorney general  
 12 waive filing any -- waive interfering in this lawsuit?  
 13 A. Yes. We did not intervene in January or  
 14 around that time frame in 2020.  
 15 MR. DeGUERIN: Pull up Exhibit 55,  
 16 please. I believe this is agreed, entered by agreement.  
 17 Q. (BY MR. DeGUERIN) It's -- this is the  
 18 attorney general's waiver, isn't it, filed in the  
 19 lawsuit styled The Mitte Foundation against WC and  
 20 Trinity, so forth, the World Class -- or Nate Paul's  
 21 organizations?  
 22 A. That's correct.  
 23 Q. I want to highlight at the bottom of that  
 24 first page of the waiver: If any pleading is filed  
 25 herein that adds additional parties or causes of action,

1 then that would constitute new or an additional  
 2 proceeding, and then the attorney general might  
 3 intervene.  
 4 Correct?  
 5 A. That's correct.  
 6 Q. Did any new -- new parties, additional  
 7 parties, or additional causes of actions ever get filed  
 8 in that case?  
 9 A. I certainly don't recall any new parties, and  
 10 I was not aware of any additional causes of action.  
 11 Q. Did General Paxton order that an intervention  
 12 be made?  
 13 A. Well, yes.  
 14 Q. Let me ask you this, this way.  
 15 A. Yeah.  
 16 Q. Did you have a conversation with  
 17 General Paxton in which he expressed his request or  
 18 order that the intervention be made?  
 19 A. Yes, I did. So General Paxton eventually came  
 20 to me. And this was my first involvement with this  
 21 case, substantive involvement, right. There are 34,000  
 22 matters.  
 23 Q. Okay. So let me get into it this way.  
 24 Was this on your radar screen at first?  
 25 A. No.

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1 Q. How did it get on your radar screen?  
 2 A. It got on my radar screen because  
 3 General Paxton particularly wanted to intervene in this  
 4 matter. I think -- I don't think my first discussion  
 5 about this matter -- matter was with General Paxton. I  
 6 think it was probably with Jeff Mateer. But at some  
 7 point soon thereafter, I had a meeting with  
 8 General Paxton, and he expressed a high level of  
 9 interest in some -- you know, some insistence that we  
 10 should intervene in this matter.  
 11 Q. In your experience, had General Paxton ever  
 12 expressed interest in any -- any litigation involving  
 13 charitable trusts that the attorney general was involved  
 14 in?  
 15 MR. BUZBEE: Objection, Your Honor.  
 16 Q. (BY MR. DeGUERIN) Attorney general was  
 17 involved in.  
 18 MR. BUZBEE: That's -- that's  
 19 speculation.  
 20 PRESIDING OFFICER: Sustained.  
 21 Q. (BY MR. DeGUERIN) Had there been any other --  
 22 any other litigation involving charitable -- charitable  
 23 trusts that you had any conversations with Paxton --  
 24 General Paxton about?  
 25 A. I did not.

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1 Q. I'm sorry, I didn't hear you.  
 2 A. There were -- there were not, no. I had no  
 3 other conversations about any other charitable trust.  
 4 Q. But did you -- what was your thought about  
 5 General Paxton getting involved in this litigation?  
 6 A. I did think it was unusual at the time.  
 7 Q. You -- I'm sorry?  
 8 A. I did believe that was unusual at the time.  
 9 And that's probably all I thought about it at the time.  
 10 We had so much going on in my divisions at that time  
 11 with COVID and the Google lawsuit, et cetera. I did not  
 12 spend a great deal of time thinking about it, other than  
 13 sort of a mental note that that was a little bit -- that  
 14 was out of the ordinary.  
 15 Q. All right. So at any rate, did the attorney  
 16 general's office file an intervention in that lawsuit?  
 17 A. We did.  
 18 Q. At the time it was filed, do you rely on  
 19 advice from your staff of attorneys that generally  
 20 handled -- have hands-on handling of the litigation for  
 21 advice?  
 22 A. Of course. I always had advice from them.  
 23 MR. DeGUERIN: If we could have the  
 24 organizational chart again, please.  
 25 Q. (BY MR. DeGUERIN) Down the list of people

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1 under you, there is a Josh Godbey. Joshua Godbey, who  
 2 is he?  
 3 MR. BUZBEE: Your Honor, I'm sorry.  
 4 Sorry, Mr. DeGuerin. Our screen shows the previous  
 5 document. I'm not sure why that is.  
 6 MR. DeGUERIN: I think you've got a  
 7 glitch over there.  
 8 MR. BUZBEE: Clearly.  
 9 PRESIDING OFFICER: We have the  
 10 correct --  
 11 MR. BUZBEE: I can tell the court  
 12 reporter does, but for some reason our table has  
 13 something completely different. And I'm not trying to  
 14 take away your time. I'm not trying to take the man's  
 15 time.  
 16 PRESIDING OFFICER: We'll pause. Pause  
 17 the clock for a moment.  
 18 MR. BUZBEE: It's just our table that  
 19 keeps doing this. I'm not suggesting a conspiracy, Your  
 20 Honor. I'm just saying it's happening.  
 21 PRESIDING OFFICER: Are the rest of the  
 22 tables of your attorneys have the right screen?  
 23 Damian will come to the rescue.  
 24 MR. BUZBEE: Okay.  
 25 MR. DeGUERIN: It looks like the senators

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1 have the right one. I would request an extra 15 minutes  
 2 for this delay.  
 3 MR. BUZBEE: I bet you can negotiate him  
 4 down to one.  
 5 PRESIDING OFFICER: We've given you six  
 6 more minutes today, plus we saved you five, so your  
 7 11 minutes should be good.  
 8 Mr. DeGuerin. Mr. DeGuerin.  
 9 (At the bench, off the record)  
 10 PRESIDING OFFICER: Members, we're going  
 11 to take a -- this is the last witness of the day, but  
 12 there's still more questions in cross. So let's take  
 13 just a quick 10-minute break here, not our normal longer  
 14 break, and then we may be finished by -- a little  
 15 earlier this evening. So 10 minutes. Come back at 20  
 16 minutes before the hour of 6:00.  
 17 (Recess from 5:30 p.m. to 5:46 p.m.)  
 18 PRESIDING OFFICER: Mr. DeGuerin, before  
 19 you start, I think we had one correction on the exhibits  
 20 list I was told about. There was one mistake. These  
 21 are the exhibits that both sides agreed to.  
 22 If you would come up and just correct  
 23 that mistake. Oh, you're going to do it? Okay.  
 24 MS. GRAHAM: Yes, Mr. President. It was  
 25 incorrectly and inadvertently represented that we agreed

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1 to the following exhibits. The following exhibits have  
 2 not been agreed to for preadmission: AG Exhibit 334,  
 3 335, 336, 337, and 345.  
 4 PRESIDING OFFICER: Thank you.  
 5 Mr. DeGuerin, you may continue.  
 6 MR. DeGUERIN: Thank you.  
 7 Q. (BY MR. DeGUERIN) All right. I started to  
 8 ask you about Joshua -- or Josh Godbey, who is shown on  
 9 the organizational chart as being several levels below  
 10 you. Who is Josh Godbey?  
 11 A. Josh Godbey?  
 12 Q. Yep.  
 13 A. Josh Godbey was the division chief for  
 14 financial litigation and charitable trusts. Actually he  
 15 was not several levels below me. He reported directly  
 16 to me and David Hacker, who was the -- my associate  
 17 deputy attorney general for civil litigation.  
 18 Q. Okay. And I ask you about that because I  
 19 wanted to ask you whether in deciding any intervention  
 20 in a charitable trust litigation, do you rely on advice  
 21 that you get from your -- the people in the trenches,  
 22 the ones that work on it?  
 23 A. I certainly seek and -- and consider that  
 24 advice, yes.  
 25 Q. Well, with the Mitte litigation, was

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1 Mr. Godbey opposed to an intervention?  
 2 A. He did not believe an intervention was  
 3 necessary.  
 4 Q. And yet you intervened. Why?  
 5 A. We intervened because the attorney general,  
 6 Attorney General Paxton, you know, believed that it  
 7 was --  
 8 Q. I'm not asking what he believed.  
 9 A. Okay. Certainly.  
 10 Q. Did he tell you to intervene?  
 11 A. He told -- yes. General Paxton told me that  
 12 we should intervene in the litigation because the Mitte  
 13 Foundation was wasting a lot of money on unnecessary  
 14 litigation, and that the -- and that the Mitte  
 15 Foundation had had management problems in the past,  
 16 although those are pretty far in the past, I think, at  
 17 that point, and that it didn't make sense for this  
 18 lawsuit to continue and go forward, and that we needed  
 19 to try to intervene and see what we could do to bring it  
 20 to a conclusion.  
 21 Q. Well, was -- was one of the reasons that the  
 22 Mitte Foundation was wasting money on attorney's fees?  
 23 A. Well, they were locked in a very, very  
 24 contentious litigation with the World Class limited  
 25 partnerships that were headed by Nate Paul.

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1 Q. Is it true that in the type of lawsuit that  
 2 the Mitte Foundation originally brought, if they were  
 3 successful, the Mitte Foundation would recover their  
 4 attorney's fees?  
 5 A. I don't know actually.  
 6 Q. Okay. At any rate, we've previously seen that  
 7 there were, I think, two people that wrote the waiver  
 8 menu -- not menu -- the waiver memo, a woman named  
 9 Henderson and a woman named Day. They're not even on  
 10 this chart. Were they -- were they down -- further down  
 11 from the hierarchy?  
 12 A. Yes.  
 13 Q. Okay. So when General Paxton asked that you  
 14 intervene, did you do so against the advice of  
 15 Josh Godbey and your -- who you relied on for advice?  
 16 MR. BUZBEE: Objection, Your Honor. This  
 17 is -- calls for hearsay from people that haven't  
 18 testified.  
 19 PRESIDING OFFICER: Sustained.  
 20 Q. (BY MR. DeGUERIN) Okay. I want you to  
 21 describe for the senators, please, the level of interest  
 22 that General Paxton took in the Mitte Foundation  
 23 litigation.  
 24 MR. BUZBEE: Objection, Your Honor.  
 25 Speculation.

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1 Q. (BY MR. DeGUERIN) As you observed.  
 2 PRESIDING OFFICER: Sustained.  
 3 And reask.  
 4 MR. DeGUERIN: Well, let me -- I was  
 5 trying to cure the objection by saying that you  
 6 observed.  
 7 PRESIDING OFFICER: Yes.  
 8 Q. (BY MR. DeGUERIN) Describe for the senators  
 9 the level of interest that General Paxton took in this  
 10 litigation as expressed to you by General Paxton  
 11 himself.  
 12 MR. BUZBEE: Again, Your Honor, I -- if  
 13 he wants to tell us what General Paxton may have said to  
 14 him, I -- I won't object to that. But just telling us  
 15 what was in his mind, he cannot do that.  
 16 MR. DeGUERIN: I think that's what I  
 17 asked.  
 18 MR. BUZBEE: Objection. Speculation.  
 19 MR. DeGUERIN: As expressed to him by  
 20 General Paxton.  
 21 PRESIDING OFFICER: I think that's what  
 22 you asked. Overruled.  
 23 Q. (BY MR. DeGUERIN) You may answer.  
 24 A. General Paxton expressed sort of more interest  
 25 in the Mitte Foundation litigation than almost anything

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1 else that my divisions were interested in. There was a  
 2 certain urgency and almost anxiety around what we were  
 3 doing in the Mitte Foundation lawsuit, you know, to the  
 4 extent that, you know, at times I was -- I got calls.  
 5 You know, I got a -- I remember a call  
 6 very early in the morning one time. I got pulled out of  
 7 an important teleconference that I was in to talk about  
 8 the Mitte Foundation. That was highly unusual. That  
 9 really didn't happen with any frequency about -- about  
 10 anything.  
 11 And, you know, General Paxton wanted to  
 12 be kept abreast of any developments in the Mitte  
 13 Foundation lawsuit.  
 14 Q. Was there other major litigation going on that  
 15 you were supervising?  
 16 A. Well, at the time --  
 17 Q. That's a yes or no. Was there other major  
 18 litigation?  
 19 A. Well, yes. Absolutely.  
 20 Q. What was the Google investigation and  
 21 litigation?  
 22 A. So I had been tasked to lead the Google  
 23 antitrust investigation that was being conducted by a  
 24 number of states. So it was a multistate investigation.  
 25 I believe 48 states at that point. Only Alabama and

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1 California had not joined. And we were investigating  
 2 Google search function, antitrust potential violations,  
 3 and the Google AdTech antitrust violations.  
 4 Texas was really the lead on the AdTech  
 5 issues. So I sort of had a day job that was overseeing  
 6 the divisions, the civil divisions.  
 7 And then in addition to that, I was  
 8 trying to provide a leadership role for all the states  
 9 on those investigations. And, you know, of course, both  
 10 of those investigations, probably most of the people  
 11 know, resulted in significant lawsuits, filed not only  
 12 by Texas, but filed lawsuits by the federal government  
 13 and even in Europe.  
 14 Q. So in a nutshell, was the Google litigation  
 15 major -- a major involvement of the attorney general's  
 16 office? Yes or no.  
 17 A. Absolutely, yes.  
 18 Q. And compare the significance of the Google  
 19 litigation with the significance of the Mitte Foundation  
 20 against Nate Paul litigation.  
 21 A. Well, the Google litigation, of course, has --  
 22 had the potential to impact virtually every Texas and  
 23 U.S. citizen and frankly citizens across the world. The  
 24 Mitte Foundation litigation, as I understood it, was,  
 25 you know, a -- a dispute that Texas, in my view, did not

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1 have a -- any significant interest in. And, you know, I  
 2 believe that the Mitte Foundation was being --  
 3 especially when I got involved with it, I believe the  
 4 foundation was being zealously represented.  
 5 Q. Okay. And that's one of the criteria for  
 6 intervening or not intervening. If everything is going  
 7 smoothly with the foundation, they're zealously  
 8 represented, correct?  
 9 A. Yes.  
 10 Q. All right. So I think you mentioned being  
 11 interrupted. As an example of General Paxton's interest  
 12 in the Mitte litigation as opposed to anything else, was  
 13 there an occasion when you were interrupted during an  
 14 important Google conference?  
 15 A. Yes.  
 16 Q. Yes or no?  
 17 A. Yes.  
 18 Q. Okay. What was that occasion?  
 19 A. I recall -- yeah, I recall that I was on a  
 20 telephone conference with an international economist of  
 21 some reputation, trying to interview that economist to  
 22 decide whether he would be a good fit to work on the  
 23 Google investigation at that time and possible  
 24 litigation. And General Paxton sort of opened my door.  
 25 And I put it on mute. And he said, Hey, can you come

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1 down to my office?  
 2 And I explained roughly what I was doing.  
 3 And I said, Should I break this off and come down?  
 4 He said, Yes.  
 5 So I did.  
 6 And I went to his office and we had a  
 7 discussion about the Mitte Foundation.  
 8 Q. Did that seem unusual to you that he would  
 9 pull you away from an important conference on the major  
 10 litigation over Google to talk about the Mitte  
 11 Foundation litigation?  
 12 A. I don't recall another time when  
 13 General Paxton interrupted a conversation or discussion  
 14 with anyone else I was having to pull me away.  
 15 Q. Let's talk about some of the things that you  
 16 were requested to do. Did there come a time when you  
 17 received and you were on the e-mail chain of complaints  
 18 from Nate Paul about how the attorney general's office  
 19 was handling the Mitte Foundation litigation?  
 20 A. Yes. After I had --  
 21 Q. Okay. That's the answer to that. Then I'll  
 22 ask you about it.  
 23 A. Okay.  
 24 Q. So --  
 25 A. I'm a lawyer. I'm a bad witness. I'll try to

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1 be better. I'm sorry.  
 2 Q. Lawyers are some of the worst witnesses, yes,  
 3 I agree.  
 4 So what happened with the -- the e-mails  
 5 that the office and you were copied and particularly  
 6 Josh Godbey was getting from Nate Paul?  
 7 A. Yes. So we -- we got a few communications, I  
 8 don't remember how many, from Nate Paul, and I think one  
 9 was either from Nate Paul or from Michael Wynne copying  
 10 Nate Paul or something like that, vigorously complaining  
 11 in really sort of a demeaning fashion about our work in  
 12 the Mitte Foundation lawsuit, and demanding that we do  
 13 more in the lawsuit, sort of taking this -- taking a  
 14 tone of directing us --  
 15 Q. Let me stop you there.  
 16 A. Uh-huh.  
 17 Q. So you said it was the e-mails were taking the  
 18 tone of Nate Paul directing you, the attorney general's  
 19 office?  
 20 MR. BUZBEE: Your Honor, I object. We  
 21 have the e-mails and we can look at them, but -- but  
 22 this is misrepresenting what the e-mails say, and I  
 23 object to it.  
 24 MR. DeGUERIN: Well, let's --  
 25 PRESIDING OFFICER: Sustained.

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1 MR. DeGUERIN: -- let's look at the  
 2 e-mails. I agree.  
 3 House Managers 86. It's in by agreement,  
 4 if you can pull that up.  
 5 Q. (BY MR. DeGUERIN) Let's start -- let's start  
 6 on the second page of that, at the bottom of the second  
 7 page of the e-mail from Nate Paul to Josh Godbey in the  
 8 attorney general's office. I'll just read that first  
 9 line.  
 10 Josh, I am following up to my previous  
 11 e-mails for the fourth time. Your decision to not even  
 12 respond to my e-mails has only amplified my concerns  
 13 about your bias towards helping the Mitte Foundation.  
 14 Do you see that?  
 15 A. I do see that.  
 16 Q. First, is it -- is it proper for a litigant  
 17 who's represented by counsel to contact the lawyer for  
 18 the -- one of the other litigants? Is it or not?  
 19 A. It's -- it's certainly not something that's --  
 20 it's certainly something that's generally not done, that  
 21 is correct.  
 22 Q. All right. A little bit above that, a little  
 23 bit later, July the 2nd: Josh, I need to hear from you.  
 24 You are delaying this and it is unacceptable.  
 25 Is that the kind of tone that you're used

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1 to receiving from a litigant?  
 2 A. Absolutely not.  
 3 Q. The first page of that exhibit. Sunday, July  
 4 the 5th, from Nate Paul. Josh Godbey: Josh, you have  
 5 exhibited highly unprofessional behavior.  
 6 Do you see that?  
 7 A. I do.  
 8 Q. And above that: Josh, I just wanted to make  
 9 sure your office is aware that you never responded to  
 10 any of the e-mails below.  
 11 First, what's your testimony about  
 12 whether it would be proper for Joshua Godbey to respond  
 13 to Nate Paul's e-mails?  
 14 A. That was something that we would not -- not  
 15 typically have done.  
 16 Q. So what was your thought about what was going  
 17 on here and how Nate Paul was treating the Office of  
 18 Attorney General?  
 19 A. Well, I thought his tone was demeaning and  
 20 demanding and wholly inappropriate, because thinking  
 21 about this, the way this is structured and the way  
 22 our -- our involvement with charitable trusts is -- is  
 23 structured is we are making the decisions about what is  
 24 in the public interest of the charity, not somebody  
 25 who's working against the charity in a lawsuit.

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1 Q. Now, while this is going on, what's your  
2 contact with General Paxton about what you're doing in  
3 the Mitte Foundation lawsuit?  
4 A. I was having fairly regular conversations with  
5 General Paxton about --  
6 Q. And what was he asking?  
7 A. He was asking, you know, about ideas for how  
8 we could really get to a point where we could terminate  
9 the litigation. And, you know, I think he is looking  
10 for a creative way to do that. You know, what -- and I  
11 don't mean creative in the sense of outside, you know,  
12 legal means, but a creative way for us to -- our  
13 involvement to accelerate the termination of the  
14 lawsuit. And --  
15 Q. Well, let's talk about that for a second.  
16 A. Yeah.  
17 Q. To accelerate termination of the lawsuit. In  
18 essence, was the lawsuit, the Mitte Foundation suing  
19 Nate Paul because they're claiming that he was cheating  
20 them?  
21 A. Yes.  
22 Q. And so --  
23 A. In so many -- in so many words, yes.  
24 Q. Well, I was trying to shorten the description  
25 of it a little bit.

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1 And so if that's the fact, if they're  
2 suing Nate Paul for trying to cheat them, what's the  
3 public interest in the Mitte Foundation litigation for  
4 the attorney general to take? Which side are you  
5 supposed to take?  
6 A. Well, we're clearly supposed to take the side  
7 of the foundation.  
8 Q. And what was General Paxton's direction to  
9 you?  
10 A. General Paxton was highly critical of the  
11 Mitte Foundation's litigation efforts, and he  
12 characterized those to me as being overly zealous and  
13 wasteful.  
14 Q. Okay. Were you -- did you become aware during  
15 this time that there had been a settlement of the  
16 lawsuit previously by mediation between Nate Paul's  
17 interest and the Mitte Foundation?  
18 A. Yes.  
19 Q. What was that settlement? What was the  
20 amount, dollar amount, of that settlement, if you  
21 remember?  
22 A. It's testing my memory a little bit. But I  
23 believe that Nate Paul's entities had agreed to pay the  
24 Mitte Foundation 10 and a half million dollars to buy  
25 out their interest in the World Class properties.

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1 Q. And did he -- did he pay it?  
2 A. No. The World Class -- World Class did not  
3 pay it and breached -- therefore, breached the  
4 settlement agreement.  
5 Q. And that was a settlement agreement now after  
6 mediation?  
7 A. After a mediation, yes.  
8 I -- can I pause there? I actually don't  
9 remember whether it was the result of a mediation, but  
10 it was certainly the result of some negotiation.  
11 Q. Fair enough.  
12 Did General Paxton press you to move for  
13 a second mediation? I know you don't know whether it  
14 was second or first, but did he press you to move for a  
15 mediation?  
16 A. Yes.  
17 Q. Now, was Mr. Godbey supposed to be handling  
18 this?  
19 A. Mr. Godbey had sort of taken front-line  
20 responsibility for this prior to my involvement, yes.  
21 Q. And after these e-mails where Nate Paul was  
22 criticizing Josh Godbey and his handling of it, what did  
23 General Paxton tell you to do?  
24 A. Well, on more than one occasion he asked me to  
25 be directly involved.

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1 Q. Is that unusual?  
2 A. Incredibly unusual for someone in my role at  
3 that time, yes.  
4 Q. Explain why that's incredibly unusual.  
5 A. Well, as I said before, we had 12 divisions,  
6 we had 325 lawyers, and we had 34,000 open matters. So  
7 for someone in my position to have direct involvement in  
8 any particular litigation, what was just highly  
9 abnormal, and so my -- in my experience during the two  
10 years I was in that position, there were only a very few  
11 limited examples of when I was directly involved in  
12 litigation.  
13 Q. Okay.  
14 A. Very few.  
15 Q. So ordinarily would it be handled by somebody  
16 down the chain?  
17 A. Yes. I might be advising if there were a  
18 problem or it was significantly important, but not  
19 important enough for me to be indirectly. But for me to  
20 appear and be personally involved was highly unusual.  
21 Q. So did there come a time when General Paxton  
22 ordered you to appear in a hearing?  
23 A. He did call me very early one morning. I want  
24 to say it was sometime around 7:30 and asked me to  
25 appear at a Mitte Foundation World Class hearing in

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1 Travis County District Court that morning.  
 2 Q. Now, not to diminish the importance of a  
 3 Travis County District Court, but educate the senators  
 4 on whether the appearance of a deputy attorney general  
 5 in district court in Harris -- in Travis County would be  
 6 unusual.  
 7 A. I only did that one other time during the  
 8 course of my role, and that was when Google contested  
 9 our right to get information under a confidential  
 10 information demand issued by our antitrust division.  
 11 Q. But in this case, in this case involving the  
 12 Mitte Foundation lawsuit trying to get -- or suing  
 13 Nate Paul for fraud or cheating him, would it -- what's  
 14 the -- what's the unusual thing about having a deputy  
 15 attorney general appear there?  
 16 A. Well, I think in retrospect it sends -- it  
 17 certainly sends a message of interest from the attorney  
 18 general's office that's highly unusual. And also, you  
 19 know, that -- as I recall, that hearing was going to be  
 20 a very long hearing. I think it was scheduled for a  
 21 very long period of time. And, you know, obviously  
 22 there were a number of things going on at the AG's  
 23 office, and we concentrated on the Google matter.  
 24 But, you know, the COVID matters were hot  
 25 and heavy, I think, still at that point. You know,

1 there were mask mandate issues. And there were also --  
 2 you know, we were getting calls and concerns from major  
 3 cities about potentially releasing people from jail that  
 4 had been accused of violent felonies. I mean, you know,  
 5 there were times --  
 6 Q. Okay. Let me -- let me stop you there.  
 7 A. Yeah.  
 8 Q. So what you're saying is you had a lot of  
 9 other stuff on your plate?  
 10 A. Yes, particularly at that time.  
 11 Q. And you get a call at 7:30 in the morning from  
 12 General Paxton asking you to appear in Travis County  
 13 District Court on motions that might last all day?  
 14 A. My recollection is that they were -- it was to  
 15 be a lengthy hearing, yes.  
 16 Q. Were you prepared?  
 17 A. I was not prepared at all.  
 18 Q. And what did you say to him?  
 19 A. I said it didn't make any sense for me to do  
 20 it because I wasn't prepared and because of the time and  
 21 all of the other things I had scheduled that day.  
 22 Q. And what did he say to you?  
 23 A. He said, Well, then, I'll do it.  
 24 Q. He'll do it? General Paxton will himself go  
 25 to district court in Travis County to order -- to argue

1 a motion?  
 2 A. Yes, that's what he told me.  
 3 Q. What did you think about that?  
 4 A. Well, I talked him out of it.  
 5 Q. What?  
 6 A. I talked him out of it.  
 7 Q. Again --  
 8 A. What I thought about it was that it was a  
 9 terrible thing for him to do.  
 10 Q. And why?  
 11 A. Because he was the attorney general of Texas.  
 12 He never appeared in court, not once, not a single time,  
 13 and, you know, as a representative, right, as a lawyer,  
 14 I should say. Let's put it that way.  
 15 And for him to make an appearance in that  
 16 type of hearing sends a very odd message. And it didn't  
 17 seem appropriate for our office to have that sort of  
 18 level involvement in a case like this at all.  
 19 Q. Okay. I don't want to get too far in the  
 20 weeds of all of the stuff that happened in the Mitte  
 21 Foundation litigation, but was there an occasion where  
 22 General Paxton told you to go to a mediation -- a  
 23 virtual mediation, but told you to go to a mediation?  
 24 A. Yes.  
 25 Q. And did -- what did General Paxton tell you to

1 do as far as trying to get the Mitte Foundation to  
 2 accept less than they had accepted before?  
 3 A. Well, General Paxton asked me to attend the  
 4 mediation on behalf of the State and work to get a  
 5 settlement from the case for -- you know, to essentially  
 6 terminate the litigation.  
 7 Q. What do you mean by "terminate the  
 8 litigation"?  
 9 A. Well, via settlement. Terminate the  
 10 litigation via settlement. And so we worked -- we  
 11 worked hard. We actually filed a motion to stay the  
 12 proceedings in favor of mediation.  
 13 Q. Let me ask you that.  
 14 As I said, I don't want to get in the  
 15 weeds of what happened. The motion to -- the motion to  
 16 stay the proceedings, the mediation, pressure during the  
 17 mediation, in retrospect and knowing what you know now,  
 18 was that in the public interest of the Mitte Foundation  
 19 for the attorney general, Paxton, to take that position?  
 20 Yes or no?  
 21 A. Knowing what I know now, no.  
 22 Q. Why not?  
 23 A. Because it -- our involvement in the Mitte  
 24 Foundation litigation added complications for the Mitte  
 25 Foundation. And we stayed -- and briefly -- and I was

1 pretty adamant that we needed to do it quickly if we  
 2 were going to stay the proceedings. But, you know, it  
 3 stayed the proceedings for a period of time. I think  
 4 that the Mitte Foundation saw it as fairly heavy-handed.  
 5 And it just, you know --  
 6 Q. Let me ask you --  
 7 A. -- knowing now what I know, no, I don't think  
 8 that we were helping the Mitte Foundation in any way.  
 9 Q. Say that again. You were not helping?  
 10 A. We were not helping.  
 11 Q. Wasn't that what the attorney general's office  
 12 is supposed to do?  
 13 A. We are supposed to protect the interest, the  
 14 public interest in charitable trusts.  
 15 Q. And as it turned out, were you actually trying  
 16 to protect Nate Paul's interest, because that's what  
 17 Paxton told you to do?  
 18 MR. BUZBEE: Objection. Leading.  
 19 MR. DeGUERIN: That is leading. I'll  
 20 rephrase it.  
 21 Q. (BY MR. DeGUERIN) What did General Paxton  
 22 tell you to do, whose side to take in the mediation?  
 23 A. Well, he told me to contact Sheena Paul, who  
 24 is Nate's -- Nate Paul's sister and work with her to,  
 25 you know, sort of develop a strategy for the mediation.

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1 Or not a strategy. I mean, I don't know if he said the  
 2 word "strategy," so I don't want to be -- I want to be  
 3 careful about what was actually said.  
 4 But he told me to call her, try to  
 5 understand their position. And, you know, I think he  
 6 said sort of dramatically, I just want all of this to  
 7 end.  
 8 Q. General Paxton said he wanted all of this to  
 9 end?  
 10 A. That's correct.  
 11 Q. Was that in the best interest of the Mitte  
 12 Foundation or the public interest in it?  
 13 A. Well, it --  
 14 Q. Yes or no.  
 15 A. Can I explain?  
 16 Q. You can, but I would like to get a yes or no  
 17 to that.  
 18 Was that in the best interest of the  
 19 Mitte Foundation or the public interest in it, or was it  
 20 in the best interest of Nate Paul?  
 21 A. Well, I -- every -- understanding everything  
 22 that was going on and the fact that the Mitte Foundation  
 23 thought that there was far more return on this  
 24 investment available than what -- that I think even the  
 25 10 and a half million dollar settlement that had

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1 breached before, no, because it was clear that we were  
 2 not going to settle for 10 and a half million. We --  
 3 the Mitte Foundation was not going to settle for 10 and  
 4 a half million dollars.  
 5 I'm sorry. They were not going to get  
 6 10 and a half million dollars because the World Class  
 7 entities were not going to offer it. And they thought  
 8 that they could get more than 10 and a half through  
 9 litigation. And so no, no, we were not helping the  
 10 Mitte Foundation.  
 11 Q. Did the -- did the mediation fail?  
 12 A. It did.  
 13 Q. And so after that, and getting forward now to  
 14 the end of September, what did you learn about the  
 15 attorney general's office involvement in other matters  
 16 of -- that involved Nate Paul?  
 17 MR. BUZBEE: Objection. This answer  
 18 calls for information based on hearsay.  
 19 PRESIDING OFFICER: Sustained.  
 20 Q. (BY MR. DeGUERIN) On September the 29th, did  
 21 you get a call?  
 22 A. Well, on September 29th, I was called to a  
 23 meeting.  
 24 Q. Where?  
 25 A. In Jeff Mateer's office.

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1 Q. Without going into what was said, the  
 2 previous -- one of the previous witnesses today was a  
 3 young lawyer named Brandon Cammack.  
 4 Did you learn anything about him, yes or  
 5 no, that day? I'm not asking you what you learned.  
 6 A. Yes.  
 7 Q. And did you learn or see subpoenas, grand jury  
 8 subpoenas, that had been issued to players in the Mitte  
 9 Foundation case?  
 10 A. I saw a grand -- a criminal grand jury  
 11 subpoena that had been issued to a bank.  
 12 Q. What was your reaction to that?  
 13 A. I was stunned.  
 14 Q. What do you mean? Explain it.  
 15 A. I saw a criminal grand jury subpoena directed  
 16 to a bank that was clearly seeking information that  
 17 would have aided World Class Nate Paul's efforts against  
 18 the Mitte Foundation.  
 19 Q. Why is that bad?  
 20 A. Well, it's lawyer -- one thing is it's Lawyer  
 21 Ethics 101. So that was the first thing that came to my  
 22 mind. We are weaponizing the criminal process to aid a  
 23 civil litigant, and that is a big no-no.  
 24 Q. So as far as the Mitte Foundation was  
 25 concerned, and now you learning about these grand jury

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1 subpoenas issued to players in the Mitte Foundation  
2 lawsuit, what was your opinion about what had happened  
3 to the Mitte Foundation as a result of the Attorney  
4 General Paxton's request or demand that you become  
5 involved?

6 A. I believe that the attorney general's offices  
7 involvement in the Mitte Foundation litigation was  
8 unethical, against our statutes, and I suspected -- I  
9 highly suspected corrupt.

10 Q. What did you do as a result -- by the way, did  
11 you attend a meeting, a conference between a number of  
12 the deputies of -- the top deputies of the attorney  
13 general's office?

14 A. I did.

15 Q. And did you trade information?

16 A. Yes.

17 Q. Did you learn things that you had not known  
18 about before?

19 A. Several.

20 Q. And did it concern you?

21 A. Deeply.

22 Q. What did you do with regard to the Mitte  
23 Foundation litigation as a result of what you learned?

24 A. Within 24 hours, I don't remember exactly how  
25 quickly, I ordered Mr. Godbey, the head of the

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1 charitable trust financial litigation division, to  
2 dismiss our intervention in the lawsuit.

3 MR. DeGUERIN: House Managers Exhibit 92  
4 is in evidence by agreement.

5 Q. (BY MR. DeGUERIN) This is an e-mail from you  
6 dated September the 30th, 2020. It's to Josh Godbey,  
7 Rachel Obaldo -- I don't believe we've heard her name  
8 before -- with copies to Mateer and to Bangert.

9 What did you order done?

10 A. Please immediately withdraw from and cease all  
11 representation, investigation, or participation  
12 concerning the Mitte Foundation that may in any way  
13 whatsoever relate to World Class, its related entities,  
14 or Nate Paul.

15 Q. You let your voice trail off.

16 A. I'm sorry. It may have been the microphone.  
17 I can read it quickly.

18 Please immediately withdraw from and  
19 cease all representation, investigation, or  
20 participation concerning the Mitte Foundation that may  
21 in any way whatsoever relate to World Class, its related  
22 entities, or Nate Paul.

23 Q. And why did you do that?

24 A. I did it because I believed at that point that  
25 the AG's office intervention into the Mitte Foundation

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1 was unfounded, and as I said, I believed, unethical.  
2 And I believed it was actually attacking a charitable  
3 trust as opposed to defending the public interest of a  
4 charitable trust.

5 I believed I had an ethical duty under  
6 our rules because we had now used the criminal justice  
7 system essentially against the Mitte Foundation. And,  
8 you know, frankly, my name, my colleagues' names,  
9 including Jeff Mateer and Josh Godbey, I think Ryan  
10 Bangert, and now my recollection is refreshed, Rachel  
11 Obaldo, importantly the attorney general's name, and  
12 maybe most importantly the State of Texas' name, had  
13 been used and invoked improperly, clearly improperly,  
14 against the Mitte Foundation that was a public -- that  
15 was a public charity.

16 Q. Were you one of the seven deputies that went  
17 to the FBI?

18 A. Yes, I was.

19 Q. Why, briefly, did you go to the FBI? First,  
20 did you want to?

21 A. Absolutely not.

22 Q. And did you decide to be one of the seven that  
23 went to report to the FBI?

24 A. Yes.

25 Q. Why?

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1 A. Because I believed that the attorney general's  
2 office had been -- and its resources, and I'm sure those  
3 in this room understand that the Texas attorney  
4 general's office is one of the most powerful in the  
5 nation and incredibly important for a number of reasons.

6 And I believe that it had been turned  
7 over by Attorney General Paxton to a private citizen to  
8 do his bidding, and it was acting against the interest  
9 of the State of Texas. And in my own experience with  
10 the Mitte Foundation, I believe acting against another  
11 citizen, a charitable trust and all of its  
12 beneficiaries, and the State of Texas, and that the  
13 criminal process that had been initiated that I just  
14 learned of was potentially immediately endangering the  
15 public, the Mitte Foundation, and potentially others.

16 Q. Did you and the others ask General Paxton to  
17 meet with you after that? Just yes or no.

18 A. Jeff Mateer -- Jeff Mateer I recall sent  
19 General Paxton a text asking him to meet with us.

20 Q. And did he meet with you?

21 A. He did not.

22 Q. I want to talk very briefly about any  
23 retaliation against you for being one of the persons  
24 that went to the FBI.

25 Were you retaliated against?

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1 A. Well, yes. Not -- frankly -- and I want to  
2 make this clear. I don't believe I suffered the level  
3 of retaliation that some of my colleagues did. However,  
4 you know, I remember the first thing that I -- was sort  
5 of stunning to me was that I saw a press release  
6 released by our office, not by General Paxton or his  
7 campaign, but by our comms office, a press release that  
8 said officials in his office were being criminally  
9 investigated for impeding, I guess -- you know, impeding  
10 an investigation or something of that nature, which was  
11 sort of shocking, and I suppose, supposed to be  
12 intimidating.

13 Q. Was that true or not?

14 A. I am not aware of a criminal -- I was never  
15 made aware of any sort of criminal investigation of any  
16 of my colleagues, no.

17 Q. Were you called a rogue employee?

18 A. Absolutely.

19 Q. Do you believe you were a rogue employee?

20 A. No. I believe that I was doing what I had to  
21 do, as unpleasant as it was. And it was quite  
22 unpleasant.

23 MR. DeGUERIN: Pass the witness, Your  
24 Honor.  
25 PRESIDING OFFICER: Mr. Buzbee.

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1 CROSS-EXAMINATION  
2 BY MR. BUZBEE:  
3 Q. Are you represented by a lawyer?  
4 A. Yes, sir.  
5 Q. Is it Johnny Sutton? Let me guess: It is  
6 Johnny Sutton?  
7 A. Yes.  
8 Q. And how much have you paid him so far?  
9 A. I have not paid Mr. Sutton anything.  
10 Q. So just like all the other ones of you, Johnny  
11 Sutton has been working on your behalf, spending his  
12 days here with all of you guys for free?  
13 A. I don't know.  
14 Q. You don't even know what you owe him, do you?  
15 A. No, I don't know what I owe Mr. Sutton.  
16 Q. What's his hourly rate? Do you even know  
17 that?  
18 A. No. We have never entered into a fee  
19 agreement.  
20 Q. So what -- so just so we're clear, you don't  
21 know what you owe him? You don't know what the  
22 agreement is? And you don't even know what his hourly  
23 rate is; is that right?  
24 A. I'm not sure I owe him anything, but I don't  
25 know.

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1 Q. You -- you say under oath you don't owe him  
2 anything?  
3 A. I don't know that I do, no.  
4 Q. Johnny Sutton, who is standing there to my  
5 left, according to you under oath could very well  
6 possibly work -- be working for free?  
7 A. He could be working pro bono, correct.  
8 Q. You don't know?  
9 A. I have not asked him. Mr. Sutton did a  
10 significant amount of work for us rather immediately. I  
11 knew Mr. Sutton, and I called him at the last minute  
12 before we went to the FBI.  
13 Q. The question was you don't know, do you?  
14 A. Rather --  
15 Q. You don't know what you owe him or what his  
16 rate is? That was the question. You don't know?  
17 A. Yes, that's correct. I don't know.  
18 Q. What you do know is that Jeff Mateer attempted  
19 to have the attorney general's office set aside \$50,000  
20 for that man right there, Johnny Sutton; isn't that  
21 right?  
22 A. I don't know that Mr. Mateer attempted to do  
23 that.  
24 Q. You didn't know about that?  
25 A. I knew that there was a discussion about it,

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1 but I don't know that Mr. Mateer attempted to do that,  
2 no.  
3 Q. He sent an e-mail to the controller. He sent  
4 an e-mail to Lacey Mase. You didn't know any of that?  
5 A. I did not.  
6 Q. Hmm. Now, I just want to make sure we're  
7 clear. You don't know -- you don't have any personal  
8 knowledge about any house repairs of General Paxton, do  
9 you?  
10 A. I do not.  
11 Q. You don't have any personal knowledge about a  
12 job for Laura Olson, do you?  
13 A. I do not.  
14 Q. You don't have any personal knowledge about  
15 whether Nate Paul donated \$25,000 two years before all  
16 of these events that we're talking about, right?  
17 A. I think I do know that, but I'm not --  
18 Q. The thing about campaign donations, if anybody  
19 wants to see who is giving money to what candidate, all  
20 they have to do is get on the Texas Ethics Commission's  
21 website and they can figure that out pretty quick,  
22 right?  
23 A. And I think I did that, yes.  
24 Q. And it's not secret, is it?  
25 A. No.

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1 Q. Okay. You don't know anything about late  
2 night legal advice at least -- or legal guidance. You  
3 didn't have a role in that, did you not?  
4 A. Well, I certainly didn't at the time, no.  
5 Q. Okay. I'm just talking about what you knew.  
6 A. Yeah.  
7 Q. You didn't know anything about whether there  
8 was any foreclosure stopped, right?  
9 A. Not at the time, no.  
10 Q. You don't know anything about some secret  
11 meeting in an alleyway in the dark of night between  
12 Nate Paul and young Drew Wicker, right?  
13 A. No, I don't.  
14 Q. That sounds ridiculous, does it not?  
15 A. Not necessarily.  
16 Q. Did you know this guy Maxwell, this Texas  
17 Ranger, this guy that's in the Ranger Hall of Fame? Do  
18 you know what I'm talking about?  
19 A. Absolutely.  
20 Q. Did you know that he told these people when he  
21 was interviewed that there had been a secret meeting in  
22 an alleyway in the dark of night where a folder was  
23 handed over from Drew Wicker to Nate Paul? Did you know  
24 he had said that?  
25 A. No, I didn't.

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1 MR. DeGUERIN: Objection.  
2 Cross-examination by what someone else might have said  
3 is not proper.  
4 PRESIDING OFFICER: Sustained.  
5 Q. (BY MR. BUZBEE) He said he heard that from  
6 five or six people. Did you tell him that?  
7 A. I did not tell him that, no.  
8 Q. Okay. And you didn't have any role whatsoever  
9 in the retention of outside counsel at the AG's office,  
10 did you?  
11 I'm talking about specifically  
12 Mr. Cammack.  
13 A. Oh, that retention of outside counsel, no.  
14 Q. Okay. So that just kind of forecloses. It  
15 sounds like what you were involved in was the Mitte  
16 Foundation intervention as it relates to this  
17 proceeding, true?  
18 A. I think that's largely yes.  
19 Q. Yes. So when we talk about personal  
20 knowledge -- and you know what 602 personal knowledge is  
21 under the rules, do you not?  
22 A. Reasonably well.  
23 Q. Yeah. You're not supposed to testify about  
24 things unless you have personal knowledge. That's  
25 Rule 602 of the Rules of Evidence, right?

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1 A. I'll take you at your word it's 602. I don't  
2 remember the number, but, yeah.  
3 Q. I had a federal judge that made me learn the  
4 numbers so they're burned in my brain.  
5 So let's talk about what you actually  
6 have personal knowledge of.  
7 You know, Mr. DeGuerin has been telling  
8 us -- using the words "ordered," "demanded." Remember  
9 him using those words?  
10 A. He may -- he may -- I'm not sure, but he may  
11 have.  
12 Q. I mean, we know General Paxton. We call him  
13 General Paxton, but he's not in the military, is he?  
14 A. No.  
15 Q. Okay. He doesn't go around barking orders,  
16 does he?  
17 A. I would not say he barks orders.  
18 Q. You know, this guy, if anybody has ever dealt  
19 with him, knows that he's pretty low key, pretty laid  
20 back, right?  
21 A. That's a hard description for me to use.  
22 Q. But he's not some right wing crazy  
23 authoritarian walking around in locked step, is he?  
24 A. Well, that's -- that's a hard -- that's a hard  
25 way to say it.

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1 Q. I can give you an easier way to say it.  
2 A. Yeah.  
3 Q. He's not the kind of guy that screams at  
4 people and tells them, You go do this. You go do that.  
5 He doesn't do that?  
6 A. Well, I can't answer yes to that because I  
7 have heard him do that before.  
8 Q. Okay. Now, let's focus --  
9 MR. BUZBEE: Erick, could you put up  
10 Article I?  
11 Q. (BY MR. BUZBEE) Since you're here to talk  
12 about the Mitte Foundation intervention, it's titled  
13 Protection of Charitable Organizations, right?  
14 A. Am I -- I'm reading it, yes.  
15 Q. Yeah. I mean, you've read this before, have  
16 you not?  
17 A. I have read this before, yes.  
18 Q. Sure. And you knew you were here to testify  
19 and that most of your testimony would probably relate to  
20 this article, right?  
21 A. Well, the Mitte Foundation, yes.  
22 Q. Sure. The very first sentence, Protection --  
23 I guess I should say the second sentence. Protection of  
24 charitable organization there, that's not even correct,  
25 is it? Because that's not what the role of the attorney

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1 general's office is, is it?  
 2 A. Well, we're -- we're tasked with protecting  
 3 the public interest in charity.  
 4 Q. Protecting the public interest in charity;  
 5 isn't that right?  
 6 A. That's right.  
 7 Q. Not protecting charities, right?  
 8 A. There's some overlap there.  
 9 Q. Some overlap. But that's not what the AG's  
 10 role is, is it?  
 11 A. Well, that's right. I mean, we are not  
 12 obligated to protect charitable trusts generally as --  
 13 you know, if they are protecting themselves, for  
 14 instance.  
 15 Q. Now, we'll come back to that. But let's look  
 16 at -- are you -- how -- I know you were several levels  
 17 up the chain of command over Joshua Godbey, but it was  
 18 Godbey who was in charge of the charitable trust  
 19 area, true?  
 20 A. There was -- there was a division at that time  
 21 called financial litigation and charitable trust, and  
 22 that was under Josh Godbey.  
 23 Q. Okay. And you, of course, are familiar with  
 24 the role of the AG's office and charitable trusts?  
 25 A. I am generally familiar with that role, yes.

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1 Q. You told me it's highly unusual -- I think you  
 2 told Mr. DeGuerin it's highly unusual for the AG's  
 3 office to get involved with charitable trusts, right?  
 4 A. It -- I mean, it's highly unusual. I don't  
 5 think I used that term. I think I used the term that it  
 6 was something that we did, but it was not -- I mean, it  
 7 was not a -- a huge volume of work that we did, but that  
 8 we did intervene in a -- some number of cases every  
 9 year.  
 10 Q. Okay. Because it sounded like -- and I  
 11 thought we all -- it sounded to me like you were making  
 12 the case that this was incredibly unusual for the AG's  
 13 office to get involved in any litigation involving  
 14 charities. That's not true at all, is it?  
 15 A. No.  
 16 Q. Okay.  
 17 A. The AG's office from time to time would be  
 18 involved in litigation involving a charity.  
 19 Q. Because the AG's office gets complaints every  
 20 year about charities, does it not?  
 21 A. Well, it gets complaints, and it also gets  
 22 notified of lawsuits.  
 23 Q. Sir, if you -- I'm on a time clock, and if you  
 24 could just answer my question, I would really appreciate  
 25 it. Can you do that for me? Just answer it, okay?

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1 A. Okay.  
 2 Q. Is it true that the AG's office gets many  
 3 complaints every year about charities?  
 4 A. I'm -- I'm having trouble answering that.  
 5 Q. I'll help you.  
 6 MR. BUZBEE: Erick, pull up 429, AG 429.  
 7 Q. (BY MR. BUZBEE) Somebody prepared a  
 8 PowerPoint about the AG's role with regard to charities.  
 9 Do you see the first page?  
 10 A. Yeah, I was involved in preparing this.  
 11 Q. Right. It says, Protect the public interest  
 12 in charity. Do you see that?  
 13 A. I do.  
 14 MR. BUZBEE: Now, turn the next page,  
 15 Erick.  
 16 Q. (BY MR. BUZBEE) One of the questions  
 17 Mr. DeGuerin asked you was how many charities or  
 18 foundations that were in Texas. Do you remember that?  
 19 A. Yes.  
 20 Q. Now, we know what the numbers are, don't we?  
 21 The first bullet point.  
 22 A. Yes.  
 23 Q. It's right there in black and white. As of  
 24 December 2019 --  
 25 A. Yes.

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1 Q. -- over 102,000 charities, and about 7,500  
 2 private foundations, right?  
 3 A. That's what it says, yes.  
 4 Q. All right. Okay. It even provides the gross  
 5 assets. Do you see that?  
 6 A. Yes.  
 7 MR. BUZBEE: Next page, Erick.  
 8 Erick, can you -- is this straight?  
 9 There we go.  
 10 Q. (BY MR. BUZBEE) And if we wondered -- if the  
 11 jurors wondered how active the AG's office was, in fact,  
 12 how active it was with regard to charities, it's right  
 13 there in black and white, right? These are the number  
 14 of complaints received in Fiscal Year '18, '19, and  
 15 2020, right?  
 16 A. Yes.  
 17 Q. So now we know --  
 18 A. As I see it here, yes.  
 19 Q. Yeah. Now we know, right? Right?  
 20 A. Now we know how many, yes.  
 21 Q. Okay. So let's go -- and you know, of course,  
 22 that the Mitte Foundation had a sordid history, true?  
 23 A. They had -- I know that they had -- we had  
 24 been involved with an investigation of some nature of  
 25 the Mitte Foundation, I believe, in the late double Os.

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1 Q. Yeah. I mean, let's be -- let's all be clear.  
 2 Not only had the AG's office been involved with the  
 3 Mitte Foundation, the AG's office had, in fact, sued the  
 4 Mitte Foundation; isn't that right?  
 5 A. I'll take your word for it, but I don't --  
 6 Q. You don't need to take my word.  
 7 MR. BUZBEE: Exhibit 223, Erick.  
 8 Q. (BY MR. BUZBEE) Do you know what an original  
 9 petition is?  
 10 A. Yes.  
 11 Q. That's a lawsuit, right?  
 12 A. It is.  
 13 Q. That's a lawsuit where Greg Abbott was the  
 14 attorney general, right?  
 15 A. It appears to be, yes.  
 16 Q. And Greg Abbott sued the Mitte Foundation. Do  
 17 you see that?  
 18 A. I do.  
 19 Q. And have you ever looked at this lawsuit  
 20 before in all of the allegations made by the AG's office  
 21 against the Mitte Foundation?  
 22 A. I cannot recall whether I looked at the  
 23 specific petition or not.  
 24 MR. BUZBEE: Page 4, Erick.  
 25 Q. (BY MR. BUZBEE) In case any of our jurors

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1 wanted to see the long and sordid history of the Mitte  
 2 Foundation, it's right there in black and white,  
 3 prepared by the Office of the Attorney General. Do you  
 4 see that?  
 5 A. Well, I see the allegations here, yes.  
 6 Q. Well, you wouldn't think that the AG's office  
 7 would just make allegations with no proof, would you?  
 8 A. I'm not suggesting that. I -- I just -- I had  
 9 no personal involvement in this. I have no personal  
 10 knowledge.  
 11 Q. right. And you know, of course, that this  
 12 lawsuit that Greg Abbott's office filed when he was the  
 13 AG led to a settlement and a consent decree?  
 14 A. I believe -- all I know about it, if you want  
 15 to know, is that I believe one or more officers or board  
 16 members of the Mitte Foundation were removed for some  
 17 sort of violations.  
 18 MR. BUZBEE: Now, let's move forward in  
 19 time to June of 2020.  
 20 Erick, bring up AG 42.  
 21 Q. (BY MR. BUZBEE) What's supposed to happen is  
 22 that when a charity is involved in litigation, a notice  
 23 is to be sent to the AG's office so it can do its job;  
 24 is that right?  
 25 A. So that it can assess whether it should become

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1 involved.  
 2 Q. Whether it's within the public's interest to  
 3 intervene or get involved, right?  
 4 A. I -- I don't know if there is a more specific  
 5 analysis, but that would certainly be a consideration,  
 6 yes.  
 7 Q. One thing you know is that on at least two  
 8 occasions, the Mitte Foundation failed to send timely  
 9 notice to the Office of Attorney General. You know  
 10 that, don't you?  
 11 A. I don't.  
 12 Q. You don't even know that?  
 13 A. No, I don't.  
 14 Q. Okay. What we have here, AG Exhibit 42, is a  
 15 notice letter sent from some of Nate Paul's entities  
 16 regarding some -- what they claim to be changes in the  
 17 litigation. Do you see that?  
 18 A. Is it possible to blow it up just a little  
 19 bit?  
 20 MR. BUZBEE: Erick, bring up the body of  
 21 the letter. Thank you.  
 22 THE WITNESS: Thank you.  
 23 Okay. I'm sorry, if you can reask.  
 24 Q. (BY MR. BUZBEE) The point is notice was sent  
 25 by Nate Paul's organizations informing the AG's office

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1 of the litigation, and also that at least from their  
 2 point of view there had been some sort of change in the  
 3 circumstance.  
 4 A. Okay. I didn't see the letter, but I assume  
 5 this letter is from Nate Paul's organization.  
 6 Q. Yes, sir.  
 7 A. Okay.  
 8 Q. Okay.  
 9 A. I see that.  
 10 Q. All right. And you know, of course, that the  
 11 AG's office was provided with a very lengthy memo laying  
 12 out not only the past problems with Mitte Foundation,  
 13 but also current problems with the Mitte Foundation,  
 14 true?  
 15 A. I did see that memo, yes.  
 16 Q. This was a very lengthy and detailed memo, was  
 17 it not?  
 18 A. It was a lengthy and detailed memo.  
 19 Q. And if our jurors want to see what the  
 20 justification was for the AG deciding to intervene into  
 21 this Mitte Foundation litigation, they could look at  
 22 AG 33.  
 23 MR. BUZBEE: Would you put it on the  
 24 screen?  
 25 Q. (BY MR. BUZBEE) You've seen this memo before,

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1 have you not?  
 2 A. Did you want me to answer? Was there a  
 3 question before this or --  
 4 Q. No. This is the question.  
 5 A. Okay.  
 6 Q. You've seen this memo before, have you not?  
 7 A. I have seen this memo before, yes.  
 8 Q. This memo is -- and it goes on and on, page  
 9 after page, does it not?  
 10 A. I don't know how many pages. It looks like  
 11 there's six pages.  
 12 Q. Well, it's got a lot of attachments too. Look  
 13 over here, sir.  
 14 A. Gotcha.  
 15 Q. Okay.  
 16 A. All right.  
 17 Q. And this is something that you looked at  
 18 before you signed off on intervention in the Mitte  
 19 Foundation case, right?  
 20 A. Likely.  
 21 Q. Okay. And let's get to that.  
 22 MR. BUZBEE: Erick, bring up AG  
 23 Exhibit 151.  
 24 Q. (BY MR. BUZBEE) You had told us about this  
 25 bureaucratic procedure where this person signs, and it

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1 goes to the next person, and then the next person up the  
 2 chain of command, right?  
 3 A. Well, I wouldn't characterize it that way, but  
 4 there is a procedure by which several people approve an  
 5 intervention into a charitable lawsuit.  
 6 Q. And that's what we're looking at here, true?  
 7 A. That is correct. Related to the Mitte  
 8 Foundation, yes.  
 9 Q. Right. And we can see that Mary Henderson  
 10 signed off?  
 11 A. Yes.  
 12 Q. And that was the same Mary Henderson that  
 13 previously had -- had been part of a memo saying that  
 14 we're -- we maybe shouldn't get involved, six months  
 15 prior?  
 16 A. Yes.  
 17 Q. Okay. And then we see that one of your  
 18 subordinates, Joshua Godbey, signed off, right?  
 19 A. That is correct.  
 20 Q. And then we see that you signed off, right?  
 21 A. Indeed -- yes, I did.  
 22 Q. And then we see that your boss signed off,  
 23 right?  
 24 A. Mr. Mateer, yes.  
 25 Q. And each of you signed off on an official

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1 government document because you felt at the time that it  
 2 was in the best interest to do so; isn't that right?  
 3 A. Based on what I have been told at the time, I  
 4 believe that we -- there was a colorable reason to  
 5 intervene, yes.  
 6 Q. Let's make sure we understand what you just  
 7 said to us all. You said "colorable reason"?  
 8 A. Yes.  
 9 Q. That's lawyer words, right?  
 10 A. Well, I -- I don't know. I think everybody  
 11 understands that.  
 12 Q. You felt like -- just you. Let's just focus  
 13 on you, because I've asked some of these other folks.  
 14 A. Yes.  
 15 Q. You felt like intervention was justified based  
 16 on what you knew; isn't that right?  
 17 A. Based on what I -- based on my conversations  
 18 with the attorney general, I believed that it was  
 19 important for us to intervene in the Mitte Foundation  
 20 litigation and that he had colorable reasons to do so  
 21 that I had no reason to question at the time.  
 22 Q. Let me make sure I get it so we can be clear.  
 23 If you didn't think it was justified, you wouldn't have  
 24 done it, right?  
 25 A. If I -- yes. If I had believed at this time

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1 that the office would be acting against the Mitte  
 2 Foundation, I would never have signed off on the  
 3 intervention.  
 4 Q. Mr. McCarty, I don't mean to be short with  
 5 you, but I only have a short amount of time. And I know  
 6 you like to speak in paragraphs, but could you just  
 7 answer my question directly.  
 8 You believed that it was justified.  
 9 That's why you signed off, right?  
 10 A. No.  
 11 Q. You believed that the information you had  
 12 justified you signing off at that point in time, right?  
 13 A. All -- I would not have made that decision on  
 14 my own.  
 15 Q. Okay. And we see that there's one, two,  
 16 three -- four different people that made that decision,  
 17 don't we?  
 18 A. There were four people who signed off on this  
 19 matter.  
 20 Q. How long did it take you to decide to sign  
 21 off? Can you tell us?  
 22 A. It's hard for me to say how long it took for  
 23 me to sign off. In other words, from the -- from the  
 24 time I first learned of this until I ultimately signed  
 25 off, I don't remember how long it was.

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1 MR. BUZBEE: Let's look. Exhibit 305,  
2 Erick.  
3 Q. (BY MR. BUZBEE) Do you see on here that on  
4 June 6th at 4:52, do you see that e-mail that you were  
5 sent from Josh Godbey?  
6 A. Yes.  
7 Q. And do you see at the top where you had signed  
8 off by 5:26?  
9 A. Well --  
10 Q. Thirty-five minutes.  
11 A. Well, the -- the difference between receiving  
12 a document and making the decision to sign off, it  
13 doesn't mean that I -- I mean, clearly there were  
14 conversations prior to receiving it.  
15 Q. Not only did you sign off on the Mitte  
16 intervention, you also signed off on a memo authorizing  
17 an investigation of the Mitte Foundation, didn't you?  
18 A. That's correct.  
19 MR. BUZBEE: Let's look at that, Erick.  
20 AG Exhibit 155.  
21 Q. (BY MR. BUZBEE) And I think it's important,  
22 sir, as we're pulling that up to think about what --  
23 what you were doing then versus what you decided to do  
24 once you lawyered up, okay. That's why I'm looking at  
25 this stuff back in time.

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1 A. I --  
2 Q. AG --  
3 A. I don't -- I'm sorry. If that's a question, I  
4 have a response, but it may not be a question.  
5 Q. Okay. AG 155. This is -- this is where you,  
6 along with four -- four other individuals, approved an  
7 investigation of the Mitte Foundation; isn't that right?  
8 A. Yes, we approved this.  
9 Q. Okay. Now, let's focus on Nate Paul a little  
10 bit. Nate Paul was a major pain in the rear end, was he  
11 not?  
12 MR. BUZBEE: Take the document down so  
13 our witness is not distracted.  
14 THE WITNESS: I'm sorry. I'm just trying  
15 to -- I'm sorry. Could you repeat your question  
16 quickly?  
17 Q. (BY MR. BUZBEE) Yes, sir.  
18 Nate Paul was a major pain in the rear  
19 end, wasn't he?  
20 A. I don't know if I would describe him that way.  
21 Q. Did you ever meet him?  
22 A. I have met him, yes.  
23 Q. Was he aggressive?  
24 A. I think he was somewhat aggressive at the  
25 time.

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1 Q. Condescending sometimes?  
2 A. I think that's a fair characterization.  
3 Q. Demanding?  
4 A. Well, clearly demanding.  
5 Q. Yeah. We -- we look at AG 219.  
6 He -- he began to accuse the AG's office  
7 literally within 30 to 40 days of wrongdoing with regard  
8 to the Mitte Foundation, didn't he?  
9 A. Yes. I -- I think that's a fair  
10 characterization.  
11 Q. And he -- he claimed that the AG's office had  
12 a conflict of interest, right?  
13 A. Josh Godbey, I believe.  
14 Q. He claimed that the AG's office wasn't doing  
15 its job, right?  
16 A. In -- in so many words.  
17 Q. He claimed that the AG's office was biased in  
18 favor of the Mitte Foundation, right?  
19 A. I -- I don't recall, but he could have.  
20 MR. BUZBEE: Let's look, Erick. Go to --  
21 go to the fourth page.  
22 Pull it up, Erick. Fourth page,  
23 paragraph -- second paragraph from the top.  
24 Q. (BY MR. BUZBEE) Just so we're clear, I mean,  
25 this is -- this is within 30 -- 35, 40 days of the -- of

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1 the intervention, and he is saying that Josh Godbey is  
2 grossly negligent and also that he has a lack of  
3 openness and clear bias. Do you see that language?  
4 It's the last sentence, second paragraph.  
5 A. Ah. Yes, I see that.  
6 Q. So this -- this Nate Paul, who supposedly was  
7 given the keys to the AG's office, is accusing the AG's  
8 office of being biased, grossly negligent, right?  
9 A. Yes, he is.  
10 Q. He also was raising this issue that there was  
11 somebody who was married to the receiver in the Mitte  
12 Foundation who worked at the AG's office, right?  
13 A. There was some sort of familial relationship  
14 that he was upset about. I don't remember the  
15 specifics.  
16 Q. He was very upset that no one had ever told  
17 him that an individual who worked in the AG's office was  
18 married to the receiver in the case, right? Did I get  
19 that right?  
20 A. That -- that sounds -- that sounds familiar.  
21 I don't remember the details, but that sounds familiar.  
22 Q. Did anybody ever disclose that to him, that,  
23 you know what, just FYI, we're intervening. We're not  
24 taking sides, but we do have somebody who is working in  
25 our office for one of the parties in the case, or

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1 married to somebody working for one of the parties in  
 2 the case?  
 3 A. The receiver?  
 4 Q. Yes, sir.  
 5 A. Well, that wouldn't have been one of the  
 6 parties, but to your question about whether Nate Paul  
 7 was informed of that relationship, I'm not aware that he  
 8 was.  
 9 Q. By the AG's office?  
 10 A. Well, I'm not aware that he was.  
 11 Q. Hmm. And he sent e-mail after e-mail after  
 12 e-mail to Josh Godbey that you saw where he made  
 13 allegation after allegation after allegation against the  
 14 AG's office; isn't that right?  
 15 A. He made allegations and he made demands and  
 16 he, you know, sort of demeaned our --  
 17 Q. Yeah. He --  
 18 A. -- professionalism.  
 19 Q. He was just aggressive and mean spirited and  
 20 accusing you guys of all kinds of things, wasn't he?  
 21 A. He was certainly aggressive. I don't know  
 22 about mean spirited, but he certainly made accusations  
 23 too.  
 24 Q. I mean, when somebody calls you grossly  
 25 negligent and clearly biased, that's not very nice, is

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1 it?  
 2 A. Well, I'm a lawyer so I'm used to that.  
 3 Q. That happens to you a lot?  
 4 A. Well, not to me personally.  
 5 MR. BUZBEE: Okay. Let's look -- just so  
 6 we can close this loop, Erick, 165, please.  
 7 Q. (BY MR. BUZBEE) He claimed -- or his lawyer  
 8 claimed directly to you that the Office of the Attorney  
 9 General had a clear -- all right, let me make it  
 10 clear -- a significant conflict of interest.  
 11 A. Can I see where you're looking?  
 12 MR. BUZBEE: Yeah. Erick, bring up the  
 13 first and second paragraphs of Michael Wynne's letter --  
 14 or e-mail to Darren McCarty in September 2020.  
 15 Q. (BY MR. BUZBEE) He's accusing the AG's office  
 16 of a conflict of interest, isn't he?  
 17 A. He is. He is, yes. I mean -- yes.  
 18 Q. He's saying --  
 19 A. He's not accusing us. He's stating it, yes.  
 20 Q. He's saying that the OAG's office employs an  
 21 individual who's married to the receiver, right?  
 22 A. I see that.  
 23 Q. And he's raising all kinds of Cain about that,  
 24 too, isn't he?  
 25 A. Well, he's certainly stating it, yes.

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1 Q. Did you know he ultimately threatened a  
 2 lawsuit against the office for this very reason?  
 3 A. I remember that we received a communication I  
 4 believe after I had reported to the FBI that was putting  
 5 us on notice of claims against the office, as I recall.  
 6 Q. You were telling us that you had conversations  
 7 with Sheena Paul?  
 8 A. I did.  
 9 Q. Sheena Paul was Nate Paul's sister?  
 10 A. And lawyer.  
 11 Q. And also his lawyer?  
 12 A. That's correct.  
 13 Q. But you also had conversations with the  
 14 lawyers from Mitte Foundation, too, didn't you?  
 15 A. I did.  
 16 Q. Yeah. So when you suggested -- you weren't  
 17 trying to suggest, I'm sure, that you were only talking  
 18 to Nate Paul's lawyers. You were talking to the lawyers  
 19 for the Mitte Foundation, too, weren't you?  
 20 A. I was.  
 21 Q. Okay. You never were told by Ken Paxton take  
 22 a side, were you?  
 23 A. I was told by Ken Paxton to expedite the  
 24 termination of the litigation, if possible.  
 25 Q. Listen to my question so we can all go home.

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1 You were never told by Ken Paxton pick a  
 2 side or pick Nate Paul's side, were you?  
 3 A. He never used those words with me.  
 4 Q. Of course not.  
 5 And you -- do you remember that the --  
 6 when the news broke and the -- or the news was about to  
 7 break in the Texas Tribune being in a meeting, and you  
 8 were getting a call from the Tribune lawyer -- I'm  
 9 sorry, the Tribune reporter and they wanted you to make  
 10 a comment about the Mitte Foundation intervention?  
 11 A. I believe that I received an e-mail.  
 12 Q. Yeah. You received an e-mail. And the  
 13 allegation against you was that you had threatened the  
 14 Mitte Foundation?  
 15 A. I do recall that, yes.  
 16 Q. They -- they claimed that -- that you had told  
 17 them there would be trouble if the Mitte Foundation  
 18 didn't settle, right?  
 19 A. Yes.  
 20 Q. That's what they were going to say in the  
 21 newspaper, right?  
 22 A. Yes.  
 23 Q. And you knew that was absolutely false, didn't  
 24 you?  
 25 A. I believed that to be false, yes.

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1 Q. I mean, the newspaper was getting ready to  
2 report that you, Darren McCarty, had been making threats  
3 against the Mitte Foundation on behalf of Nate Paul,  
4 right?  
5 A. No.  
6 Q. You had been making threats against the Mitte  
7 Foundation if they didn't settle the case?  
8 A. I believe that was -- I believe that was what  
9 they intended to report, something of that nature.  
10 Q. Totally false, isn't it?  
11 A. I never threatened the Mitte Foundation.  
12 Q. That was totally false, right?  
13 A. That I made a threat?  
14 Q. Yeah.  
15 A. Yeah, that was false.  
16 Q. But they were going to run with that if you  
17 didn't respond. They told you that, didn't they?  
18 A. They did.  
19 Q. Now let's make sure we're clear about this.  
20 If you didn't respond, the Texas Tribune was going to  
21 write a story where they claimed that you threatened the  
22 Mitte Foundation with trouble if they did not settle the  
23 case. That's what they were going to report, weren't  
24 they?  
25 A. Well, that's -- that's what they were telling

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1 me at the time, as -- as I recall. I know there's an  
2 e-mail that has the words in black and white, but it was  
3 something of that nature.  
4 Q. And they were -- they kept after you for you  
5 to comment, didn't they?  
6 A. Well, I don't think they kept after me. I  
7 think they just sent it once.  
8 Q. Yeah, but that upset you pretty good, didn't  
9 it?  
10 A. Yes, it bothered me.  
11 Q. Yeah, you were animated about that, weren't  
12 you?  
13 A. I was -- I was bothered, without question.  
14 Q. And you wanted to make it clear that you never  
15 said that; never said that, right?  
16 A. That I never threatened the Mitte Foundation.  
17 Q. Because you never did, did you?  
18 A. I did not threaten the Mitte Foundation.  
19 Q. Let me ask you finally, were you --  
20 MR. BUZBEE: Let's look at AG 1020. The  
21 last bullet point.  
22 I just want to know -- we've been trying  
23 to figure out who was all involved in this. Bring that  
24 up the last bullet point. AG 1020.  
25 Q. (BY MR. BUZBEE) Were you part of the group

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1 after y'all went to the FBI that were also planning on  
2 cooking up bar complaints against your boss, Ken Paxton?  
3 Were you part of that group?  
4 A. I don't have any recollection of that.  
5 Q. That would be really wrong to be cooking  
6 things up because you felt like you had been somehow  
7 mistreated, right?  
8 A. I never considered retaliating against  
9 Ken Paxton.  
10 Q. Yeah. I mean cooking -- I mean, think about  
11 that. "Cooking something up," that sounds like we're  
12 just going to make this foolishness up so we can try to  
13 protect ourselves, right?  
14 A. I have -- I was not a participant in that  
15 conversation, and I have no idea of the context.  
16 Q. You would never --  
17 A. I have no personal knowledge.  
18 Q. You would never even say that, would you?  
19 You would never say, Let's cook up an FBI  
20 complaint. Let's cook up a bar complaint. Let's cook  
21 up a lot of foolishness because I think we're about to  
22 be fired.  
23 You would never do that, would you?  
24 Would you do that?  
25 A. Would I make a false complaint? No.

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1 Q. Okay.  
2 MR. BUZBEE: Your Honor, thank you very  
3 much. Pass the witness.  
4 PRESIDING OFFICER: Redirect,  
5 Mr. DeGuerin?  
6 REDIRECT EXAMINATION  
7 BY MR. DeGUERIN:  
8 Q. Very briefly. Mr. Buzbee asked you -- I think  
9 the answer was that there was a colorable reason to  
10 intervene, a colorable reason to intervene.  
11 What is the real reason you approved the  
12 intervention?  
13 A. Because Attorney General Paxton, who was the  
14 elected official, thought it was very important to  
15 intervene. And his reasons for that intervention were,  
16 one, that the Mitte Foundation had had past problems  
17 that the office had been involved with, and sort of, I  
18 guess, colored the Mitte Foundation's trustworthiness or  
19 something like that.  
20 And, secondly, that the Mitte Foundation  
21 was wasting money in a lawsuit that it shouldn't waste.  
22 Q. And that's what Ken Paxton told you, right?  
23 A. That is correct.  
24 Q. But you found out that wasn't true, didn't  
25 you?

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1 A. Yes. I found -- I found no evidence that the  
 2 Mitte Foundation was being improperly managed or run.  
 3 And I -- and I saw no reason to believe that the Mitte  
 4 Foundation was somehow improvidently pursuing this  
 5 lawsuit.  
 6 Q. So in the end, do you believe Ken Paxton was  
 7 telling you to act in the best interest of the Mitte  
 8 Foundation or the public interest in the Mitte  
 9 Foundation?  
 10 A. No.  
 11 Q. Yes or no?  
 12 A. No.  
 13 Q. What?  
 14 A. No, I do not.  
 15 MR. DeGUERIN: Would you bring up  
 16 Article I, please?  
 17 Q. (BY MR. DeGUERIN) Specifically, Paxton caused  
 18 employees of his office to intervene in a lawsuit  
 19 brought by the Roy F. and JoAnn Cole Mitte Foundation  
 20 against several corporate entities controlled by  
 21 Nate Paul. Paxton harmed the Mitte Foundation in an  
 22 effort to benefit Paul; is that true?  
 23 A. I believe that to be true, yes.  
 24 Q. What?  
 25 A. I believe that to be true, yes.

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1 MR. DeGUERIN: No further questions.  
 2 PRESIDING OFFICER: Recross.  
 3 REXCROSS-EXAMINATION  
 4 BY MR. BUZBEE:  
 5 Q. Tell us how the Mitte Foundation was harmed.  
 6 A. I believe the -- I believe the Mitte  
 7 Foundation was harmed in these ways: I believe, number  
 8 one, the Mitte Foundation was threatened with an  
 9 investigation by our office. I believe the Mitte  
 10 Foundation --  
 11 Q. Wait a minute. Let's take them one by one.  
 12 A. Sure.  
 13 Q. They were threatened. How does that harm  
 14 them? That doesn't harm them. You're the one that  
 15 signed off on the investigation, didn't you?  
 16 MR. DeGUERIN: I object to Mr. Buzbee  
 17 cutting off the witness when he was responding to the  
 18 question.  
 19 MR. BUZBEE: I would like to take them  
 20 one by one, Your Honor.  
 21 MR. DeGUERIN: I -- I don't care whether  
 22 he'd like to take it one by one. He was responding to  
 23 the question.  
 24 PRESIDING OFFICER: I'll sustain. You  
 25 can take it one by one, sir.

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1 A. They were threatened with an investigation.  
 2 We intervened in a lawsuit that complicated the Mitte  
 3 Foundation's litigation. I have no doubt, incurred  
 4 fees. It delayed the Mitte Foundation's lawsuit by some  
 5 amount of time, and then potentially pressured them  
 6 improperly, related to their -- related to their  
 7 litigation with the Mitte Foundation.  
 8 And ultimately, and most importantly for  
 9 me, I guess or the straw that broke the camel's back,  
 10 was that we -- our office under the -- under the  
 11 color -- well, I shouldn't say the color of our office.  
 12 Under the authority of our office, we had used the  
 13 criminal justice system to prejudice the Mitte  
 14 Foundation's interest in the lawsuit.  
 15 Q. (BY MR. BUZBEE) Wait a minute, sir. We're  
 16 talking -- we're talking about Article I. We're not  
 17 talking about Cammack. We're not talking about a  
 18 subpoena to a bank. I'm just trying to figure out in  
 19 Article I --  
 20 A. Okay.  
 21 Q. -- how did an intervention -- you think they  
 22 may have spent it more on fees. That's what you say,  
 23 maybe, right?  
 24 A. Well, I believe that they undoubtedly did.  
 25 They had to respond to our motions, and we were involved

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1 in the foundation lawsuit, and that was a complicating  
 2 factor.  
 3 Q. Maybe. You don't know that. Let's be  
 4 clear --  
 5 A. I think I do.  
 6 Q. Since we're in court, you don't know that, do  
 7 you?  
 8 A. Well, I think I do know that.  
 9 Q. All right. Tell me what their fees were, with  
 10 or without the intervention.  
 11 A. I didn't give a number and I don't have a  
 12 number.  
 13 Q. Okay. So you can't provide any testimony, any  
 14 evidence whatsoever, or how the fees were more because  
 15 of a three-month intervention; is that right?  
 16 A. I just said they were more. I didn't say how  
 17 much more.  
 18 Q. Yeah. They could have been less for all you  
 19 know.  
 20 A. I can't agree with that.  
 21 Q. You don't -- I mean, you don't know is the  
 22 point?  
 23 A. I think I do know.  
 24 Q. And so -- and what was the other thing you  
 25 said? They were threatened with an investigation?

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1 A. They were threatened with an investigation.  
 2 Q. They weren't threatened, sir. You signed off  
 3 on a memo authorizing an investigation, remember?  
 4 A. I do.  
 5 MR. DeGUERIN: I object to Mr. Buzbee  
 6 arguing with the witness, Your Honor.  
 7 PRESIDING OFFICER: Overruled.  
 8 Q. (BY MR. BUZBEE) You personally signed off on  
 9 a memo authorizing an investigation, didn't you?  
 10 A. Well, yes.  
 11 MR. BUZBEE: Objection. Nonresponsive.  
 12 THE WITNESS: Okay.  
 13 PRESIDING OFFICER: Sustained.  
 14 Q. (BY MR. BUZBEE) You personally --  
 15 A. I said, Yes.  
 16 PRESIDING OFFICER: What did you just say  
 17 to the Court?  
 18 THE WITNESS: I said, yes, I signed off  
 19 on a memo. I thought that was responsive to your  
 20 question.  
 21 Q. (BY MR. BUZBEE) No, you started your answer  
 22 with "well." And you were going into another paragraph.  
 23 I'm just asking you very specific  
 24 questions. You personally signed off and authorized an  
 25 investigation of the Mitte Foundation, didn't you?

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1 A. I did.  
 2 Q. Along with your boss, correct?  
 3 A. Yes.  
 4 Q. Along with your subordinate, correct?  
 5 A. Yes.  
 6 Q. Along with his subordinate's subordinate,  
 7 correct?  
 8 A. I don't think so.  
 9 Q. There was one other person below Josh Godbey  
 10 in the chain of command. She signed off as well, Mary  
 11 Henderson. Remember that name?  
 12 A. I do.  
 13 Q. Okay. Four different people from the AG's  
 14 office signed off on a memo to investigate the Mitte  
 15 Foundation; isn't that right?  
 16 A. That's correct.  
 17 Q. Okay. And we know that the problems with the  
 18 Mitte Foundation weren't just back in Greg Abbott's  
 19 tenure at the office. They were more recent, weren't  
 20 they?  
 21 A. I believe there was something in 2019.  
 22 Q. What was that in 2019? Do you remember?  
 23 A. I don't recall. I don't remember, no.  
 24 Q. Do you not remember the -- the CEO -- what was  
 25 the name, the CEO having to be replaced because of

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1 misconduct?  
 2 MR. DeGUERIN: I believe this is outside  
 3 the scope of the redirect, Your Honor. And I object.  
 4 MR. BUZBEE: It's actually not, Your  
 5 Honor. We talked right about this in the cross.  
 6 PRESIDING OFFICER: Overruled.  
 7 MR. BUZBEE: Thank you.  
 8 Q. (BY MR. BUZBEE) Do you not remember that?  
 9 A. I remember that there was something in 2019  
 10 concerning a member of the board or the foundation, but  
 11 I don't remember --  
 12 MR. BUZBEE: Erick --  
 13 THE WITNESS: -- the specifics.  
 14 MR. BUZBEE: -- bring up AG 33. Go to  
 15 the second page real fast.  
 16 MR. DeGUERIN: Your Honor, objection.  
 17 Again, there -- this is clearly outside the scope of  
 18 what my redirect was. I covered two very brief areas.  
 19 Nothing about any 2019 investigation.  
 20 MR. BUZBEE: Again, Your Honor, he came  
 21 back up here and tried to get the -- despite the  
 22 documents in the case, elicited from this witness  
 23 something that's 180 degrees different than the  
 24 documents. And so I'm entitled to show that his  
 25 testimony doesn't match the historical record. And

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1 that's what I'm trying to do, hopefully in five minutes.  
 2 PRESIDING OFFICER: Overruled.  
 3 MR. BUZBEE: All right, Erick. Bring up  
 4 the paragraph 1, financial status of Mitte Foundation.  
 5 Q. (BY MR. BUZBEE) What we see here is the  
 6 justification. After Greg Abbott had already had  
 7 intervention with the AG's office, this is more recent  
 8 information. Do you see that?  
 9 A. This is the memo that -- that Nate Paul's  
 10 organization sent to us. Is that what this is?  
 11 Q. That's what it is. That's what you reviewed  
 12 before you signed off on the intervention.  
 13 A. I -- I'm not trying to be argumentative. All  
 14 I'm trying to understand is what document I'm looking  
 15 at.  
 16 Q. This is something that you -- you would have  
 17 been -- of everybody in this courtroom, you would have  
 18 seen this document before anybody. You understand that,  
 19 right?  
 20 You saw this document back in June of  
 21 2020, right?  
 22 A. That sounds right, yes.  
 23 Q. Okay. And it lays out in detail all of the  
 24 financial issues with regard to the Mitte Foundation,  
 25 including its negative cash flow of \$440,000, right?

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1 A. I see what it says here.  
 2 Q. It talks about forms not being filed in a  
 3 timely fashion. Do you see that?  
 4 A. I see that it says that.  
 5 Q. It talks about the assets of the Mitte  
 6 Foundation is about 15 million. Do you see that at the  
 7 bottom bullet point?  
 8 A. I see that it sees that.  
 9 Q. And one of the concerns could have been from  
 10 the AG's office, why is a foundation in the grand scheme  
 11 of things, not a very large foundation, why is it  
 12 engaged in investing into land deals? That could have  
 13 been one of the questions raised, right?  
 14 A. It wasn't.  
 15 Q. Hmm?  
 16 A. It was not one of the questions raised.  
 17 Q. We've heard the testimony.  
 18 And let's go to the next page.  
 19 And it continues with the legal fees that  
 20 have been incurred and questions about how much the  
 21 receiver is being paid and how much the lawyers are  
 22 being paid and what the fee arrangements are. Do you  
 23 remember all of that?  
 24 A. I certainly remember that Nate Paul's  
 25 organization made these statements and these

1 allegations, yes.  
 2 Q. And so if the jurors want to see -- despite  
 3 your testimony, despite what you say now, if they want  
 4 to see in the documents the reason and justification for  
 5 the intervention, they need only look right here; isn't  
 6 that right?  
 7 A. Utterly incorrect.  
 8 Q. Uh-huh. Did you make it a practice when -- as  
 9 a lawyer or at the AG's office to sign a document that  
 10 says one thing but actually you had hidden reasons?  
 11 Because that's what you're saying. I mean, let's be  
 12 clear what you're saying.  
 13 You're saying, Hey, ladies and gentlemen,  
 14 I signed something to authorize an intervention, but I  
 15 really didn't mean it. I had other reasons for it.  
 16 That's what you're telling us all, isn't  
 17 it?  
 18 A. Absolutely not.  
 19 MR. BUZBEE: I pass the witness, Your  
 20 Honor.  
 21 THE WITNESS: There's --  
 22 MR. DeGUERIN: No further questions.  
 23 We have a housekeeping matter that we  
 24 would like to approach about.  
 25 PRESIDING OFFICER: Can we excuse the

1 witness?  
 2 MR. DeGUERIN: Yes.  
 3 PRESIDING OFFICER: You may be excused.  
 4 Both parties come up. You said you had a  
 5 housekeeping matter.  
 6 (At the bench, off the record)  
 7 (Proceedings adjourned at 7:13 p.m.)  
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1 CERTIFICATE  
 2  
 3 STATE OF TEXAS )  
 4 COUNTY OF TRAVIS )  
 5 I, MARY ORALIA BERRY, Certified Shorthand  
 6 Reporter in and for the State of Texas, Registered  
 7 Diplomate Reporter, Certified Realtime Reporter, and  
 8 Certified Realtime Captioner, do hereby certify that the  
 9 above-mentioned matter occurred as hereinbefore set out.  
 10 I further certify that I am neither  
 11 counsel for, related to, nor employed by any of the  
 12 parties or attorneys in the action in which this  
 13 proceeding was taken, and further that I am not  
 14 financially or otherwise interested in the outcome of  
 15 the action.  
 16 Certified to by me this 12th day of  
 17 September, 2023.  
 18  
 19  
 20  
 21 /s/ Mary Oralia Berry  
 22 Mary Oralia Berry, Texas CSR #2963  
 23 Texas Certified Shorthand Reporter  
 24 CSR No. 2963 - Expires 10/31/24  
 25 email: maryoberry@gmail.com

1 THE SENATE OF THE STATE OF TEXAS  
 2 SITTING AS A HIGH COURT OF IMPEACHMENT  
 3  
 4 IN THE MATTER OF §  
 5 WARREN KENNETH §  
 6 PAXTON, JR. §  
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 10 TRIAL  
 11 VOLUME 7 AM SESSION  
 12 SEPTEMBER 13, 2023  
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 24 Stenographically Reported by  
 25 Kim Cherry, CSR, RMR

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1 VOLUME 7  
2 SENATE IMPEACHMENT TRIAL  
3 September 13, 2023 PAGE VOL.  
4  
5 HBOM WITNESSES: Direct Cross Voir Dire Vol.  
6 RAY CHESTER  
7 BY MS. EPLEY 10 7  
8 BY MR. LITTLE 15  
9 ANDREW WICKER  
10 BY MS. EPLEY 32 7  
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12 LUNCH BREAK..... 116 7  
13 REPORTER'S CERTIFICATION..... 117 7  
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1 beating hearts. May we not dismiss the gravity of our  
2 actions we have here today and may we seek your wisdom,  
3 discernment, patience, and just understanding.  
4 Father, we ask you to clear and calm our minds  
5 to be ever present here so we may have pure intent in our  
6 decision making. Amen.  
7 PRESIDING OFFICER: Thank you, Senator.  
8 You-all may be seated.  
9 To both parties, there was the thought that we  
10 may have to meet this morning. Did y'all work out whatever  
11 y'all were going to work out on exhibits last night?  
12 MR. HILTON: Your Honor, we're still working  
13 through some of those issues. We didn't get exhibits from  
14 them until this morning, and so we still have some questions  
15 that we're working through. I think what we've discussed is  
16 that we can address those at the first break, or at least  
17 that's what we're working towards.  
18 PRESIDING OFFICER: All right. Thank you.  
19 Members, the time clock, the House has five  
20 hours, 17 minutes, two seconds remaining, with all time that  
21 we gave back yesterday added already into that. Respondent  
22 has nine hours, 57 minutes, and 27 seconds remaining.  
23 I want to remind the jurors that no phones are  
24 to be used on the floor, even during breaks. There may have  
25 been a little misunderstanding of that. If you are on a  
7

1 P R O C E E D I N G S  
2 September 13, 2023  
3 (9:01 a.m.)  
4 THE BAILIFF: All rise. Court of Impeachment  
5 of the Texas Senate is now in session. The Honorable  
6 Lieutenant Governor and President of the Senate Dan Patrick  
7 now presiding.  
8 PRESIDING OFFICER: Bailiff, please bring in  
9 the jury.  
10 (Senator members enter the Senate chambers)  
11 PRESIDING OFFICER: Will our Senator come up  
12 to lead us in prayer? Senator Flores today.  
13 SENATOR FLORES: Thank you, Mr. President and  
14 Members.  
15 Let us pray. Heavenly Father, we come to you  
16 this morning thankful to know the Holy Spirit surrounds us,  
17 for where two or more are gathered in your honor, you are  
18 present in our midst. Time and time again you continue to  
19 love us as your imperfect children.  
20 Lord, I ask you to forgive us our failures and  
21 sins, and through your Son we are truly forgiven and washed  
22 clean in your kingdom.  
23 Lord, we thank you, for you, God alone, are  
24 the way, the truth, and the life everlasting.  
25 Father, we come to you this morning with  
6

1 break and you need to make a call, you need to leave the  
2 chamber. No phones should be used behind the brass rail or  
3 in the court setting during -- during the time we're in  
4 session.  
5 Mr. DeGuerin, are you up first this morning?  
6 MR. DeGUERIN: No, Your Honor.  
7 Mr. Donnelly.  
8 PRESIDING OFFICER: Okay. Mr. Donnelly?  
9 MS. GRAHAM: Mr. President, we call Laura  
10 Olson to the stand.  
11 PRESIDING OFFICER: Laura Olson? The bailiff  
12 will bring Laura Olson.  
13 MR. COGDELL: Judge, we need to approach one  
14 second.  
15 PRESIDING OFFICER: Yes.  
16 Hold on, Bailiff. One second.  
17 Please come up.  
18 (Conference at the bench off the record)  
19 PRESIDING OFFICER: Members, so you're clear  
20 on the rules and the agreement that we made with both parties  
21 before the trial, that witnesses must be given 24-hour  
22 notice. And Ms. Olson was put on the list at 3:53 yesterday,  
23 so she would not be eligible until 3:53 today.  
24 And the same thing applies: Either side can  
25 put on a witness on their list up till noon that they can  
8

1 call in the morning the next morning; but after that, it's  
 2 when they put them on the list. The defense has someone on  
 3 the list for later this afternoon, for example, that they  
 4 can't call up until then if they choose to.  
 5 So with that, Mr. DeGuerin.  
 6 MR. DeGUERIN: Yes, Your Honor. Ms. Epley  
 7 will call Ray Chester as the next witness.  
 8 PRESIDING OFFICER: Bailiff will bring in Ray  
 9 Chester.  
 10 And, Members, the reason for that was so each  
 11 side can prepare for a witness in time when they appear.  
 12 (Ray Chester entered the Senate chamber)  
 13 PRESIDING OFFICER: Mr. Chester, if you'll  
 14 raise your right hand.  
 15 I do solemnly swear or affirm that the  
 16 evidence I give upon this Senate of the Texas impeachment  
 17 charges against Warren Keith Paxton, Jr. shall be the truth,  
 18 the whole truth, and nothing but the truth, so help me God?  
 19 THE WITNESS: I do.  
 20 PRESIDING OFFICER: Please have a seat. And  
 21 as we encourage everyone, be close to the mic as you can.  
 22 THE WITNESS: I'm sorry?  
 23 PRESIDING OFFICER: To be as close to the  
 24 microphone as you can be when you speak. Thank you.  
 25 MS. EPLEY: May I proceed?

1 PRESIDING OFFICER: You may proceed,  
 2 Ms. Epley.  
 3 MS. EPLEY: Thank you, Mr. President.  
 4 RAY CHESTER,  
 5 having been first duly sworn, testified as follows:  
 6 DIRECT EXAMINATION  
 7 BY MS. EPLEY:  
 8 Q. Please introduce yourself to the ladies and  
 9 gentlemen of the Senate.  
 10 A. My name is Ray Chester.  
 11 Q. And, Mr. Chester, what do you do for a living?  
 12 A. I'm an attorney in private practice. I'm a partner  
 13 at the Austin law firm of McGinnis Lochridge.  
 14 Q. Are you the same Ray Chester that we might have  
 15 heard connected to the Mitte Foundation and issues with the  
 16 Office of the Attorney General in 2020?  
 17 A. Yes. I've represented the Mitte Foundation since  
 18 2016.  
 19 Q. And where is the Mitte Foundation located?  
 20 A. Currently they're mainly located in Brownsville.  
 21 Q. Okay. What does the Mitte Foundation do?  
 22 A. Currently -- well, they were started by Roy Mitte  
 23 who grew up dirt poor in Brownsville and a self-made man.  
 24 It's -- it's actually a family foundation. It's not a public  
 25 charity. They don't -- they don't accept public donations.

1 And for many years, they mainly provided scholarships to  
 2 needy students. And in recent years, they've shifted their  
 3 focus back to Roy's hometown of Brownsville, and they've  
 4 developed the Mitte Cultural District in Brownsville.  
 5 Q. Who runs the Mitte Foundation now?  
 6 A. Roy's grandson, R.J. Mitte. R.J. was born with  
 7 cerebral palsy. You may know him as Walt Jr. from the TV  
 8 show Breaking Bad. He's an accomplished actor. More  
 9 importantly, he's an international spokesperson on  
 10 disabilities and the rights of the disabled. He's worked  
 11 with the United Nations, the State Department, United  
 12 Cerebral Palsy Foundation, and he gives motivational speeches  
 13 to students on anti-bullying and overcoming disabilities.  
 14 Q. Thank you, sir.  
 15 The Mitte Foundation has been disparaged  
 16 somewhat over the last couple of days in regards to prior  
 17 management. How long ago were those issues?  
 18 A. They were in the 2000s, and the Mitte Foundation  
 19 received a clean bill of health in 2011 and has been squeaky  
 20 clean ever since.  
 21 Q. Has management changed since that date?  
 22 A. Yes. The problems were Roy's son and R.J.'s dad --  
 23 Q. Let me interrupt you, Mr. Chester.  
 24 A. I'm sorry.  
 25 Q. I'm sorry. I'm on a time clock, and I expect they

1 might ask you those questions.  
 2 A. Okay.  
 3 Q. What I'm trying to determine is, is there any  
 4 rational basis given the change of management and the time  
 5 frame for the Office of the Attorney General to use those  
 6 issues to justify intervention?  
 7 MR. LITTLE: Objection --  
 8 A. None --  
 9 MR. LITTLE: Objection, Mr. President, calls  
 10 for speculation and improper opinion by this witness without  
 11 a predicate.  
 12 PRESIDING OFFICER: Overruled.  
 13 Q. (BY MS. EPLEY) You may answer the question.  
 14 A. None whatsoever.  
 15 Q. Let me turn your attention quickly then to the  
 16 settlement from World Class Holdings that we've heard in  
 17 detail. What was that settlement value?  
 18 A. We settled in July of 2019 for ten and a half  
 19 million dollars.  
 20 Q. After the breach of contract, what did the Office  
 21 of the Attorney General push you to settle for at mediation?  
 22 MR. LITTLE: Objection, hearsay.  
 23 PRESIDING OFFICER: Sustained.  
 24 MS. EPLEY: Your Honor, if I may. He was  
 25 present at the interactions. It's an operative fact, and

1 it's already in the record. There is no harm from the  
 2 hearsay.  
 3 PRESIDING OFFICER: I ruled.  
 4 MR. LITTLE: And, Mr. President, to be clear,  
 5 because this may come up again, all of these conversations  
 6 would be privileged under Texas Rule of Evidence 408 as  
 7 settlement discussions as well.  
 8 Q. (BY MS. EPLEY) Mr. Chester, would you or the Mitte  
 9 Foundation have an opinion as to whether or not you're  
 10 interested in waiving that privilege?  
 11 A. We are willing to waive that privilege.  
 12 Q. In that case, what would the results have been of  
 13 you agreeing to settle at the mediation with Darren McCarty?  
 14 MR. LITTLE: Objection, calls for speculation  
 15 and hearsay.  
 16 PRESIDING OFFICER: Overruled.  
 17 A. We would have received pennies on the dollar.  
 18 Q. (BY MS. EPLEY) Do you have an approximate value,  
 19 or do you recall the number that you were pushed to accept?  
 20 A. The only firm offer was --  
 21 MR. LITTLE: Objection, Mr. President,  
 22 hearsay.  
 23 MS. EPLEY: Your Honor, it's an admission by a  
 24 party opponent. It was an action on behalf of Ken Paxton by  
 25 the Office of the Attorney General, and it's integral to the

1 facts of this case.  
 2 MR. LITTLE: And there are -- there is no  
 3 evidence of that, none.  
 4 MS. EPLEY: The evidence comes from the  
 5 witness as it always does in trial.  
 6 PRESIDING OFFICER: One moment.  
 7 Overruled.  
 8 Q. (BY MS. EPLEY) Let me do it this way since  
 9 relevant facts are already in the record for the Senate to  
 10 consider.  
 11 What is the end result considering that you  
 12 were able to proceed with litigation?  
 13 A. We are poised to wrap up the litigation. The  
 14 partnership properties are under contract. Mitte stands to  
 15 receive approximately \$23 million.  
 16 Q. And when you say "stands to receive," is that up to  
 17 whether or not Nate Paul or World Class Holdings chooses to  
 18 pay you?  
 19 A. No. Fortunately, we're not depending on that  
 20 because that would be fruitless. We will be paid out of the  
 21 sales proceeds.  
 22 Q. So the \$23 million will come out of the sale of the  
 23 property itself without any decision-making on the part of  
 24 Nate Paul or World Class Holdings?  
 25 A. Correct.

1 Q. Is that a delta of almost \$18 million in loss if  
 2 you had taken prior deals?  
 3 MR. LITTLE: Objection, leading.  
 4 PRESIDING OFFICER: Sustained.  
 5 Q. (BY MS. EPLEY) What is the difference between  
 6 those values and where you ended up?  
 7 A. It's going to be about \$17 million more than we  
 8 were offered when the Attorney General was involved.  
 9 Q. Thank you.  
 10 MS. EPLEY: Pass the witness.  
 11 PRESIDING OFFICER: Mr. Little.  
 12 MR. LITTLE: Mr. President.  
 13 CROSS-EXAMINATION  
 14 BY MR. LITTLE:  
 15 Q. Mr. Chester, how much money did your client, the  
 16 Mitte Foundation, invest with Nate Paul?  
 17 A. Three million -- well, in these two projects,  
 18 three million dollars. There were some other projects as  
 19 well.  
 20 Q. Okay. But the three -- the projects that are at  
 21 issue in the litigation we are here to talk about, the Mitte  
 22 Foundation invested three million dollars in charitable funds  
 23 with Nate Paul, correct?  
 24 A. With family foundation funds, yes.  
 25 Q. Yes. And when we say "family foundation funds,"

1 those are funds that were committed by the family to the  
 2 charity, true?  
 3 A. Yes.  
 4 Q. Okay. And of those three million dollars that were  
 5 invested in this program with Nate Paul, which is -- it's  
 6 really a private equity real estate deal, right?  
 7 A. It's a limited partnership.  
 8 Q. Yeah, which we generally refer to as a private  
 9 equity deal, right?  
 10 A. There's a slight nuance difference, but it's  
 11 similar.  
 12 Q. Yeah, it's very similar. You -- you're in business  
 13 litigation, correct?  
 14 A. Yes.  
 15 Q. You've been in business litigation a long time,  
 16 right?  
 17 A. Yes.  
 18 Q. How many years?  
 19 A. Well, I've -- I've focused on commercial litigation  
 20 about the last ten years. Before that I did other things.  
 21 Q. Okay. I just want to make sure that I can  
 22 harmonize this for everybody. The Mitte Foundation invested  
 23 three million dollars with Nate Paul, and they're going to  
 24 get \$23 million back, right?  
 25 A. Right. We invested in 2010, 2011, yes, sir.

1 Q. Right. So who at the charity made the decision to  
 2 invest charitable funds in a private equity real estate deal?  
 3 A. That would have been the board at the time.  
 4 Q. And how many years did you say you've been doing  
 5 business litigation?  
 6 A. You know, full time, ten; off and on, my whole  
 7 career.  
 8 Q. Okay. Have you ever seen a charity make a three  
 9 million dollars investment in a private equity real estate  
 10 deal before this?  
 11 A. Yes, sir.  
 12 Q. Yeah? Do you remember the circumstance?  
 13 A. No. And I don't think it was exactly three  
 14 million, but I just don't think it's an uncommon occurrence.  
 15 They actually had four successful investments with Mr. Paul  
 16 before his troubles arose.  
 17 Q. I -- I want to make sure that the jury heard that  
 18 because I don't think I heard it very clearly. What did you  
 19 just say?  
 20 A. I said that they had a total of six investments,  
 21 and the first three they made money on. The fourth one he  
 22 tried to swindle them. They still made money. And now  
 23 there's two remaining.  
 24 Q. Okay. But the one that you're saying Nate Paul  
 25 tried to swindle them on, that's the one they're going to

1 make \$23 million -- they're going to make -- I'm sorry.  
 2 You're shaking your head at me.  
 3 A. No, I -- I may have misled you. The last two are  
 4 the ones that they're going to make 23 million on. The  
 5 fourth one was the one he tried to swindle them on.  
 6 Q. Okay. That has nothing to do with the litigation?  
 7 A. Not really, no.  
 8 Q. So the Mitte Foundations have been long-time -- the  
 9 Mitte Foundation has been a long-time investor with Nate Paul  
 10 before having anything to do with the Attorney General; is  
 11 that right?  
 12 A. Yes.  
 13 Q. Okay. During the pendency of your representation,  
 14 has leadership of the Mitte Foundation changed?  
 15 A. Yes.  
 16 Q. And do you know a man named Dilum -- Dilum  
 17 Chandrasoma?  
 18 A. I do.  
 19 Q. And he is no longer with the foundation; is that  
 20 right?  
 21 A. That's right.  
 22 Q. And what were the circumstances, Mr. Chester, under  
 23 which he exited that --  
 24 A. He was --  
 25 Q. -- foundation?

1 A. He was arrested in 2019 for a domestic incident.  
 2 The charges were later dropped, but we immediately asked him  
 3 to resign.  
 4 Q. He was accused of beating his wife and son, I  
 5 think?  
 6 A. I don't know the details, but it was some type of  
 7 domestic violence incident.  
 8 Q. Something like that?  
 9 A. Charges were dropped though.  
 10 Q. I see. On a -- on an affidavit of nonprosecution  
 11 I'm sure by his family, true?  
 12 A. I don't know, but we asked him to retire  
 13 nonetheless.  
 14 Q. Now, by the time the AG's Office intervened in your  
 15 pending action, your client had spent almost \$800,000 or so  
 16 with you, true?  
 17 A. Right. Most of that after --  
 18 MS. EPLEY: Objection, Your Honor,  
 19 relevance.  
 20 PRESIDING OFFICER: Overruled.  
 21 A. Right. Most of that after Mr. Paul defaulted on a  
 22 settlement, yes.  
 23 Q. (BY MR. LITTLE) Okay. So just to be clear, your  
 24 law firm charged -- and I want to make sure that we have this  
 25 in order. These are charitable funds that the foundation is

1 paying you with, right?  
 2 A. Yes.  
 3 Q. And you had charged that client almost \$800,000,  
 4 right?  
 5 A. At reduced rates --  
 6 MS. EPLEY: Objection, Your Honor.  
 7 A. -- since it was a charity.  
 8 MS. EPLEY: I'm sorry. Objection, Your Honor,  
 9 relevance. If I could take him on a brief voir dire, I would  
 10 be able to establish why attorney's fees are irrelevant to  
 11 any conversation here.  
 12 MR. LITTLE: Mr. President, we don't voir dire  
 13 on relevance. The clear relevance of this is, this is how  
 14 the Mitte Foundation uses its money. It's at issue on  
 15 direct; it's at issue now.  
 16 PRESIDING OFFICER: Overruled.  
 17 MS. EPLEY: It is also recuperate --  
 18 PRESIDING OFFICER: Overruled.  
 19 Q. (BY MR. LITTLE) Okay. So you were charging, I  
 20 believe, \$450 an hour to the foundation, right?  
 21 A. At that time, yes.  
 22 Q. And that's well below your rack rate of 625 at the  
 23 time, right?  
 24 A. Might have been 715 at the time. But, yes, it was  
 25 well below my normal rate.

1 Q. And what's your rate now?  
 2 A. My standard rate is 715.  
 3 Q. Okay. And you had already -- by the point the  
 4 OAG's office intervened in the dispute, you had already gone  
 5 through a AAA arbitration, correct?  
 6 A. We were just getting going in a AAA arbitration.  
 7 Q. And I'm sorry, this is -- you and I are both  
 8 business litigators, so this may be a little inside baseball,  
 9 but AAA is American Arbitration Association, yes?  
 10 A. Right.  
 11 Q. Yes. And so what had happened was, you on behalf  
 12 of your client filed a AAA proceeding to arbitrate a dispute  
 13 with Nate Paul's businesses, right?  
 14 A. Actually, Nate Paul filed it, but yes.  
 15 Q. But you had counterclaims, right?  
 16 A. Yes, we did.  
 17 Q. And you prevailed, right?  
 18 A. We won, yes.  
 19 Q. But to be fair, you never gave the Attorney  
 20 General's Office notice of that proceeding as is required by  
 21 law, true?  
 22 A. I believe the law requires notice of a lawsuit, and  
 23 there was a lawsuit, and I was a little late giving them  
 24 notice.  
 25 Q. You were probably close to a year late, right,  
 21

1 something like that?  
 2 A. I --  
 3 Q. I'm not --  
 4 A. Yes. However, the lawsuit was dormant for most of  
 5 that year, but yes.  
 6 Q. I'm not being accusatory. You -- you just didn't  
 7 know.  
 8 A. I didn't know.  
 9 Q. Yeah.  
 10 A. The judge -- the judge told me -- she was the  
 11 former head of charitable trusts, and she said, Have you  
 12 given the AG's Office notice? I'm like, Oh, my God, and so I  
 13 sent it the next day.  
 14 Q. Of course, of course. So the pendency of the  
 15 intervention by the Attorney General's Office, it lasted a  
 16 total of about three months, right?  
 17 A. Approximately.  
 18 Q. Okay. Between us business litigators, three months  
 19 is nothing in the life of business litigation, is it?  
 20 A. Well, this has been going on five years, so I  
 21 recognize your point. But those were some crucial three  
 22 months that cost us a lot of time and money.  
 23 Q. Well, I want to talk about what happened during  
 24 that period of time. So at some point, the Office of the  
 25 Attorney General intervened, and that's -- well, why don't we  
 22

1 just go ahead and pull it out so everybody has it in the  
 2 record. I'm going to show you what's been previously marked  
 3 as Exhibit AG 156.  
 4 MR. LITTLE: May I approach the witness, Your  
 5 Honor?  
 6 PRESIDING OFFICER: Yes.  
 7 THE WITNESS: Am I doing okay with the  
 8 microphone?  
 9 PRESIDING OFFICER: Very well.  
 10 MR. LITTLE: Now, if you would, Mr. Arroyo,  
 11 Exhibit AG 156. Thank you.  
 12 Q. (BY MR. LITTLE) And, Mr. Chester, just tell the  
 13 jury, when was this filed?  
 14 A. June 8th of 2020, ten days after the stay was  
 15 lifted.  
 16 Q. Okay. Now I'm going to hand you a really big  
 17 document.  
 18 A. Oh, my Lord.  
 19 Q. I know. That's what I said too.  
 20 Now, this is the transcript of the hearing on  
 21 your motion for sanctions, okay?  
 22 A. Okay. Which -- which one? We had about eight of  
 23 those.  
 24 Q. You got a bunch of them, right?  
 25 This one is from June 25, 2020, 17 days after  
 23

1 the AG's Office intervened.  
 2 A. Okay.  
 3 Q. It's marked as AG Exhibit 13.  
 4 PRESIDING OFFICER: Mr. Little, are you  
 5 entering this into evidence?  
 6 MR. LITTLE: I am, Mr. President. This is AG  
 7 Exhibit 13. We move for admission.  
 8 MS. EPLEY: No objection.  
 9 PRESIDING OFFICER: I was glad you say you  
 10 didn't want to read it. We would have been here for awhile.  
 11 No objection, enter 0013 into evidence.  
 12 (AG Exhibit No. 13 was admitted)  
 13 MR. LITTLE: Thank you.  
 14 Q. (BY MR. LITTLE) Now, Mr. Chester, as a litigator,  
 15 if the AG's Office were going to intervene to help Nate Paul,  
 16 your motion for sanctions and the receiver's motion for  
 17 contempt and sanctions is probably a pretty good time to do  
 18 it, huh?  
 19 A. I couldn't comment on that.  
 20 Q. Well, why don't you hold --  
 21 A. I'm not -- I'm not sure what you mean.  
 22 Q. This is 433 pages. Why don't you just hold this  
 23 booger up for the jury, if you would. Hold it up for them so  
 24 they can see it.  
 25 A. The transcript is only about a first third; the  
 24

1 rest of it's exhibits, but --  
 2 Q. Yes. And this was a lengthy hearing. You argued,  
 3 you introduced evidence, offered and admitted it, true?  
 4 A. Yes, sir. I did my best.  
 5 Q. It looks like you did. It looks you did a very  
 6 good job. You won this hearing, right?  
 7 A. I believe so, yes.  
 8 Q. Did the Office of the Attorney General fight for  
 9 Nate Paul on any of it?  
 10 A. Not in this hearing.  
 11 Q. They didn't try to keep them out of contempt; they  
 12 didn't try to keep them out of discovery sanctions, did they?  
 13 A. Not in this hearing.  
 14 Q. At some point in time toward the end of the June --  
 15 toward the end of June, so maybe about three weeks or so, two  
 16 to three weeks after the intervention, you were contacted  
 17 about doing a mediation by someone at the AG's Office, true?  
 18 A. I was contacted almost daily about that from --  
 19 from the moment the intervention was filed.  
 20 Q. And to be clear for the jury who may or may not be  
 21 civil litigators -- I know some of them are -- mediation is  
 22 just a formal settlement conference presided over by a  
 23 mediator, yes?  
 24 A. Right. This would have been our third one in this  
 25 case.

25

1 Q. Yes. And so what the AG's Office was proposing was  
 2 to have the parties, the Mitte Foundation and the Nate Paul  
 3 entities, come together with a mediator to see if they could  
 4 reach a settlement, true?  
 5 A. Yes. It would have been the third mediation, and  
 6 we had already settled the case. But yes, sir, you are  
 7 correct.  
 8 Q. Okay. And to be clear, one of -- you could not  
 9 settle the case, correct?  
 10 A. Explain, please.  
 11 Q. Yeah. You couldn't settle the case, and one of the  
 12 reasons was your other SEC attorneys or -- well, let me --  
 13 let me try to back into this a little bit differently.  
 14 How many lawyers do you have at McGinnis  
 15 Lochridge?  
 16 A. 70 or so.  
 17 Q. Do you have securities enforcement attorneys?  
 18 A. Securities enforcement attorneys, no, we do not.  
 19 Q. Okay. Do you have securities litigators at your  
 20 firm?  
 21 A. You're -- you're looking at him.  
 22 Q. I'm looking at him?  
 23 A. Yes, sir.  
 24 Q. You're a man of many talents, aren't you? So --  
 25 A. I know a little bit about everything and not a lot

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1 about anything.  
 2 Q. That's great. Speaks very highly of you.  
 3 So, Mr. Chester, at this point in time, one of  
 4 the concerns that you had was back in 2019 when Nate Paul was  
 5 raided, the SEC had someone involved in that raid, true?  
 6 A. That was -- yes.  
 7 Q. And one of your concerns about settling the case by  
 8 the Mitte Foundation against Nate Paul and his entities was  
 9 that if the SEC sued Nate Paul and got a receiver appointed,  
 10 that receiver might try to disgorge the settlement, yes?  
 11 A. We call that clawback, and that was a concern.  
 12 Q. Yes. And it was a concern that you had and a very  
 13 good reason not to settle, true?  
 14 A. And I expressed that to the Attorney General's  
 15 Office on multiple occasions, yes, sir.  
 16 Q. To whom at the Attorney General's Office?  
 17 A. Josh Godbey and Darren McCarty.  
 18 Q. And Darren McCarty was -- well, you used a word to  
 19 describe him in your testimony before the House, right?  
 20 A. That was --  
 21 Q. What word did you use?  
 22 A. That was indiscreet.  
 23 Q. What word did you use to describe him?  
 24 A. It begins with an A and it ends with an E and it  
 25 has seven letters.

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1 Q. Okay. But you don't have any evidence that Ken  
 2 Paxton ordered him to be an a-hole to you, do you?  
 3 A. Other than what Mr. McCarty told me.  
 4 Q. Oh, other than what Mr. McCarty told you, no?  
 5 A. Right.  
 6 Q. Okay. To be clear, maybe Darren McCarty was just  
 7 born that way, right?  
 8 A. Or maybe he was just doing what he was told.  
 9 Q. But you don't know either way, do you?  
 10 A. I don't know either way.  
 11 Q. I didn't think so.  
 12 At some point in time, bankruptcy entered the  
 13 discussion in this litigation, true?  
 14 A. Mr. Paul filed bankruptcy five minutes before the  
 15 deposition of his vice president of accounting, yes, sir.  
 16 Q. Okay. And what -- just tell the ladies and  
 17 gentlemen of the jury, what happens when you file a  
 18 bankruptcy petition on behalf of an entity in litigation?  
 19 A. There's an automatic stay in all litigation  
 20 involving that entity.  
 21 Q. Okay. I'm going to approach you with what has been  
 22 mark as Exhibit AG 212. And while I'm up there, I'm going to  
 23 give you AG 41, too to save time. Okay?  
 24 A. Okay.  
 25 MR. LITTLE: Mr. President, we move for

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1 admission of Exhibits AG 212 and 41.  
 2 PRESIDING OFFICER: 41 has been preadmitted,  
 3 so it's on our books.  
 4 MR. LITTLE: Thank you, Mr. President.  
 5 PRESIDING OFFICER: 212, any objection?  
 6 MS. EPLEY: No, Your Honor. Like most  
 7 exhibits, these match things we would produce on our own.  
 8 MR. LITTLE: Mr. Arroyo, if you would, Exhibit  
 9 AG 212.  
 10 PRESIDING OFFICER: Please admit 212 into  
 11 evidence.  
 12 (AG Exhibit No. 212 was admitted)  
 13 Q. (BY MR. LITTLE) Exhibit 212 is a letter from you,  
 14 true?  
 15 A. Yes, sir.  
 16 Q. Okay. And you -- you're writing to Elizabeth  
 17 Deichmann. Who is Elizabeth Deichmann?  
 18 A. She was a court administrator for one of the judges  
 19 in Travis County district court.  
 20 Q. Okay. And you're notifying her of removing a -- a  
 21 briefing deadline, I guess, as a result of a bankruptcy  
 22 filing; is that right?  
 23 A. Yes. When -- as we discussed, when the automatic  
 24 stay kicks in and everything stops, but the judges don't  
 25 necessarily know that, so it's customary to notify them.

1 Q. Okay. So I just want to be clear. For one of the  
 2 months -- one of the three months that the AG was intervened  
 3 in this lawsuit, it was subject to the automatic stay, right?  
 4 A. Right, although we were litigating like crazy in  
 5 bankruptcy court.  
 6 Q. Yeah. But AG wasn't part of that, true?  
 7 A. I don't believe so.  
 8 Q. They were a noticed party, but they weren't part of  
 9 the litigation in bankruptcy court, true?  
 10 A. I don't believe they appeared in bankruptcy court.  
 11 Q. Okay. So to be fair, you're litigating with this  
 12 guy on behalf of the Mitte Foundation all over the place,  
 13 AAA, state district court, multiple -- multiple lawsuits,  
 14 bankruptcy court.  
 15 A. Eight appeals.  
 16 Q. Eight appeals. And all that's with charitable  
 17 money, right?  
 18 A. Yes, sir.  
 19 Q. Okay.  
 20 A. Trying to get our charitable money back, yes, sir.  
 21 Q. And -- I believe you. And it sounds like you're  
 22 going to get over seven times the initial capital outlay  
 23 back, right?  
 24 A. Long, hard fight, but yes, sir.  
 25 Q. Okay. And to be clear for the ladies and gentlemen

1 of the jury, in the previous two months before that  
 2 bankruptcy filing by Nate's entity -- Nate Paul's entity in  
 3 this litigation, the AG's Office was trying to foster a  
 4 settlement between the parties, true?  
 5 A. Yeah, they were trying to force a settlement on us.  
 6 Q. When you say "force," they can't force you to do  
 7 anything, can they?  
 8 A. They were applying pressure. They did not -- they  
 9 weren't successful, but they tried.  
 10 Q. They couldn't force you to do anything, could they?  
 11 A. I'll stand by my previous answer. They were  
 12 trying, but they could not force us.  
 13 Q. I appreciate your answer, but I need an answer to  
 14 my question.  
 15 A. Okay.  
 16 Q. The Office of the Attorney General could not force  
 17 you to settle anything, true?  
 18 A. No. Just pressure us.  
 19 MR. LITTLE: No further questions.  
 20 PRESIDING OFFICER: Redirect?  
 21 MS. EPLEY: No, Mr. President. Thank you.  
 22 PRESIDING OFFICER: Are both sides excusing  
 23 the witness?  
 24 MS. EPLEY: Yes, Your Honor.  
 25 MR. LITTLE: We release this witness.

1 PRESIDING OFFICER: Thank you.  
 2 THE WITNESS: Thank you, Mr. President.  
 3 MS. EPLEY: The House calls Andrew Wicker.  
 4 PRESIDING OFFICER: Bailiff, bring in Andrew  
 5 Wicker.  
 6 (Andrew Wicker entered the Senate chamber)  
 7 PRESIDING OFFICER: Mr. Wicker, please raise  
 8 your right hand.  
 9 I do solemnly swear or affirm that the  
 10 evidence I give upon this hearing by the Senate of Texas of  
 11 impeachment charges against Warren Keith Paxton, Jr. shall be  
 12 the truth, the whole truth, nothing but the truth, so help me  
 13 God?  
 14 THE WITNESS: I do.  
 15 PRESIDING OFFICER: Please be seated.  
 16 MS. EPLEY: May I proceed, Mr. President?  
 17 PRESIDING OFFICER: You may proceed.  
 18 MS. EPLEY: Thank you.  
 19 ANDREW JAMES WICKER,  
 20 having been first duly sworn, testified as follows:  
 21 DIRECT EXAMINATION  
 22 BY MS. EPLEY:  
 23 Q. Please state your name for the record.  
 24 A. Andrew James Wicker.  
 25 Q. Mr. Wicker, it's a large room. Yeah.

1 A. Okay. Andrew James Wicker.  
 2 Q. Thank you. I appreciate it.  
 3 Tell us a little bit about your background.  
 4 Where did you grow up? Where did you go to school?  
 5 A. I went to school at Prestonwood Christian Academy.  
 6 That's where I graduated from high school. I grew up in  
 7 Prosper, Texas, a little town north of Frisco, Texas, in  
 8 north Dallas.  
 9 Q. Let me pause you for a moment.  
 10 A. Okay.  
 11 MS. EPLEY: Can y'all hear him well enough?  
 12 A. No? Okay. How about this?  
 13 Q. (BY MS. EPLEY) Thank you. Much better.  
 14 A. All right.  
 15 Q. Please, go ahead.  
 16 A. My name is Andrew James Wicker. I grew up in  
 17 Prosper, Texas. I grew up going to school at Prestonwood  
 18 Christian Academy which is where I graduated from high  
 19 school. I then continued on to go to SMU for undergrad, and  
 20 then I went on to a graduate degree at Georgetown University.  
 21 Q. Okay. Can you tell us a little bit about what  
 22 activities you were involved in in college or in -- while  
 23 getting your master's?  
 24 A. In terms of my involvement in college, my first job  
 25 was working for Don Huffines on his Senate campaign. And

1 then I continued on to later be involved with founding the  
 2 Young Americans for Freedom chapter at SMU where I served as  
 3 vice president. And then I helped refound the College  
 4 Republicans for SMU.  
 5 I ended up working with several student  
 6 organizations on a 9-11 flag memorial and pro-life memorial.  
 7 We had a tiff, I would say, with the administration. And so  
 8 I got involved in politics in that way. And then I continued  
 9 on to Georgetown and landed in D.C. for my graduation. And  
 10 then I went to work for General Paxton.  
 11 Q. Okay. Do you recall approximately what time or the  
 12 date that you went to work for Ken Paxton?  
 13 A. My employment with the OAG started September of  
 14 2019.  
 15 Q. How did you originally meet Mr. Paxton?  
 16 A. I had met General Paxton previously both as my  
 17 state senator but also as the Attorney General at various  
 18 Lincoln Reagan Day Dinners. In terms of my employment and  
 19 the opportunity to start working for him, I met him through  
 20 Marc Rylander who was a previous associate in North Texas in  
 21 terms of my community. And I was recommended for the  
 22 position by Marc Rylander to General Paxton. And that's  
 23 whenever I met him at the Marriott Marquis in D.C., and I was  
 24 hired.  
 25 Q. Okay. If Jeff Mateer was the first assistant, did

1 Mr. Rylander have a nickname as well?  
 2 A. He was known commonly as the first friend.  
 3 Q. Okay. And through that connection, you end up  
 4 working at the Office of the Attorney General in what role?  
 5 What did you do?  
 6 A. My title was executive aide to the Texas Attorney  
 7 General, and then I was also on the campaign staff as well.  
 8 Q. And what does an executive aide do?  
 9 A. My responsibilities expanded and contracted as --  
 10 as I also had to assume scheduling responsibilities. We had  
 11 two schedulers during my time there. Whenever we did not  
 12 have a scheduler, I assumed those responsibilities. But my  
 13 standard job responsibilities during -- whenever I was  
 14 performing the functions as an executive aide was to ensure  
 15 that the General was going to his schedule on time, that he  
 16 was prepared for those appointments, and that -- and that he  
 17 had all necessary documents and context to the -- to the  
 18 discussions that he was having for that day.  
 19 Q. That sounds like a great deal of access to the  
 20 Attorney General; is that fair?  
 21 A. Yes.  
 22 Q. Approximately how much time did you spend with each  
 23 other in any given day?  
 24 A. At least eight hours, normally closer to probably  
 25 ten.

1 Q. And was that just weekdays or weekends as well?  
 2 A. That would include weekends.  
 3 Q. How often was Attorney General Ken Paxton in  
 4 Houston -- I mean, in Austin in 2020?  
 5 A. This was during COVID. So after probably the first  
 6 three or four weeks of COVID setting in, he spent the  
 7 majority of his time in Austin starting in probably about  
 8 April, May time frame through the remainder of 2020.  
 9 Q. And where was Senator Angela Paxton?  
 10 A. She regularly split her time both between their  
 11 home in McKinney and in Austin.  
 12 Q. What was your relationship with the Paxtons  
 13 individually and as a couple?  
 14 A. Individually, I would call General Paxton as -- as  
 15 a friend. I spent a great deal of time with him. He and I  
 16 bonded over a good number of activities, such as watching  
 17 football, sometimes talking politics, but just -- just  
 18 talking life.  
 19 With Senator Paxton, I would say that she was  
 20 nothing but loving and caring. I think she also understood  
 21 that the demands of the job kept me away from my family. So  
 22 in many ways, she was kind and understanding in the way that  
 23 a mother would be normally.  
 24 As a couple, I would say that they were  
 25 incredibly welcoming and caring to me and always inclusive.



1 Q. So fair to say there's no animosity or bad blood  
 2 between you and the Paxtons?  
 3 A. Not from me, no.  
 4 Q. Are you part of some vast conspiracy to harm them?  
 5 A. No.  
 6 Q. Are you in league with TLR or the Bushes?  
 7 A. No.  
 8 Q. Are you here to tell the truth?  
 9 A. Yes.  
 10 Q. I'm going to turn your attention to Nate Paul. Are  
 11 you familiar with that name?  
 12 A. Yes.  
 13 Q. How so?  
 14 A. During 2020 I was introduced to Nate Paul, and  
 15 there were a number of activities and discussions that  
 16 revolved around Nate Paul throughout 2020.  
 17 Q. Can you tell me the first time you remember hearing  
 18 of Nate Paul or meeting him?  
 19 A. The first time I remember meeting Nate Paul would  
 20 have been February or March of 2020. General Paxton and I  
 21 met him for lunch at Terry Black's Barbecue.  
 22 Q. Was it just the three of you?  
 23 A. It was.  
 24 Q. And what was the topic of conversation?  
 25 MR. BUZBEE: Objection, hearsay.

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1 MS. EPLEY: Your Honor --  
 2 PRESIDING OFFICER: Sustained.  
 3 MS. EPLEY: May I please respond? Anything  
 4 from Ken Paxton is an admission by a party opponent. Nate  
 5 Paul is very clearly tied to a conspiracy, at least in terms  
 6 of the evidence before this Senate, and Drew Wicker is  
 7 available for cross-examination. None of that evidence is  
 8 hearsay.  
 9 MR. BUZBEE: Again, Your Honor, the question  
 10 she asked, she did not specify who was talking. Anything  
 11 Nate Paul may or may not have said would be hearsay.  
 12 PRESIDING OFFICER: Sustained.  
 13 Q. (BY MS. EPLEY) In the course of getting to know  
 14 Nate Paul and Ken Paxton, as a friendship -- let me do this  
 15 differently.  
 16 How were the interactions between Nate Paul  
 17 and Ken Paxton?  
 18 A. I'm sorry. Can you state this question again?  
 19 Q. Yes, sir. What was the relationship like between  
 20 Nate Paul and Ken Paxton?  
 21 MR. BUZBEE: Objection, Your Honor,  
 22 speculation. He can -- he can testify about what he saw and  
 23 maybe what he heard from Ken Paxton, but that's the extent of  
 24 it.  
 25 MS. EPLEY: It's foundational evidence, Your

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1 Honor. He can testify to his rational perception of the  
 2 facts.  
 3 PRESIDING OFFICER: Sustained.  
 4 Q. (BY MS. EPLEY) Did you see the two of these men  
 5 interact with one another?  
 6 A. Yes.  
 7 Q. And what did you see in terms of their demeanor?  
 8 A. A cordial relationship.  
 9 Q. Did Mr. Paxton look to be under pressure to you?  
 10 A. No.  
 11 Q. Now, I'm going to turn your attention to the second  
 12 time you had lunch with them. Do you recall that?  
 13 A. Yes.  
 14 Q. And where was that?  
 15 A. That was at Polvos downtown in Austin.  
 16 Q. Do you recall approximately when?  
 17 A. This would have been May-June time frame.  
 18 Q. Okay. And was anybody else present for that lunch?  
 19 A. Ryan Bangert.  
 20 Q. Does Mr. Bangert work for Attorney General Ken  
 21 Paxton at that point?  
 22 A. He did.  
 23 Q. Is he there in his personal capacity or as part of  
 24 his job duties?  
 25 A. He was asked by the General to attend as part of

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1 his job responsibilities.  
 2 Q. And what was the topic of that conversation?  
 3 A. The Mitte Foundation.  
 4 Q. Did anything change in regards to what Mr. Paul  
 5 wanted between the first and the second lunch?  
 6 MR. BUZBEE: Objection, Your Honor. This  
 7 calls for hearsay again.  
 8 MS. EPLEY: Your Honor, if I may. I would  
 9 really appreciate it if you would look at 801(e)(2)(D)  
 10 specific to coconspirator statements.  
 11 MR. BUZBEE: Your Honor, there's no evidence  
 12 of any silly conspiracy. This is hearsay.  
 13 MS. EPLEY: This entire trial has been about a  
 14 conspiracy, Your Honor.  
 15 PRESIDING OFFICER: Sustained.  
 16 Q. (BY MS. EPLEY) Who paid for lunch?  
 17 A. Nate Paul.  
 18 Q. How did you perceive their demeanor and  
 19 interactions with one another, hostile or friendly?  
 20 A. Between Nate Paul and Ken Paxton?  
 21 Q. Yes, sir.  
 22 A. Friendly.  
 23 Q. What about Ryan Bangert? How was his demeanor?  
 24 A. Inquisitive.  
 25 Q. Did he seem to agree with what it is they wanted?

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|  |   |
|--|---|
| <p>1 MR. BUZBEE: Objection, Your Honor,<br/>2 speculation. We've heard already from Mr. Bangert.<br/>3 MS. EPLEY: That is exactly why it's relevant,<br/>4 Your Honor.<br/>5 MR. BUZBEE: It's speculation.<br/>6 MS. EPLEY: He attacked the credibility of<br/>7 Mr. Bangert. So it is not only not hearsay because he's a<br/>8 representative working for Attorney General Ken Paxton who<br/>9 would have adopted a belief in or offered contrary<br/>10 information to, in addition to that, it's a consistent<br/>11 statement used to rehabilitate Ryan Bangert because of their<br/>12 attacks.<br/>13 MR. BUZBEE: Your Honor, I'm sorry to belabor<br/>14 this, but Mr. Bangert testified. And to have this witness<br/>15 tell us what Mr. Bangert's attitude was about some lunch<br/>16 three or four years ago is just improper.<br/>17 MS. EPLEY: Time frame has nothing to do with<br/>18 exceptions to hearsay, Your Honor.<br/>19 PRESIDING OFFICER: Overruled.<br/>20 MS. EPLEY: Thank you.<br/>21 Q. (BY MS. EPLEY) Can you please tell me what Ryan<br/>22 Bangert was saying in response to this conversation?<br/>23 MR. BUZBEE: Okay. Your Honor, now she<br/>24 changed the question and she --<br/>25 MS. EPLEY: I'm entitled to do that.</p> <p style="text-align: right;">41</p> | <p>1 that search warrant?<br/>2 MR. BUZBEE: Objection, leading. And again,<br/>3 Your Honor, I'm sorry to interrupt, but she's asking about<br/>4 what Nate Paul said at a lunch. That's improper, and that<br/>5 would be hearsay.<br/>6 MS. EPLEY: Your Honor, may we approach?<br/>7 PRESIDING OFFICER: You may approach.<br/>8 (Conference at the bench off the record)<br/>9 MS. EPLEY: Mr. President, I'm sorry to<br/>10 interrupt, but I would like to ask for some time back and to<br/>11 stop the clock, please.<br/>12 PRESIDING OFFICER: The clock stopped when you<br/>13 came up.<br/>14 MS. EPLEY: Thank you.<br/>15 (Pause in proceedings)<br/>16 PRESIDING OFFICER: We will sustain the<br/>17 objection.<br/>18 MS. EPLEY: May I proceed?<br/>19 Q. (BY MS. EPLEY) Outside of those three lunches in<br/>20 which you ate with Nate Paul and Ken Paxton, did you have<br/>21 occasion to be around them on other -- on other times, other<br/>22 occasions?<br/>23 A. Yes.<br/>24 Q. And what kind of things would you do together?<br/>25 Where would you see them together?</p> <p style="text-align: right;">43</p>   |
| <p>1 MR. BUZBEE: Let me finish my objection,<br/>2 please.<br/>3 Now she -- instead of the witness answering<br/>4 the last question, now she's asked a clearly hearsay<br/>5 question.<br/>6 MS. EPLEY: I went more specifically at it<br/>7 after the Court's ruling, which I'm entitled to do.<br/>8 MR. BUZBEE: She cannot ask this witness what<br/>9 Ryan Bangert said.<br/>10 MS. EPLEY: I --<br/>11 MR. BUZBEE: She just can't do that, and<br/>12 that's what she just did.<br/>13 PRESIDING OFFICER: Sustained.<br/>14 MS. EPLEY: Thank you, Your Honor.<br/>15 Q. (BY MS. EPLEY) I'm going to turn your attention to<br/>16 the third lunch involving Nate Paul and Ken Paxton. Can you<br/>17 tell me when that was?<br/>18 A. This would have been June-July time frame.<br/>19 Q. Of 2020?<br/>20 A. Yes, ma'am.<br/>21 Q. And who was present at that lunch?<br/>22 A. General Paxton, myself, and Nate Paul.<br/>23 Q. What was the topic of conversation for this lunch?<br/>24 A. The FBI raid on Nate Paul's home and office.<br/>25 Q. Specifically access to the affidavit underlying</p> <p style="text-align: right;">42</p>  | <p>1 A. There were two types of instances. The first was<br/>2 continued lunches, usually at Polvos. The second was meeting<br/>3 at Nate Paul's place of business, and I -- I was not part of<br/>4 those discussions whenever those did occur.<br/>5 Q. So to make sure that I understand, there would be<br/>6 times you were at lunch but not seated at the table and<br/>7 eating with them?<br/>8 A. That's correct.<br/>9 Q. How many times did that occur?<br/>10 A. Dozen, dozen and a half.<br/>11 Q. And what about trips to Nate Paul's business, how<br/>12 many times do you recall that happening?<br/>13 A. At least a half dozen.<br/>14 Q. Were you ever at Nate Paul's home?<br/>15 A. No.<br/>16 Q. And did you ever see Nate Paul join Ken Paxton at<br/>17 the office?<br/>18 A. Only once.<br/>19 Q. Okay. We'll come back to that in a moment.<br/>20 MS. EPLEY: Your Honor, at this time the House<br/>21 offers House Exhibit 704, which is a public record. It is<br/>22 already on file, and there's a business records affidavit<br/>23 attached that has been on file with the Court and defense for<br/>24 over 14 days.<br/>25 PRESIDING OFFICER: Any objection once you</p> <p style="text-align: right;">44</p> |

1 read that?  
 2 MR. BUZBEE: Your Honor, there's a facial --  
 3 facial problem on this exhibit. It claims an affidavit  
 4 proving up 12 pages of records, but apparently there's 23. I  
 5 don't know if there's anything in here that matters, but the  
 6 affidavit is improper and obviously inaccurate, unless  
 7 somebody wants to correct me.  
 8 MS. EPLEY: Your Honor, it's a record of the  
 9 Texas Department of Public Safety. And pursuant to the rules  
 10 related to public records, it would be incumbent upon  
 11 Mr. Buzbee to establish why he thinks the records would be  
 12 inaccurate. Also, the page count is likely attributable to  
 13 the fact that photographs were enlarged and attached.  
 14 MR. BUZBEE: Again, Your Honor, she's the  
 15 proponent of this document. It says it's 12 pages. It's not  
 16 12 pages. I mean, that right there gives us some element of  
 17 maybe it's not trustworthy and it's -- she's the proponent.  
 18 She needs to show us why the affidavit doesn't match the  
 19 documents attached. That's her job.  
 20 MS. EPLEY: Your Honor, I'm confident in my  
 21 response as it exists, but let me speak to my co-counsel out  
 22 of a moment of respect.  
 23 MR. BUZBEE: May I approach and give the Court  
 24 a copy of what I'm looking at?  
 25 MS. EPLEY: I would also add that at the  
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1 conclusion of each of the records is a notification that it's  
 2 a certified copy. It comes in in three different exceptions  
 3 to hearsay: business record, public record, and it's a  
 4 certified copy.  
 5 Additionally, I emphasize that the Attorney  
 6 General works for the State of Texas, and these are State of  
 7 Texas records. It's intellectually dishonest for him to  
 8 fight them.  
 9 (Pause in proceedings)  
 10 MS. EPLEY: Mr. President, while you're  
 11 considering, can I also ask that the clock be stopped and we  
 12 returned about ten minutes between the last two sections of  
 13 this? It's an excellent defense strategy, but it's slowing  
 14 us down since we agreed to all of their exhibits and they  
 15 would not for ours.  
 16 MR. BUZBEE: Your Honor, I'm -- I'm sorry.  
 17 I've got to -- I mean, this is important. First off, I've  
 18 been called intellectually dishonest because I look at an  
 19 affidavit that says 12 pages and it's 23 and now that we're  
 20 playing games because they're offering an exhibit that's  
 21 clearly not what they claim it is. So I -- I'm just making  
 22 my objections, and that's all I'm doing.  
 23 PRESIDING OFFICER: Yes. You stipulated it  
 24 was 12; it's 23.  
 25 MS. EPLEY: Yes.  
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1 PRESIDING OFFICER: So I am going to overrule  
 2 the objection because there are five large photographs that  
 3 may account for it and it is a government document, but I'm  
 4 not giving you back the time because if you had explained  
 5 this up front, we wouldn't be having this -- this issue.  
 6 MS. EPLEY: That seems fair, Mr. President.  
 7 I'll go faster.  
 8 PRESIDING OFFICER: Overruled. Here's your  
 9 document back.  
 10 MS. EPLEY: Stacey, would you turn to -- don't  
 11 publish it yet, but --  
 12 PRESIDING OFFICER: 704 is admitted into  
 13 evidence.  
 14 (HBOM Exhibit No. 704 was admitted)  
 15 MS. EPLEY: -- turn to the picture we  
 16 discussed.  
 17 Q. (BY MS. EPLEY) If we were to show you a picture of  
 18 Nate Paul, would you be able to identify him?  
 19 A. Yes.  
 20 Q. And are you going to feel like I've led you, or if  
 21 I show you the wrong picture, will you correct it?  
 22 A. Yes.  
 23 Q. Yes, you'll correct me?  
 24 A. Yes, I will correct you.  
 25 Q. Thank you, sir.  
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1 MS. EPLEY: Permission to publish?  
 2 PRESIDING OFFICER: Yes.  
 3 Q. (BY MS. EPLEY) Who do you see on the screen before  
 4 you?  
 5 A. That is Nate Paul.  
 6 Q. And is this the same person that was having lunch  
 7 with Ken Paxton on those occasions and whose office that you  
 8 visited?  
 9 A. It was.  
 10 Q. And is this the same person who is currently facing  
 11 charges in the federal courts?  
 12 MR. BUZBEE: Objection, hearsay and relevance.  
 13 PRESIDING OFFICER: Sustained.  
 14 Q. (BY MS. EPLEY) Is this the same person who was  
 15 discussing the Mitte Foundation in front of you?  
 16 MR. BUZBEE: Objection, hearsay. We've  
 17 already discussed this. This is hearsay.  
 18 MS. EPLEY: He was having the conversation  
 19 with Ken Paxton who is a party opponent, Your Honor. And  
 20 again, I would direct you to 803 -- or, excuse me, 801(e) --  
 21 PRESIDING OFFICER: Overruled.  
 22 MS. EPLEY: Thank you.  
 23 Q. (BY MS. EPLEY) Is this the same person who was  
 24 discussing Mitte with you and Ken Paxton?  
 25 A. Yes.  
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1 Q. The same person who discussed that in front of Ryan  
 2 Bangert?  
 3 A. Yes.  
 4 Q. And was he making requests or pressure upon the  
 5 office?  
 6 MR. BUZBEE: Objection, hearsay.  
 7 PRESIDING OFFICER: Overruled.  
 8 Q. (BY MS. EPLEY) What kind of things was he asking  
 9 the office to do?  
 10 MR. BUZBEE: Objection, Your Honor. That's  
 11 hearsay.  
 12 MS. EPLEY: Let me go back and do it exactly  
 13 the same way that he just overruled.  
 14 Q. (BY MS. EPLEY) Is this the same person who was  
 15 talking to Nate Paul and Ken Paxton about Mitte?  
 16 A. Yes.  
 17 Q. And what kind of things was he asking the office to  
 18 do?  
 19 MR. BUZBEE: Objection, assumes facts not in  
 20 evidence. No one's established he was asking for anything.  
 21 Hearsay.  
 22 Q. (BY MS. EPLEY) What was he asking of the office?  
 23 MR. BUZBEE: Again, Your Honor, she just asked  
 24 the exact same question. Hearsay and assumes facts not in  
 25 evidence.

1 MS. EPLEY: I understand why he doesn't want  
 2 this in, Your Honor, but can we stop the clock again?  
 3 PRESIDING OFFICER: No, we're not going to  
 4 stop the clock each moment we're having throughout the trial.  
 5 If there's a long delay, I will stop the clock and give you  
 6 time back.  
 7 I'm going to sustain the objection. And both  
 8 sides need to stop the ongoing speaking objections.  
 9 MS. EPLEY: Yes, Your Honor.  
 10 May I get a clarification? A moment ago it  
 11 was overruled and then sustained. Is Nate Paul going to be  
 12 considered a coconspirator for the purpose of this line of  
 13 questioning or not?  
 14 MR. BUZBEE: Your Honor, before you -- if I  
 15 could. A conspiracy requires an agreement. Can I take the  
 16 witness on voir dire to establish there's never an agreement?  
 17 A conspiracy at its heart requires an  
 18 agreement between two parties and then acts in furtherance of  
 19 the conspiracy. There's been no evidence whatsoever in this  
 20 trial, there can be no evidence in this trial of any  
 21 agreement between Nate Paul and Attorney General Paxton.  
 22 This witness will confirm that. I would like to take him on  
 23 voir dire to establish that, and we'll put an end to all  
 24 this.  
 25 MS. EPLEY: If I may clarify. It is not

1 incumbent on the sponsoring witness to establish conspiracy.  
 2 That is an obligation of the Court or the Presiding Officer.  
 3 This entire case has been about Nate Paul and  
 4 Ken Paxton. And I understand why they don't want it in, but  
 5 that goes to weight, not admissibility, and he can be crossed  
 6 on these issues.  
 7 MR. BUZBEE: If he --  
 8 MS. EPLEY: This entire trial has been about  
 9 Nate Paul and Ken Paxton.  
 10 MR. BUZBEE: Two questions, Your Honor, to  
 11 establish with this young man that there's never an  
 12 agreement; he never heard an agreement. No agreement, no  
 13 conspiracy, and we can quit talking about that. They can use  
 14 this word all day long like they've been, but they cannot  
 15 establish an agreement between Nate Paul and Ken Paxton.  
 16 MS. EPLEY: If I may.  
 17 PRESIDING OFFICER: We'll stop the clock for a  
 18 moment.  
 19 (Pause in proceedings)  
 20 PRESIDING OFFICER: Ms. Epley, Mr. Buzbee,  
 21 come up.  
 22 (Conference at the bench off the record.)  
 23 PRESIDING OFFICER: Ms. Epley, you may --  
 24 we've already ruled on that issue. You may move forward.  
 25 MS. EPLEY: Yes, Your Honor. Based on the --

1 the ruling, I will proceed.  
 2 Q. (BY MS. EPLEY) I'm going to turn your attention to  
 3 specific silos in the office. Are you comfortable with that  
 4 term? Do you know what I mean in terms of Mitte,  
 5 foreclosure, open records, and Brandon Cammack or the search  
 6 warrant?  
 7 A. Yes.  
 8 Q. Okay. Turning your attention to the open records  
 9 request, who was in charge of the division during that  
 10 relevant time period?  
 11 A. Ryan Vassar.  
 12 Q. And do you recall an occasion in which you were  
 13 asked to collect a file specific to an open records request?  
 14 A. Yes.  
 15 Q. What were you asked to do?  
 16 A. I was asked to pick up those documents from Ryan  
 17 Vassar and provide them to General Paxton.  
 18 Q. Did you do that?  
 19 A. Yes.  
 20 Q. What, if anything, do you recall about that  
 21 package?  
 22 A. I recall that it was in a sealed manila envelope,  
 23 and it had a CD with it.  
 24 Q. And when you say "CD," I know common parlance, but  
 25 can you explain specifically what you mean?

1 A. A compact disk to go into a computer to maintain  
 2 digital files.  
 3 Q. So something with structure to it that would hold  
 4 additional data?  
 5 A. Yes.  
 6 Q. Why do you remember it being there?  
 7 A. Because it was on the outside.  
 8 Q. Where did you take that file?  
 9 A. General Paxton.  
 10 Q. How long -- did it stay with General Paxton, or did  
 11 you collect it at some point?  
 12 A. I did collect it at some point.  
 13 Q. How long was it gone? How long was it with --  
 14 A. A week, a week and a half.  
 15 Q. After you collected the file, where did you return  
 16 it to?  
 17 A. Ryan Vassar.  
 18 Q. Do you recall during this time frame whether or not  
 19 you had done any pickups or deliveries involving Nate Paul  
 20 and Ken Paxton?  
 21 A. The deliveries that I made to Nate Paul took place  
 22 in May and June.  
 23 Q. Okay. And can you tell us about that?  
 24 A. There were three occurrences in which I met Nate  
 25 Paul to pick up or deliver items. The first was to deliver a

1 manila envelope. The second was to pick up the General's  
 2 phone that he had left at Nate Paul's office. And the third  
 3 was to pick up documents related to the Mitte Foundation to  
 4 deliver to Ryan Bangert.  
 5 Q. Now, you mentioned the delivery of a manila  
 6 envelope. Do you recall whether that was substantially  
 7 similar to the one that you had picked up from Ryan Vassar  
 8 and delivered to Ken Paxton?  
 9 A. I do not.  
 10 Q. Do you recall how heavy or thick the package was?  
 11 A. I do not.  
 12 Q. Could you use your fingers to demonstrate for the  
 13 Senators similar to the way you explained it to us the first  
 14 time? What is the smallest and largest it could have been?  
 15 A. The smallest that it could have been --  
 16 MR. BUZBEE: I object -- I'm sorry, Drew.  
 17 Your Honor, I object. He already said he  
 18 doesn't remember. Now he's just speculating.  
 19 PRESIDING OFFICER: Overruled.  
 20 Q. (BY MS. EPLEY) Please, go ahead.  
 21 A. The way I explained it to the House Impeachment  
 22 Managers was this size to this size.  
 23 Q. And do you recall whether or not that package had  
 24 any CDs attached to it?  
 25 A. I do not.

1 Q. Do you know if it contained any?  
 2 A. No.  
 3 Q. So would you be able to tell these Senators that it  
 4 was in any way substantially different than from what you  
 5 received from Ryan Vassar and delivered to Ken Paxton?  
 6 A. No.  
 7 Q. Okay. When we first spoke, do you recall  
 8 approximately when that was?  
 9 A. May.  
 10 Q. May?  
 11 A. May of this year.  
 12 Q. And did you want to speak with us?  
 13 A. No.  
 14 Q. What did you understand at the time -- whether you  
 15 were correct or incorrect, what did you understand we were  
 16 doing?  
 17 A. My understanding was that there were questions  
 18 about funding the settlement of the whistleblowers.  
 19 Q. And when you arrived, was it subsequent to a  
 20 subpoena?  
 21 A. It was.  
 22 Q. Was that necessary in order to have you attend?  
 23 A. It was.  
 24 Q. Did you arrive alone?  
 25 A. No.

1 Q. Who were you with?  
 2 A. My attorney.  
 3 Q. Who is your attorney?  
 4 A. Jon Evans.  
 5 Q. Is he present here today?  
 6 A. He is.  
 7 Q. And why did you retain Mr. Evans?  
 8 A. I retained Mr. Evans three years ago after the  
 9 events that occurred in the fall of 2020. I retained  
 10 Mr. Evans after being reached out to by the FBI. And after  
 11 being offered counsel by the Office of the Attorney General,  
 12 I chose to retain my own counsel that would look out for my  
 13 own interests.  
 14 Q. I want to make sure that I understand. At some  
 15 point, the Office of the Attorney General offered to provide  
 16 you an attorney?  
 17 A. Yes.  
 18 Q. Are you under the impression you had done anything  
 19 wrong?  
 20 A. No.  
 21 Q. Did the Office of the Attorney General indicate  
 22 whether or not they wanted you to speak to FBI?  
 23 A. They indicated that they would not like me to speak  
 24 to the FBI.  
 25 Q. And you said to protect your interests. What

1 concerns did you have about using their attorney as opposed  
 2 to your own?  
 3 A. I would assume that an attorney employed by the  
 4 Office of the Attorney General would look out for the  
 5 interests of that institution, but not for me.  
 6 Q. And did you feel then that your motives or your  
 7 interests were not aligned?  
 8 A. I didn't know that they were not aligned, but I  
 9 wanted to make sure that they were aligned to my interests.  
 10 Q. Okay. When we had you come in and speak to us in  
 11 May of 2023, what was your demeanor in your opinion when you  
 12 first came in? Were you forthcoming and happy to talk?  
 13 A. No.  
 14 Q. Were you honest to the best of your ability?  
 15 A. Yes.  
 16 Q. And was that statement consistent with the  
 17 testimony you're giving today?  
 18 A. Yes.  
 19 Q. And was it consistent with the testimony or at  
 20 least the statements you had provided three years before that  
 21 date?  
 22 A. Yes, they were.  
 23 Q. I saw you hesitate. Did you -- did you correct  
 24 yourself on your own at some point during the conversation  
 25 with us?

1 A. I did.  
 2 Q. What was that about?  
 3 A. The correction was a question by the House team  
 4 asking me whether or not I had delivered documents to Nate  
 5 Paul. Over the course of that discussion, I was asked about  
 6 it again, and I recalled that I had, in fact, done so. And I  
 7 have since verified with my attorney and with other law  
 8 enforcement officials that that is consistent with my  
 9 testimony from three years ago.  
 10 Q. Thank you, sir.  
 11 There was some implication that we had  
 12 threatened, or I think it was Mr. Buzbee talking about  
 13 squeezing you. Did you feel squeezed?  
 14 A. No.  
 15 Q. Did we threaten you at all?  
 16 A. No.  
 17 Q. Did we lead you or give you the answers?  
 18 A. No.  
 19 Q. So when you made that correction, why did you do  
 20 it?  
 21 A. I did so because I remembered something. And I had  
 22 misrepresented my testimony whenever I provided an incorrect  
 23 answer earlier, and so I sought to correct that.  
 24 Q. Thank you, sir.  
 25 I'm going to turn your attention then to the

1 foreclosure and specifically whether or not you overheard any  
 2 conversations involving Ken Paxton related to the  
 3 foreclosure.  
 4 A. Okay.  
 5 Q. Do you recall any conversations?  
 6 A. I recall one conversation.  
 7 Q. And what was that?  
 8 A. It was a conversation where I was in Ryan Bangert's  
 9 office and overheard he and Ryan Bangert discussing --  
 10 Q. Sorry, Drew. "He" who?  
 11 A. General Paxton and Ryan Bangert were discussing the  
 12 opinion, and General Paxton asked Mr. Bangert if he had been  
 13 able to reach out and contact an individual. Mr. Bangert  
 14 responded that this individual had not been helpful in the  
 15 matter that he had reached out about and --  
 16 Q. Let me pause you. Not helpful in what way? They  
 17 just declined to assist?  
 18 A. I'm -- I'm not completely aware, no.  
 19 Q. Okay. Go ahead.  
 20 A. The second part of that conversation was in which  
 21 the General expressed a desire to make sure that grandmothers  
 22 were not evicted from their homes, and that's where I learned  
 23 about the foreclosure opinion.  
 24 Q. Are you aware that there was a stay related to  
 25 residential homes at the time?

1 A. At the time I probably was.  
 2 Q. So the foreclosure letter would have impacted  
 3 commercial business, not residential?  
 4 MR. BUZBEE: Objection, leading and  
 5 speculation.  
 6 PRESIDING OFFICER: Sustained.  
 7 Q. (BY MS. EPLEY) I'm going to turn your attention to  
 8 the Omni Hotel in the summer of 2020. Were you familiar with  
 9 that hotel at that time?  
 10 A. I was.  
 11 Q. And why is that?  
 12 A. During the course of General Paxton's renovations  
 13 at his home, that's where he was staying in the interim.  
 14 Q. Okay. I'm going to come back to the renovations at  
 15 his home, but help me understand. Do you have any personal  
 16 knowledge of Mr. Paxton being at the Omni in the summer of  
 17 2020?  
 18 A. I do.  
 19 Q. How is that?  
 20 A. I -- General Paxton called off his protective  
 21 detail for the time that he was staying at the Omni Hotel.  
 22 And as part of my job responsibilities, I picked him up and  
 23 dropped him off each day to the Omni Hotel.  
 24 Q. Did Mr. Paxton drop his security detail on few or  
 25 many occasions in 2020?

1 A. It came in spurts.  
 2 Q. Help me understand "spurts." What would that  
 3 frequency be?  
 4 A. There were times at which it was highly frequent  
 5 and I was his primary means of transportation, and there  
 6 other times at which we utilized the protective detail.  
 7 Q. And while we're on the topic so that I can move a  
 8 little faster, what about items being on a schedule? Was  
 9 everything he did through OAG or personally reflected on a  
 10 schedule?  
 11 A. No.  
 12 Q. Is the schedule supposed to contain the comings and  
 13 goings of the Attorney General?  
 14 A. More generally, yes.  
 15 Q. Why is that?  
 16 A. For the assistance of DPS specifically, I would  
 17 provide a two-week Outlook on the schedule so that they could  
 18 understand where appointments were, what time, who their POC  
 19 was at that place and time so that they coordinate security  
 20 efforts.  
 21 Q. And were there occasions in which Mr. Paxton's  
 22 plans were not contained on his schedule?  
 23 A. Yes.  
 24 Q. Specifically related to Nate Paul?  
 25 A. Yes.

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1 Q. How do you know that?  
 2 A. Because I managed the schedule.  
 3 Q. Did you have concerns about that at the time?  
 4 A. No.  
 5 Q. At some point, did it become concerning enough to  
 6 you for you to speak to a supervisor?  
 7 A. Yes.  
 8 Q. Who was your supervisor?  
 9 A. Blake Brickman.  
 10 Q. And why would you go to Blake Brickman about such a  
 11 concern?  
 12 A. I was receiving some new requests in terms of both  
 13 transportation as well as documentation and scheduling, and I  
 14 was trying to understand the best way to handle that with my  
 15 boss, who was General Paxton.  
 16 Q. I'm going to return you back to the Omni. On one  
 17 occasion, were you there with your family?  
 18 A. Yes.  
 19 Q. Can you quickly tell the Senate why you were there  
 20 and for how long?  
 21 A. My family had come down for a weekend. I don't  
 22 recall if there was any special significance for that  
 23 occasion. They were down there to stay there for the  
 24 weekend. General Paxton was also there at that time due to  
 25 the renovations being conducted on his home. And they were

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1 staying down there, and I chose to stay with them for that --  
 2 for the time that they were at that hotel as well.  
 3 Q. Did you have occasion to see Ken Paxton while you  
 4 were there?  
 5 A. I -- I did run into him, yes.  
 6 Q. Can you please tell us about that?  
 7 A. My mom and sister had gone up to the hotel room.  
 8 My father and I had run back to my apartment downtown. Upon  
 9 returning to the Omni Hotel and entering the lobby, we turned  
 10 right to go into the elevators. We had pushed the button,  
 11 and we were waiting on the elevators.  
 12 And on the other side of the door, my father  
 13 and I heard a lively discussion. Just to be clear, not  
 14 adversarial, just lively. And whenever the doors opened, two  
 15 individuals exited. One was General Paxton. He was in a --  
 16 he was in workout attire, and he told us that he was going to  
 17 the gym. The other individual was in a dress and high heels  
 18 and exited rather quickly. General Paxton walked out, shook  
 19 my hand as well as my father's. We spoke for a moment, and  
 20 then he told us he was going to work out.  
 21 Q. Was there anyone else on the elevator for which  
 22 that lively conversation could have included?  
 23 A. No.  
 24 Q. And what, if anything, did you notice about the  
 25 dynamic between the two, if anything at all?

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1 A. I -- I couldn't overhear the conversation, but  
 2 whenever they exited, she quickly exited the elevator and  
 3 that was the only -- that was the only time I really saw them  
 4 interact in person.  
 5 Q. Did that cause any concern for you, or questions?  
 6 A. It did -- it did spur some questions.  
 7 Q. And who would you have directed those questions to?  
 8 A. I reached out to Marc Rylander about that.  
 9 Q. And why did you reach out to Marc Rylander?  
 10 A. Prior to coming to the Office of the Attorney  
 11 General, I had been informed that there had been --  
 12 MR. BUZBEE: Objection, hearsay.  
 13 PRESIDING OFFICER: Sustained.  
 14 Q. (BY MS. EPLEY) Did you have reason to think,  
 15 whether true or not true on the part of Mr. Rylander, this  
 16 might be something of interest to him?  
 17 MR. BUZBEE: Objection.  
 18 A. Yes.  
 19 MR. BUZBEE: Again, Your Honor, she's just  
 20 trying to ask a different way. This is based on hearsay.  
 21 PRESIDING OFFICER: Overruled.  
 22 Q. (BY MS. EPLEY) Did you have any reason to think  
 23 this might be of interest to him?  
 24 A. Yes.  
 25 Q. And was it?

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1 A. Yes.  
 2 Q. Did he seem to understand who it was you had seen?  
 3 A. Yes.  
 4 Q. Did you receive a photograph to confirm?  
 5 A. Yes.  
 6 Q. Now, I'm not going to show you the same photograph,  
 7 but I am going to show you a person. Would you be able to  
 8 tell me if this was the person that you saw on the elevator?  
 9 A. Yes.  
 10 MS. EPLEY: May I approach? Oh, actually, so  
 11 used to government work, I forget we have technology. Can I  
 12 turn everyone's attention to 704? And, Stacey, would you  
 13 pull up the photograph, please?  
 14 Q. (BY MS. EPLEY) Do you recognize the person in this  
 15 picture, whether you know her name or not?  
 16 A. I do.  
 17 MS. EPLEY: For purposes of the record, the  
 18 person being depicted in the photograph is Laura Olson as  
 19 established by her Texas driver's license.  
 20 Thank you, Stacey.  
 21 Next, Your Honor, the House offers Exhibit  
 22 699. It is a business record as established by the affidavit  
 23 on the face. I'm confident that the page count will match  
 24 this time as there's no substantial photographs. And it has  
 25 been on record for over 14 days. And it is being admitted by

1 agreement, as I understand it.  
 2 PRESIDING OFFICER: Any objection?  
 3 MR. BUZBEE: No objection, Your Honor.  
 4 PRESIDING OFFICER: Admit Exhibit 699 into  
 5 evidence.  
 6 (HBOM Exhibit No. 699 was admitted)  
 7 Q. (BY MS. EPLEY) Now, Mr. Wicker, I'm not going to  
 8 have you do this, but inside of an apartment complex  
 9 application would it explain where you have lived before and  
 10 where you're going to live now? That didn't make sense.  
 11 Are you aware of the fact that application  
 12 leases will establish your prior address as well as your  
 13 current one?  
 14 A. Yes.  
 15 Q. And is the name on that record the same as the  
 16 driver's license Laura Olson?  
 17 A. It is.  
 18 Q. Is that the woman that you saw step off the  
 19 elevator with Ken Paxton?  
 20 A. It is.  
 21 Q. You mentioned home renovations. Do you remember  
 22 why those renovations were occurring?  
 23 A. There were storms late spring that caused water  
 24 damage to General Paxton's Austin home.  
 25 Q. Okay. I don't want you to give the address, but

1 could you give us the street name so that we're all familiar  
 2 with the fact that we're speaking about the same thing?  
 3 A. Margranita Crescent.  
 4 Q. So you said spring. Do you recall what month the  
 5 damage occurred in?  
 6 A. This probably would have occurred March-April time  
 7 frame.  
 8 Q. Okay. And do you know where the damage was?  
 9 A. To the best of my recollection, it was confined to  
 10 the master bedroom.  
 11 Q. Why would you know that?  
 12 A. I met with the insurance adjuster multiple times at  
 13 the request of General Paxton while he was out of town or in  
 14 other meetings.  
 15 Q. So there were occasions where you were authorized  
 16 on his behalf to conduct personal business; for example, the  
 17 adjustment of the insurance?  
 18 A. I was authorized to greet the insurance adjuster  
 19 and show them the home.  
 20 Q. Does that mean you would sometimes also receive  
 21 records related to the home renovation?  
 22 A. I can only think of one occurrence in which that  
 23 happened.  
 24 Q. And what was that?  
 25 A. I received an invoice that I had been included on

1 from The Steam Team.  
 2 Q. And are you aware as the adjuster that there are  
 3 some renovations that were done pursuant to the water damage  
 4 itself and covered by insurance?  
 5 A. I would assume so, yes.  
 6 Q. Okay.  
 7 MS. EPLEY: I'm going to turn everyone's  
 8 attention to House Exhibit 703. Again, it's a business  
 9 record. It's Cupertino Builders. There's a business records  
 10 affidavit, and it's been on file for over 14 days.  
 11 PRESIDING OFFICER: Any objection?  
 12 MR. BUZBEE: No, sir.  
 13 PRESIDING OFFICER: Admit 703 into evidence.  
 14 (HBOM Exhibit No. 703 was admitted)  
 15 MS. EPLEY: Stacey, would you please pull up  
 16 the face of the email that's attached.  
 17 Q. (BY MS. EPLEY) Mr. Wicker, do you recognize the  
 18 name of the individual who sent the email?  
 19 A. Kevin Wood.  
 20 Q. And who is Kevin Wood?  
 21 A. Kevin Wood was the lead contractor at the Paxton's  
 22 home renovation.  
 23 Q. Is he someone that you met personally?  
 24 A. He is.  
 25 Q. How many times did you see or speak with Kevin



1 Wood?  
 2 A. At least a half dozen.  
 3 Q. And do you see that on the two line is the name Raj  
 4 Kumar?  
 5 A. I see in -- yes, I do.  
 6 Q. And moving down further, do you see that Nate Paul  
 7 was the -- or npaul@worldclass.com was the person who emailed  
 8 Kevin Wood?  
 9 A. I do.  
 10 Q. Is the body of that email related to home items or  
 11 repairs, things that need to be doing -- done?  
 12 A. It would appear so, yes.  
 13 Q. I'm going to have Stacey then turn to the first  
 14 couple of pictures in the file. Let me see the next.  
 15 Does anything about the home being depicted  
 16 look familiar to you?  
 17 A. Several of these images do appear to be that that's  
 18 the Paxton's dining room.  
 19 Q. Are you wondering or are you sure?  
 20 A. No, I'm positive.  
 21 Q. Thank you. How many occasions -- on how many  
 22 occasions were you at the Margranita home in the summer of  
 23 2020 during renovations?  
 24 A. During the renovations, a half dozen.  
 25 Q. Okay. And do you recall any times that you were

1 present where Kevin Wood and Ken Paxton were both there?  
 2 A. I do.  
 3 Q. I'm going to turn your attention to a conversation  
 4 about the kitchen. Do you recall whether or not there was  
 5 any damage to that area of the home?  
 6 A. I do not.  
 7 Q. Would it make sense then that these are things  
 8 external to insurance coverage?  
 9 A. It would make sense.  
 10 Q. Were those ever -- is that an area of the home that  
 11 you ever discussed in regards to being an adjuster -- or  
 12 assisting the adjuster rather?  
 13 A. Not to my recollection.  
 14 Q. Okay. Can you walk us through any conversations  
 15 you overheard between Kevin Wood and Ken Paxton?  
 16 MR. BUZBEE: Objection, Your Honor. Anything  
 17 Kevin Wood may have said would be hearsay.  
 18 MS. EPLEY: At this stage, Your Honor, it's  
 19 not being offered for the truth, it's to set an anchor. I  
 20 will get more specific in a moment.  
 21 MR. BUZBEE: Again, Your Honor, the question  
 22 is very nonspecific. And anything she's going to ask about  
 23 what Kevin Wood may have said is hearsay.  
 24 MS. EPLEY: Your Honor, it is clear from the  
 25 course of the conversation that Kevin Wood was acting as a

1 service provider. At that point the truth doesn't matter.  
 2 At the point in which it does, it goes to his motive, intent,  
 3 and plan.  
 4 MR. BUZBEE: Again, Your Honor, you've  
 5 already -- she just said what Kevin Wood said wouldn't  
 6 matter. I agree. Hearsay and irrelevant.  
 7 MS. EPLEY: I didn't say it ultimately  
 8 wouldn't matter, Your Honor. It will matter very much.  
 9 PRESIDING OFFICER: Sustained.  
 10 Q. (BY MS. EPLEY) Did you -- did you get an idea as  
 11 to what the relationship was between Ken Paxton and Kevin  
 12 Wood?  
 13 A. Kevin Wood was the lead contractor on General  
 14 Paxton's home.  
 15 Q. And if Mr. Paxton then wanted additional things or  
 16 changes to the renovation, whom would he speak with?  
 17 A. Kevin Wood.  
 18 Q. Is there any other way Mr. Paxton would find out  
 19 the timing of renovations or the duration of renovations or  
 20 the cost of renovations other than Kevin Wood?  
 21 MR. BUZBEE: Objection, compound and  
 22 speculation. She is asking what Ken Paxton would do and what  
 23 he would know. That's pure speculation.  
 24 MS. EPLEY: It's an operative fact, Your  
 25 Honor. There's no other way for him to know it.

1 MR. BUZBEE: Again, she just asked what Ken  
 2 Paxton might know. That's speculation.  
 3 PRESIDING OFFICER: I'm going to overrule.  
 4 You can answer, if you know.  
 5 A. Not to my knowledge.  
 6 Q. (BY MS. EPLEY) I don't even remember the question  
 7 at this point, frankly. I might have to read it back.  
 8 At any point were there conversations about  
 9 changes to the property?  
 10 A. Yes.  
 11 Q. Isn't that the entire point of a contractor?  
 12 A. Yes.  
 13 Q. And at any point were there discussions about  
 14 particular items in the home?  
 15 A. Yes.  
 16 Q. Would what matters to you be whether a counter is  
 17 granite or not or whether the renovations are occurring at  
 18 this stage?  
 19 MR. BUZBEE: Objection, vague and relevance.  
 20 Q. (BY MS. EPLEY) Did you care what his countertops  
 21 were made of?  
 22 MR. BUZBEE: Again, Your Honor, what does it  
 23 matter whether young Drew Wicker cares about the countertops?  
 24 It's irrelevant.  
 25 PRESIDING OFFICER: Overruled.

1 Q. (BY MS. EPLEY) Did you care what the countertops  
 2 were made of?  
 3 A. No.  
 4 Q. Did anything about a conversation related to  
 5 countertops concern you?  
 6 MR. BUZBEE: Objection, hearsay.  
 7 MS. EPLEY: It is not being offered for the  
 8 truth of the matter asserted. There's no statement. It asks  
 9 if he overheard something he was concerned about.  
 10 MR. BUZBEE: She just asked for hearsay right  
 11 there, Your Honor. That's hearsay.  
 12 MS. EPLEY: No, Your Honor, it goes to state  
 13 of mind.  
 14 PRESIDING OFFICER: Overruled.  
 15 MS. EPLEY: Thank you.  
 16 Q. (BY MS. EPLEY) At some point did you hear  
 17 something that concerned you?  
 18 A. Yes.  
 19 Q. What was that?  
 20 MR. BUZBEE: Objection, hearsay.  
 21 MS. EPLEY: Your Honor, there's three places.  
 22 One, nucleus of operative facts because it goes to the center  
 23 of this. Specific to hearsay, it goes to state of mind.  
 24 There's no other way for General Paxton to know how long  
 25 something is going to take or what it will cost other than

1 speaking to his contractor. And, finally, it goes to Drew  
 2 Wicker's state of mind in regards to what he does next  
 3 because of what he heard whether the statement is true or  
 4 not.  
 5 MR. BUZBEE: Your Honor, we need to know who  
 6 she's talking about was speaking. She's -- I think she's  
 7 trying to elicit testimony about what this man heard a  
 8 contractor say who has been subpoenaed and who can come here  
 9 and testify. This is not the right witness for that.  
 10 PRESIDING OFFICER: I'm going to overrule.  
 11 You're not saying it's the truth of the matter, just the  
 12 statement was made.  
 13 MS. EPLEY: That's at this point, Your Honor.  
 14 Mr. President, thank you.  
 15 Q. (BY MS. EPLEY) Did you hear -- what did you hear  
 16 that concerned you?  
 17 A. Kevin Wood stated that he would check with Nate on  
 18 several of the items.  
 19 Q. Now, was that about how long something would take  
 20 or when something would be delivered?  
 21 A. No, sir, it was -- no, ma'am, it was with regards  
 22 to cost.  
 23 Q. Now, if Kevin Wood is a contractor who is trying to  
 24 make money on his own, why would he need to check with  
 25 anyone?

1 MR. BUZBEE: Objection, speculation.  
 2 PRESIDING OFFICER: Sustained.  
 3 Q. (BY MS. EPLEY) So let's back up a little bit.  
 4 What would he have to check with Nate on specifically?  
 5 Please tell us in detail what you recall.  
 6 A. He was stating that he would need to check with  
 7 Nate on the cost of countertops and renovations to the  
 8 cabinetry in the kitchen.  
 9 Q. I'm going to be very specific. Did he have to  
 10 check on the cost or did he have to check on -- did -- did  
 11 Mr. Wood seem to already understand what the cost would be?  
 12 A. Yes.  
 13 Q. And what was the cost?  
 14 A. He mentioned the total of \$20,000.  
 15 Q. For what?  
 16 A. For the cabinetry and the countertops.  
 17 Q. And what was Ken Paxton's response, that he wanted  
 18 to do it or did not want to do it?  
 19 A. He stated that he would like to move forward.  
 20 Q. And then what was said by Kevin Wood?  
 21 A. He said I would check with Nate.  
 22 Q. Did you relay that conversation to anyone?  
 23 A. I relayed it to two individuals.  
 24 Q. Were either of them people who worked above you at  
 25 the Office of the Attorney General?

1 A. Yes.  
 2 Q. Were you relaying the information to be salacious  
 3 or for another reason?  
 4 A. I was seeking advice.  
 5 Q. And who did you speak to?  
 6 A. I spoke to Marc Rylander and Blake Brickman.  
 7 Q. What did Marc Rylander or Blake Brickman advise you  
 8 to do?  
 9 MR. BUZBEE: Objection, hearsay.  
 10 MS. EPLEY: Your Honor, they're --  
 11 PRESIDING OFFICER: Sustained.  
 12 Q. (BY MS. EPLEY) Okay. What did you do after  
 13 speaking to Marc Rylander and Blake Brickman?  
 14 A. I spoke to General Paxton.  
 15 Q. What did you say to Mr. -- General Paxton?  
 16 A. I asked him about the conversation that I had  
 17 overheard, and I stated that I walked away with a certain  
 18 impression. And that --  
 19 Q. Let me pause you. With what impression?  
 20 A. I walked away with the impression that Nate Paul  
 21 was involved in the renovations of General Paxton's home.  
 22 Q. What concerns did you have about that?  
 23 A. Given the fact that we were working on several  
 24 items related to Mr. Paul, it felt as though there might be  
 25 an inappropriate relationship there.

1 Q. Were you that clear with the General?  
 2 A. Yes.  
 3 Q. And what happened?  
 4 A. He stated that he appreciated me bringing his  
 5 concern to him and that he then assured me that that was, in  
 6 fact, not the case.  
 7 Q. Did his explanation absolve all concerns?  
 8 A. No.  
 9 Q. How did you feel at the conclusion of that  
 10 conversation?  
 11 A. Still uneasy, but I never discussed it after that  
 12 with him.  
 13 Q. Okay. Are you aware of the fact that we've issued  
 14 subpoenas for Kevin Wood for him to address these issues and  
 15 that he does not intend to testify before this Court?  
 16 MR. BUZBEE: Objection, speculation. She's  
 17 just testifying now.  
 18 PRESIDING OFFICER: Sustained.  
 19 Q. (BY MS. EPLEY) Did you spend much time at the  
 20 Paxton home after that?  
 21 A. Not much, no.  
 22 Q. Why not?  
 23 A. It was a mix of ongoing renovations, increased  
 24 travel, and just lack of request to be there.  
 25 Q. Okay. Did you feel comfortable about the home or  
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1 being present at the home?  
 2 A. Not always, no.  
 3 Q. Why is that?  
 4 A. There was still some lingering concerns over the  
 5 questions that I had asked the General, but I had not  
 6 followed up on those concerns.  
 7 Q. In the summer of 2020, prior to the whistleblowing  
 8 allegations, did you have an opinion as to the veracity or  
 9 the truthfulness of Mark Penley?  
 10 A. Yes.  
 11 Q. And what was it?  
 12 A. He seemed to be an individual of the utmost  
 13 integrity.  
 14 Q. And did you have an opinion as to the credibility  
 15 or truthfulness of Jeff Mateer?  
 16 A. Yes.  
 17 MR. BUZBEE: Your Honor, I'm sorry. It's not  
 18 proper for one witness to talk about whether another witness  
 19 is truthful. That's just not how it works. That's --  
 20 MS. EPLEY: It absolutely is, Your Honor.  
 21 MR. BUZBEE: Please let me finish and quit  
 22 interrupting, please.  
 23 Your Honor, it's not proper for one witness to  
 24 sit up on the stand and say this person is truthful, this  
 25 person is truth -- that's not how it works. It's improper.  
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1 I object.  
 2 MS. EPLEY: That's -- he's absolutely right in  
 3 a vacuum. I would have no authority to talk about the  
 4 character of truthfulness as a primary rule and I wouldn't  
 5 infringe it. But once he attacks their credibility, Rule  
 6 405(a)(1) allows me to establish by reputation or opinion a  
 7 relevant character trait; in this case, truthfulness.  
 8 MR. BUZBEE: That's not how it works, Your  
 9 Honor.  
 10 MS. EPLEY: Yes, it is.  
 11 MR. BUZBEE: Anyway, you don't -- this is not  
 12 how it works, Your Honor. You don't get to get up here and  
 13 bring one witness and talk about the veracity of all the  
 14 other witnesses. Now, if she feels like Mr. Penley's  
 15 veracity was challenged on some particular statement, then  
 16 she brings a statement to try to -- a different statement to  
 17 try to rehabilitate him, but she don't do it with this  
 18 witness.  
 19 MS. EPLEY: You can do it with any witness,  
 20 Your Honor.  
 21 PRESIDING OFFICER: We'll sustain the  
 22 objection.  
 23 Q. (BY MS. EPLEY) How did you communicate with Ken  
 24 Paxton in 2020?  
 25 A. Through email and text message and phone calls.  
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1 Q. How many cell phones did Ken Paxton have?  
 2 A. He had two primary, and he later obtained two more  
 3 cell phones.  
 4 Q. I learned through the course of opening that I used  
 5 the term "burner phone" incorrectly. Apparently they have to  
 6 be cheap and from 7-Eleven. What would you call extra phones  
 7 that most people don't know about?  
 8 A. Extra phones.  
 9 Q. Okay. So two primary phones, two extra phones?  
 10 A. Yes, ma'am.  
 11 Q. Do you have the phone number of his personal phone?  
 12 A. I do.  
 13 Q. And would you give us the last four digits of that,  
 14 please?  
 15 A. The cell phone is 8128.  
 16 Q. And what about his work phone?  
 17 A. 0220.  
 18 Q. Can you describe for us physically what the other  
 19 two phones look like?  
 20 A. The other two phones being the extra phones?  
 21 Q. That's correct.  
 22 A. Okay. The other two phones, one was a Samsung  
 23 Galaxy Fold, the other was a red iPhone.  
 24 Q. You mentioned that you also communicated with him  
 25 by email. Outside of work email, did he have another?  
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1 A. He did.  
 2 Q. What kind of account was that?  
 3 A. It was a Proton Mail.  
 4 Q. And do you know how the Proton account was set up?  
 5 A. It was set up through the OAG's office.  
 6 Q. Why was that?  
 7 A. We went to China.  
 8 Q. So it was safer to discuss business on that phone  
 9 than it would be for a Chinese hacker to get into a personal  
 10 cell or a work cell, correct?  
 11 A. Yes.  
 12 Q. But do you also know that their headquarters are  
 13 out of the United States?  
 14 A. I believe they're in Switzerland.  
 15 Q. And so they wouldn't be subsequent [sic] to a  
 16 search warrant and are not provided as part of a public  
 17 records request to the OAG?  
 18 MR. BUZBEE: Objection, speculation, Your  
 19 Honor.  
 20 PRESIDING OFFICER: Sustained.  
 21 Q. (BY MS. EPLEY) And are you familiar with something  
 22 called Signal?  
 23 A. I am.  
 24 Q. What is that?  
 25 A. It is an encrypted messaging app.

1 Q. Encrypted also making it safer, correct?  
 2 A. Yes.  
 3 Q. Are you aware that they, too, are housed out of the  
 4 country not subsequent to -- or not under the pressures of a  
 5 subpoena and not provided by the OAG?  
 6 MR. BUZBEE: Again, Your Honor, this is just  
 7 her testifying what she thinks Signal is. This witness  
 8 doesn't know this. It's speculation and improper.  
 9 PRESIDING OFFICER: Sustained.  
 10 Q. (BY MS. EPLEY) At any point did General Paxton ask  
 11 to use technology that you provided?  
 12 A. Yes.  
 13 Q. What was that?  
 14 A. He used my personal cell phone.  
 15 Q. How many times did the General use your personal  
 16 cell phone?  
 17 A. At least three to four.  
 18 Q. Were you able to hear those conversations or who  
 19 they were with?  
 20 A. I was not.  
 21 Q. Were you able to determine after you got your  
 22 property back why he needed your phone?  
 23 A. No.  
 24 Q. Why not?  
 25 A. Whenever I received my cellular device back, the

1 call log had been wiped.  
 2 Q. And did he use anything of yours other than your  
 3 cell phone?  
 4 A. No.  
 5 Q. Do you recall after the whistleblowers the --  
 6 Mr. Paxton asking to use your laptop?  
 7 A. Yes.  
 8 Q. What was that about?  
 9 A. That was a request -- he was working on a letter to  
 10 the Inspector General of the United States.  
 11 Q. Can you anchor that in time for us? What had just  
 12 occurred?  
 13 A. This was late October, and this would have been  
 14 after the whistleblower complaint.  
 15 Q. And do you know -- what were you asked to do?  
 16 A. I was asked -- General Paxton handed me a hard copy  
 17 of a document and asked me -- asked me to transcribe the  
 18 events outlined in the document in the form of a letter to  
 19 the Inspector General.  
 20 Q. And by "hard copy," you mean like what I have here?  
 21 A. Yes.  
 22 Q. So not handwriting, but typewritten?  
 23 A. Yes.  
 24 Q. Why would you needed to be provided a typewritten  
 25 copy of anything that's already in electronic format?

1 MR. BUZBEE: Objection, speculation.  
 2 PRESIDING OFFICER: Overruled.  
 3 Q. (BY MS. EPLEY) Why would you need to be provided a  
 4 hand copy of anything that's already in electronic format?  
 5 A. I don't know.  
 6 Q. And what were you asked to do? Transcribe you  
 7 said?  
 8 A. Yes.  
 9 Q. Were you making additions or deletions?  
 10 A. I did make several additions, yes.  
 11 Q. What kind of additions?  
 12 A. Since it was asked to be in the format of a letter  
 13 to Inspector General Horowitz, it was addressed to Inspector  
 14 General Horowitz. There was a slight introduction that I had  
 15 been asked to include. And then the sign-off was asked to be  
 16 as General Paxton.  
 17 MS. EPLEY: At this time I offer House Exhibit  
 18 573. This is part of the Office of the Attorney General  
 19 records. There is a business record affidavit. It has been  
 20 on file for greater than 14 days.  
 21 PRESIDING OFFICER: Any objection?  
 22 MR. BUZBEE: No objection, Your Honor.  
 23 PRESIDING OFFICER: Please admit Exhibit 573  
 24 to evidence -- into evidence.  
 25 (HBOM Exhibit No. 573 was admitted)

1 Q. (BY MS. EPLEY) Mr. Wicker, will you take a moment  
2 and look at the body of that letter and let me know if you  
3 recognize it?

4 A. This is the letter that I was asked to write for  
5 Inspector General Horowitz.

6 Q. So if I turn you to the top where you add, "Dear  
7 Mr. Horowitz," you typed that in?

8 A. Yes.

9 Q. Do you know who that is?

10 A. He was or is the Inspector General of the United  
11 States.

12 Q. We've heard about the Office of the Inspector  
13 General throughout this trial. Do you know whether or not  
14 that's the appropriate person to go to if you want to make  
15 complaints about federal prosecutors or federal agents?

16 A. That is my understanding, yes.

17 Q. At any point prior to the whistleblower situation,  
18 had Ken Paxton talked to you about or in your presence about  
19 the Office of the Attorney General [sic]?

20 A. About the Office of the Attorney General, yes.

21 Q. Had he ever suggested going there or that they were  
22 the correct place to bring this complaint?

23 A. He -- he had not mentioned that to me, no.

24 Q. In fact, do you know that he didn't want to take it  
25 to OIG prior to that?

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1 Q. And what did you do with the laptop after typing up  
2 the letter?

3 A. I followed up with General Paxton about having  
4 completed the transcribed letter.

5 Q. And then what?

6 A. And I asked him what he'd like to do with it.

7 Q. And what was the response?

8 A. He said that he had several insertions that he  
9 would like to make and that he would let me know about when  
10 he needed it.

11 Q. Did he have you email him or put it into a USB  
12 drive?

13 A. Not to my recollection, no.

14 Q. What did he do?

15 A. He asked me to bring my state laptop to his Austin  
16 home so that he could work on the letter.

17 Q. And did he make changes to your knowledge?

18 A. To my knowledge, no.

19 Q. Okay. After -- after drafting the letter for the  
20 Attorney General, do you know whether or not the letter was  
21 ever sent to OIG?

22 A. I do not.

23 Q. Let me turn your attention then to the conclusion  
24 of your career there. What was the status of your job?

25 A. The status was that I was both the scheduler as

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1 MR. BUZBEE: Objection, speculation.

2 PRESIDING OFFICER: Overruled.

3 Q. (BY MS. EPLEY) Do you know whether or not he  
4 wanted to take Nate Paul's complaint to the OIG prior to the  
5 whistleblowers coming forward?

6 A. I do not.

7 Q. And then once you look at this letter, I'm going to  
8 turn you down to the bottom in regards to the allegations  
9 made by Nate Paul, and I'm going to go quickly. Do these  
10 amount to things like not getting to use the restroom?

11 A. It did.

12 Q. And when you drafted it, did you realize part of  
13 Nate Paul's big federal complaint is that he couldn't call  
14 his attorney except from using an agent's cell phone?

15 A. Yes.

16 Q. And that he was not allowed to call for counsel and  
17 that's why they provided him a cell phone?

18 A. Yes.

19 Q. Are you aware that the only allegations he makes --  
20 well, let me do this differently. Where were you when you  
21 were helping type this up for the General?

22 A. This letter was written in the Office of the  
23 Attorney General.

24 Q. On what laptop?

25 A. My state laptop.

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1 well as the executive aide.

2 Q. Well, I mean, at the end, in October of 2020  
3 leading into November. Were you offered a promotion? Were  
4 you offered a change in job function?

5 A. I was.

6 Q. And what was that?

7 A. General Paxton had expressed an interest in myself  
8 taking on greater responsibilities with regards to certain  
9 policy areas. And that I would continue with my present job  
10 responsibilities but also take on the additional  
11 policy-related responsibilities.

12 Q. And at some point you mentioned the FBI had reached  
13 out to you and you make Ken Paxton aware of that; is that  
14 accurate?

15 A. Yes.

16 Q. And what did he do?

17 A. General Paxton's question that he asked me was why.

18 Q. Did you have a response for him?

19 A. No, I did not.

20 Q. What, if anything, did he direct you to do?

21 A. He -- he did not direct me to do anything at that  
22 time.

23 Q. Did he take you anywhere?

24 A. Not at that time, no.

25 Q. Okay. Ultimately -- you say "not at that time."

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1 So what happens next in regards to that?  
 2 A. The next discussion I had with a member of the AG  
 3 staff regarding the FBI was Brent Webster requested to meet  
 4 with me.  
 5 Q. And what, if anything, did Brent Webster have to  
 6 say on behalf of the Office of the Attorney General?  
 7 MR. BUZBEE: Objection, hearsay, Your Honor.  
 8 PRESIDING OFFICER: Sustained.  
 9 Q. (BY MS. EPLEY) Was he working in his official  
 10 capacity as a representative or employee of the Office of the  
 11 Attorney General?  
 12 A. That is my understanding, yes.  
 13 MS. EPLEY: Same question, Your Honor,  
 14 subsequent to 801(e)(D) which is specific to representatives  
 15 or employees. Brent Webster is making the comment to  
 16 Mr. Wicker in his capacity as an employee of Ken Paxton.  
 17 MR. BUZBEE: Same objection, Your Honor.  
 18 We've established in this trial you can't -- that's not how  
 19 it works. She cannot just come up here and ask him what  
 20 somebody else said other than General Paxton himself.  
 21 MS. EPLEY: You can when he's being directed  
 22 as part of his employment.  
 23 MR. BUZBEE: He's not an employee of Ken  
 24 Paxton.  
 25 PRESIDING OFFICER: He's an agent of Ken  
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1 Paxton, so we'll overrule.  
 2 MS. EPLEY: Thank you.  
 3 Q. (BY MS. EPLEY) What, if anything, did Brent  
 4 Webster tell you?  
 5 A. Mr. Webster said that he understood that the FBI  
 6 had reached out to me and that I should not respond.  
 7 Q. Did he tell you why?  
 8 A. He said that I ran the risk of incriminating  
 9 myself.  
 10 Q. And did he then bring you back to Ken Paxton?  
 11 A. Eventually, yes.  
 12 Q. And what was that conversation about?  
 13 A. He believed that there was an opportunity to assert  
 14 attorney-client privilege.  
 15 Q. So he, too, wanted to prevent you from speaking to  
 16 FBI?  
 17 A. It certainly seems that way, yes.  
 18 Q. And were you asked to speak to anyone else about  
 19 this?  
 20 A. Lesley French.  
 21 Q. And what did she tell you to do?  
 22 A. Lesley French advised me that she had been through  
 23 something similar and that there was nothing to worry about;  
 24 that the AG's Office would provide me with counsel while I  
 25 met with the FBI and that there is no need for me to bring my  
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1 own counsel.  
 2 Q. What was your response?  
 3 A. My response was that I would feel more comfortable  
 4 retaining my own counsel that would look out for my  
 5 interests.  
 6 Q. Why did you respond that way?  
 7 A. Because that's where I would have been felt --  
 8 that's how I would have felt comfortable in that instance.  
 9 Q. After all of this, what decision do you ultimately  
 10 make about this promotion?  
 11 A. The conversation that occurred regarding the  
 12 promotion was all at once and this was actually -- I informed  
 13 General Paxton that I would not be taking the promotion, but  
 14 I would gladly accept the responsibilities.  
 15 Q. Why -- why were you making that distinction?  
 16 A. I did not want the General to have the appearance  
 17 of having offered me anything in light of the FBI reaching  
 18 out.  
 19 Q. So you were trying to protect the appearance of  
 20 what that would look like for General Paxton?  
 21 A. For General Paxton and myself.  
 22 Q. Thank you. Did you ultimately put in your notice  
 23 and quit?  
 24 A. I did resign, yes.  
 25 Q. Was that on November 2nd, 2020?  
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1 A. If I recall correctly, yes.  
 2 Q. Makes sense then that payments would stop; is that  
 3 correct?  
 4 A. Yes.  
 5 Q. And did they stop from the Office of the Attorney  
 6 General?  
 7 A. They did.  
 8 Q. Did they stop overall?  
 9 A. No.  
 10 Q. What else were you provided?  
 11 A. I was -- I was continued to be provided a monthly  
 12 stipend by the campaign.  
 13 Q. Did you notify Ken Paxton's campaign that you were  
 14 still receiving money and that you should not be?  
 15 A. No. I had let them know that I was leaving and to  
 16 cut off my access to both the email and the calendar and that  
 17 I should cease receiving stipends.  
 18 Q. When did you cease receiving stipends?  
 19 A. Not until the following year.  
 20 Q. And what, if anything, did you do with that extra  
 21 money that you had been provided?  
 22 A. Michele Smith had sent me a W-2 with that amount.  
 23 I contacted her not understanding that I continued to be  
 24 paid. I asked her what I should do with the money and if  
 25 General Paxton would like it back. She reached out to  
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1 General Paxton who informed her to tell me to keep it. And I  
 2 stated, no problem, and I went ahead and donated the money  
 3 back.  
 4 Q. They told you to keep it, and you donated it back?  
 5 A. Yes.  
 6 Q. Why did you do that?  
 7 A. I didn't do the work.  
 8 Q. How did you feel about receiving money from Ken  
 9 Paxton's campaign after you ceased employment and in light of  
 10 all the facts relevant today?  
 11 A. I have no reason to believe that it was with  
 12 malicious intent. It might have been an innocent mistake.  
 13 Q. I think maybe more specifically I'm talking about  
 14 your character. What made you return it?  
 15 A. I didn't put in the work and I was -- I did not  
 16 want any instance -- I didn't want it to appear as though I  
 17 might have any conflict of interest if anything like this  
 18 ever came about.  
 19 MS. EPLEY: Thank you, sir. Pass the witness.  
 20 PRESIDING OFFICER: We're going to take a  
 21 break now. And, Members, we went longer in this section, so  
 22 we'll take a 20-minute break, and then we'll go until 12:30.  
 23 We'll move lunch 12:30 to 1:30 today. So be back here at 15  
 24 minutes after 11:00.  
 25 (Break taken from 10:54 a.m. to 11:32 a.m.)  
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1 PRESIDING OFFICER: We have a motion to be  
 2 brought in court by the House Managers I understand.  
 3 MS. GRAHAM: Mr. President, yes, we would like  
 4 to present a motion for reconsideration and amendment of the  
 5 Senate Rule 27 and 38.  
 6 PRESIDING OFFICER: Please bring it forward.  
 7 MS. GRAHAM: Yes, sir.  
 8 (Motion delivered to the Court)  
 9 PRESIDING OFFICER: I'm not going to read the  
 10 whole motion, Members. You will have an opportunity to do  
 11 that later. In short, they want to amend the rules so that  
 12 after deliberations when you vote for acquittal or  
 13 conviction, if you vote for conviction, it automatically  
 14 prevents the Attorney General from serving in office again.  
 15 They want to combine that. That's what the motion is.  
 16 It has to lay out for 24 hours. It's 11:30.  
 17 So we would not take it up until 11:30 tomorrow, and that  
 18 will come to you to do with as you decide. You can table it;  
 19 you can take it up; whatever you decide. So I wanted you to  
 20 be aware of that motion because that's the proper procedure  
 21 if the parties are making a motion to bring it to me and for  
 22 me to share it with you.  
 23 Mr. Buzbee.  
 24 MR. BUZBEE: Thank you, Your Honor.  
 25 CROSS-EXAMINATION  
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1 BY MR. BUZBEE:  
 2 Q. Is it okay if I call you Drew?  
 3 A. Yes, sir.  
 4 Q. Turn your mic on there.  
 5 A. There we go. Is this better?  
 6 Q. Okay?  
 7 A. Yes, sir, that is okay.  
 8 Q. I hope you don't think I'm being disrespectful. I  
 9 just --  
 10 A. No. Go ahead.  
 11 Q. We did -- we did speak on the phone a couple of  
 12 nights ago?  
 13 A. Yes, sir.  
 14 Q. Okay. And you also talked to these folks over here  
 15 as well?  
 16 A. Yes, sir.  
 17 Q. Okay. I want to clear something up. You were --  
 18 when you were working as an aide to General Paxton, you were  
 19 getting paid not only from the State, but also from his  
 20 campaign.  
 21 A. Yes, sir, that is correct.  
 22 Q. Because you were doing some things not only for the  
 23 State, but you were doing other business for General Paxton?  
 24 A. Correct.  
 25 Q. And so it would make sense that you would be paid  
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1 by both entities?  
 2 A. Yes, sir.  
 3 Q. And as I understand it, you were getting paid  
 4 direct deposit by the campaign?  
 5 A. Yes, sir.  
 6 Q. Okay. So just to clear this up, when -- when you  
 7 decided to leave the AG's Office and go and work in your  
 8 family's business, somebody forgot to turn off your direct  
 9 deposit from the campaign.  
 10 A. Yes, sir.  
 11 Q. It wasn't somebody, like, still giving you checks,  
 12 it was just an automatic direct deposit.  
 13 MS. EPLEY: Objection, speculation.  
 14 Q. (BY MR. BUZBEE) I mean, you know how you were --  
 15 how you were getting paid in your own bank account, don't  
 16 you?  
 17 PRESIDING OFFICER: I'll sustain the  
 18 objection, but you can ask again.  
 19 Q. (BY MR. BUZBEE) You know how you were getting  
 20 paid. It was a direct deposit into your bank account, wasn't  
 21 it?  
 22 A. That's correct.  
 23 Q. And it just continued until you raised the issue,  
 24 and then you gave the money back, right?  
 25 MS. EPLEY: Objection, speculation.  
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1 MR. BUZBEE: We've already heard from this.  
 2 PRESIDING OFFICER: Overruled.  
 3 Q. (BY MR. BUZBEE) Isn't that what happened when it  
 4 was figured out? General Paxton said, Well, just keep --  
 5 keep the money, Drew. And you decided, no, the better thing  
 6 to do is just give it back to the campaign, right?  
 7 A. That is correct.  
 8 Q. Okay. These -- you talked about three lunches in  
 9 your direct, did you not?  
 10 A. I did.  
 11 Q. These were at restaurants?  
 12 A. Yes, sir.  
 13 Q. In a public place?  
 14 A. Yes, sir.  
 15 Q. Was anybody hiding or -- or in a secret, dark back  
 16 room?  
 17 A. Not to my knowledge.  
 18 Q. Anybody that walked in the restaurant could see  
 19 General Paxton there, could see you there, could see whoever  
 20 he was having lunch with there, right?  
 21 A. That is correct.  
 22 Q. Wasn't anything secret about that at all, was  
 23 there?  
 24 A. No, sir.  
 25 Q. Okay. I want to make sure the Members understand,

1 Drew, because this is some things that you not only told the  
 2 House when you were interviewed, but you also told me the  
 3 other night on the phone.  
 4 When you were working for General Paxton, you  
 5 almost considered him family, didn't you?  
 6 A. That is correct.  
 7 Q. You have no animosity towards the Paxtons, do you?  
 8 A. I do not.  
 9 Q. And you told me you loved the General, right?  
 10 A. That is correct.  
 11 Q. And you also said you appreciate everything that  
 12 General Paxton did for you.  
 13 A. Correct.  
 14 Q. The Paxtons used to joke that you were -- you were  
 15 a second son, didn't they?  
 16 A. They did.  
 17 Q. You told me that you and General Paxton were very  
 18 close.  
 19 A. That's correct.  
 20 Q. Are you accusing -- and I don't think you are, I  
 21 just want to make it clear because you were probably with  
 22 General Paxton more than anyone else during that time frame  
 23 that you were working for him, weren't you?  
 24 A. Yes.  
 25 Q. I mean, I want to make it clear. I think the

1 Senators know, but just for the public, sometimes you -- you  
 2 would be what's called a body man? You ever heard that term?  
 3 A. Yes, I've heard that term.  
 4 Q. Yeah. And basically you're with your boss all the  
 5 time until he releases you for the day.  
 6 A. That is correct.  
 7 Q. So you would have been spending more time with  
 8 General Paxton than anyone else, right?  
 9 A. Yes.  
 10 Q. More so than even his wife, Angela.  
 11 A. Yes.  
 12 Q. You're not accusing him of bribery, are you?  
 13 A. I am not.  
 14 Q. Let's be clear. The guy that spent more time --  
 15 and that's you, Drew -- with General Paxton than anyone else  
 16 during the time frame that we're here to talk about is  
 17 absolutely not accusing General Paxton of doing anything  
 18 wrong at all, are you?  
 19 A. I'm not accusing anybody of anything, no.  
 20 Q. Okay. You also were with General Paxton when he  
 21 traveled, right?  
 22 A. That's correct.  
 23 Q. And just so -- and I know you've read some of these  
 24 press reports, haven't you?  
 25 A. I've done my best to stay away from any sort of

1 media. I've had some people say some things to me, but I've  
 2 tried to shut that down as soon as it's come up.  
 3 Q. And I know it's hard to ignore some of this stuff  
 4 in the newspaper, but you know that there's been an  
 5 allegation that General Paxton had a secret email address?  
 6 A. I believe you mentioned that to me on the call the  
 7 other day, yes.  
 8 Q. And you and I know that the reason he had that  
 9 Proton address, that email address, was because he was  
 10 traveling to China.  
 11 A. That's correct.  
 12 Q. And the reason be -- and that was something set up  
 13 for him by the IT department at the Office of Attorney  
 14 General.  
 15 A. That is correct.  
 16 Q. And that email address was to prevent the Chinese  
 17 from hacking into his cell -- or into his email, right?  
 18 A. Correct.  
 19 Q. Okay. And other people in the office had that same  
 20 type of email address, didn't they?  
 21 A. I don't know how many others, but yes.  
 22 Q. Okay. Do you remember the suggestion of burner  
 23 phones?  
 24 A. I've -- Ms. -- Ms. Epley mentioned it earlier, but  
 25 yes.



1 Q. Yeah. It was -- and I know you probably haven't  
2 been reading the newspaper, but let's just go ahead and get  
3 this out of the way. If a burner phone is a phone, a plastic  
4 phone that you can buy at a convenience store with a certain  
5 amount of minutes and when it's over, you break it and throw  
6 it in the trash, General Paxton never had anything like that,  
7 did he?

8 A. Not to my knowledge, no.

9 Q. He never had any burner phone, did he?

10 A. Not under that definition, no, sir.

11 Q. Okay. You told the House you could not speculate  
12 as to what relationship Nate Paul had with General Paxton;  
13 isn't that right?

14 A. I stated that I believed that they -- that they  
15 were friends, yes, but I wouldn't speculate beyond that.

16 Q. Yeah. That's all you know, right?

17 A. Yes.

18 Q. Okay. One thing you do know, that you never were  
19 in the presence of General Paxton when he and Nate Paul made  
20 any kind of agreement; isn't that right?

21 A. That is correct.

22 Q. I mean, let's be clear. They've been throwing  
23 around this word "conspiracy" for literally a week and almost  
24 a half. And you were the man who was with General Paxton  
25 more than anyone else, and you can say definitively you never  
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1 saw Nate Paul and General Paxton reach any sort of agreement  
2 whatsoever; isn't that right?

3 A. No, sir.

4 Q. Is that right?

5 A. For the conversations I was privy to, that is an  
6 accurate statement, yes, sir.

7 Q. Okay. You don't have any actual knowledge that  
8 Nate Paul ever did anything for General Paxton other than buy  
9 a lunch; isn't that right?

10 A. That is correct.

11 Q. Let's be clear. The man that was with General  
12 Paxton more than anyone else is testifying under oath that  
13 you have no evidence, no knowledge that Nate Paul ever did  
14 anything for General Paxton other than buy a lunch; isn't  
15 that true?

16 A. That is correct.

17 Q. Now, you have seen some speculation in the  
18 newspaper and the press, haven't you?

19 A. Prior to this trial, yes.

20 Q. Yeah. And I want to -- and I'm not picking on you,  
21 Drew, because I think you can tell that I'm fond of you and I  
22 like you. But I want you to know that this whole idea of the  
23 house renovations, everybody says it came from you. Do you  
24 know anything about who paid for General Paxton's home  
25 renovations?  
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1 A. Not directly, no.

2 Q. All you have is one stray comment, right?

3 A. Across multiple instances, yes.

4 Q. And you were concerned about it and you went and  
5 raised it with your boss, right?

6 A. That is correct.

7 Q. And he was very clear with you, that is not what's  
8 going on here; isn't that right?

9 A. That is what he stated to me, yes.

10 Q. Okay. When you interviewed with the House  
11 Managers, did they ever bother to show you the receipts,  
12 bills, payments related to General Paxton's house  
13 renovations?

14 A. No, sir.

15 Q. They are in evidence. Did you ever go with General  
16 Paxton and Senator Paxton when they went to Home Depot?

17 A. No, sir.

18 Q. When they went to Lowe's?

19 A. No, sir.

20 Q. When they went to a different Lowe's?

21 A. No, sir.

22 Q. Were you ever with them when they were pricing  
23 sinks and countertops?

24 A. No, sir.

25 Q. You did say in your -- in your testimony to the  
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1 House that General Paxton's -- I don't want to use the wrong  
2 word, but he's close with his money.

3 A. Yes.

4 Q. I don't want to call him cheap because he's my  
5 client, but -- but he pays attention to what he spends.

6 A. The word I would use is frugal.

7 Q. Frugal, good word. Okay. You believed, based on  
8 what some people have told you or maybe what you read, that  
9 General Paxton got granite countertops?

10 A. That was what I read in one news article, yes.

11 Q. Okay. Let's let that sink in. And when you read  
12 that and when you connected it to the statement you say you  
13 heard, you thought, Well, there it is, General Paxton got  
14 granite countertops paid for by Nate Paul, right?

15 A. No, sir.

16 Q. You still didn't believe that, did you?

17 A. No, sir. In terms of the timing, I had already  
18 made my statements to the House committee, and the article  
19 that I read and the referencing now I believe came out after  
20 that.

21 Q. Okay. And I'm not -- I'm not talking about that.  
22 I just want to make sure that at some point in time you  
23 believed that General Paxton had gotten granite countertops,  
24 right?

25 A. I had heard that. I don't think I believed that,  
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1 no, sir.  
 2 Q. Do you believe it now?  
 3 A. No, sir.  
 4 MR. BUZBEE: Let's pull up, Erick, if you  
 5 will, Attorney General Exhibit 371.  
 6 Q. (BY MR. BUZBEE) You told us you had been in the  
 7 kitchen of the Paxtons' home in Austin?  
 8 A. I was.  
 9 Q. And that's in Tarrytown here in Austin?  
 10 A. That is my understanding what the neighborhood is  
 11 called, yes.  
 12 MR. BUZBEE: Okay. Can we pull that up,  
 13 Erick, please.  
 14 MS. EPLEY: Objection, Your Honor. Is this  
 15 already in evidence? And he hasn't established the relevant  
 16 time period, whether it was before or after.  
 17 MR. BUZBEE: I've already said this is in  
 18 evidence, Your Honor. It's AG 371.  
 19 PRESIDING OFFICER: Overruled.  
 20 Q. (BY MR. BUZBEE) Now, this picture, sir, was taken  
 21 before -- a few days before this trial started. Do you see  
 22 the countertops?  
 23 MS. EPLEY: Objection, assumes facts not in  
 24 evidence.  
 25 MR. BUZBEE: It's already been proved up, Your  
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1 Honor. We'll do it again.  
 2 MS. EPLEY: It has not been proven up. It is  
 3 a photograph, and it depicts exactly what it purports to  
 4 until or unless he lays a predicate for someone who can say  
 5 when it was taken.  
 6 MR. BUZBEE: If I could keep going, Your  
 7 Honor, we'll do all that.  
 8 PRESIDING OFFICER: Sustained.  
 9 Q. (BY MR. BUZBEE) Sir, do you see the kitchen, the  
 10 Paxton kitchen there?  
 11 A. I do.  
 12 Q. Do you see the countertops?  
 13 A. I do.  
 14 Q. Are those the same countertops that you saw when  
 15 you were in the Paxton kitchen?  
 16 A. Prior to the renovation, yes.  
 17 Q. Okay. Do you realize that that's the same  
 18 countertops as they exist today?  
 19 MS. EPLEY: Objection, facts not in evidence.  
 20 He doesn't have a predicate for that, and he's testifying to  
 21 the Senate.  
 22 MR. BUZBEE: Your Honor, this has already come  
 23 into evidence of the current picture of General Paxton's  
 24 kitchen. It's already in evidence.  
 25 MS. EPLEY: Mischaracterization of the  
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1 evidence, Your Honor. The photograph is in evidence, but  
 2 what it depicts has not been established. And Tony Buzbee  
 3 does not get to, no matter how hard he tries, establish the  
 4 time frame in which it was taken.  
 5 PRESIDING OFFICER: Sustained.  
 6 Q. (BY MR. BUZBEE) Is this how the kitchen looked  
 7 when you were in it?  
 8 A. Prior to the renovations, yes.  
 9 Q. Okay. Do you see the countertops?  
 10 A. I do.  
 11 Q. Do you see the stove?  
 12 A. I do.  
 13 Q. Do you see the cabinetry?  
 14 A. I do.  
 15 Q. Do you know how often the Paxtons went and priced  
 16 new stoves, new countertops, painting the cabinetry? Do you  
 17 know any of that?  
 18 MS. EPLEY: Objection, assumes facts not in  
 19 evidence. We don't know that they did that at all.  
 20 MR. BUZBEE: We're asking -- I'm asking him,  
 21 Your Honor. How can I establish if I don't ask him that?  
 22 PRESIDING OFFICER: Overruled.  
 23 Q. (BY MR. BUZBEE) Do you know how many times they  
 24 did that?  
 25 A. I do not.  
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1 Q. Wouldn't it be unfair to the Paxtons to suggest  
 2 that this picture here -- that these --  
 3 MS. EPLEY: Objection to relevance, the way  
 4 it's phrased --  
 5 MR. BUZBEE: If I could finish.  
 6 MS. EPLEY: -- your Honor. It's  
 7 inappropriate.  
 8 PRESIDING OFFICER: Let him finish his  
 9 question.  
 10 Q. (BY MR. BUZBEE) Do you know whether -- the  
 11 countertops that we see in this picture, do you know whether  
 12 they've ever changed?  
 13 A. I do not know if they've changed, no.  
 14 Q. Okay. In evidence is Exhibits 346 to 353. You  
 15 mentioned Steam Clean is one of the contractors, right?  
 16 A. Yes, sir.  
 17 Q. And you had to deal with them?  
 18 A. I believe I was copied on email correspondence.  
 19 Q. Okay. And did you know that there was more work  
 20 that the Paxtons wanted beyond what Steam Clean was going to  
 21 do?  
 22 A. I wasn't that involved in the detail of The Steam  
 23 Team.  
 24 Q. Okay. Did you -- you talked to us about how you  
 25 had some involvement with an insurance adjuster?  
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1 A. The involvement being that I showed him the home,  
 2 yes.  
 3 Q. And the insurance company was USAA?  
 4 A. I believe that's correct.  
 5 Q. Let's look at what's in evidence, AG Exhibit 1 --  
 6 410, second page.  
 7 MR. BUZBEE: Just catch the first page first,  
 8 Erick.  
 9 Q. (BY MR. BUZBEE) Can you confirm with me,  
 10 Mr. Wicker, Drew, that the date of this correspondence from  
 11 USAA is September 16th, 2020?  
 12 A. I can.  
 13 Q. And let's turn to the second page. Do you see that  
 14 the policyholder is Warren Paxton, your former boss?  
 15 A. Yes.  
 16 Q. Okay. And you see there's a claim number there?  
 17 A. I do.  
 18 Q. And do you see this explanation for the benefits  
 19 and the payments and the additional payments that are laid  
 20 out there?  
 21 A. That's what it appears to be, yes.  
 22 Q. And how often did you hear General Paxton complain  
 23 about how slow the insurance company was on his claim?  
 24 MS. EPLEY: Objection, Your Honor. What's  
 25 good for the goose is good for the gander. That's hearsay.  
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1 MR. BUZBEE: Exactly. We've been hearing from  
 2 General Paxton all trial.  
 3 MS. EPLEY: He's my -- he's our party  
 4 opponent, Your Honor, not his own. He cannot proffer  
 5 statements for Ken Paxton on his behalf from the stand. We  
 6 get to use them against him; he doesn't get to offer them for  
 7 you.  
 8 PRESIDING OFFICER: Sustained.  
 9 Q. (BY MR. BUZBEE) Do you see here, it says 32,000  
 10 total cash out to you for all other covered repairs. Do you  
 11 see that?  
 12 A. I do.  
 13 Q. Did you ever have any involvement in trying to  
 14 convince the mortgage company to release that check to the  
 15 Paxtons?  
 16 A. I don't recall that, no.  
 17 Q. Okay. Did you -- did you understand that there  
 18 were more repairs being made that Ken Paxton was claiming  
 19 were covered from a different contractor?  
 20 A. I'm not aware.  
 21 MS. EPLEY: Objection, assumes facts not in  
 22 evidence, and Counselor is testifying.  
 23 Q. (BY MR. BUZBEE) Did you know?  
 24 PRESIDING OFFICER: Sustained.  
 25 Q. (BY MR. BUZBEE) Did you know that there was a  
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1 different contractor doing some of the work in the Paxtons'  
 2 home?  
 3 MS. EPLEY: Objection. Mr. Buzbee, that's  
 4 twice the Judge has sustained the objection to facts not in  
 5 evidence.  
 6 MR. BUZBEE: He just testified to it in direct  
 7 that he dealt with Kevin Wood. That's in evidence.  
 8 MS. EPLEY: That's because it was a direct  
 9 relationship based on his rational perception of the facts.  
 10 Q. (BY MR. BUZBEE) Did you deal with Mr. Wood? Did  
 11 you see Mr. Wood at the home?  
 12 A. I did deal with Mr. Wood, yes.  
 13 Q. Did you know that he was doing repairs and  
 14 renovations to the home?  
 15 A. Yes.  
 16 Q. Did you know that he was, in fact, the second  
 17 contractor that's being referred to in the USAA docs?  
 18 A. No. I've never seen these documents.  
 19 Q. I'm trying to figure out --  
 20 MS. EPLEY: Objection, assumes facts not in  
 21 evidence. He's introduced a second contractor when all we  
 22 know is the first and Cupertino.  
 23 PRESIDING OFFICER: Overruled.  
 24 Q. (BY MR. BUZBEE) I'm trying to figure out how it  
 25 would be that -- that Nate Paul is paying for repairs when in  
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1 fact USAA is paying for some of them. You have any idea  
 2 about that?  
 3 A. General Paxton expressed to me that he was paying  
 4 things out of his own pocket as well as insurance.  
 5 Q. Exactly. You knew that, for instance, the sink  
 6 that they use -- that they put into the home, you know that  
 7 that sink was replaced, right?  
 8 MS. EPLEY: Objection, assumes facts not in  
 9 evidence.  
 10 MR. BUZBEE: I'm asking him, Your Honor. How  
 11 can we put it in evidence if I don't ask the witness?  
 12 PRESIDING OFFICER: Overruled.  
 13 MR. BUZBEE: Those are silly objections.  
 14 Q. (BY MR. BUZBEE) You know that they were trying to  
 15 replace their sink, right?  
 16 A. No, sir, I do not know that.  
 17 Q. Do you know what the sink looks like now?  
 18 A. No, sir.  
 19 Q. Do you know who paid for the sink?  
 20 A. No, sir.  
 21 MR. BUZBEE: Your Honor, we're going to offer  
 22 AG Exhibit 433, which is all of the pictures --  
 23 MS. EPLEY: Objection, Your Honor.  
 24 MR. BUZBEE: -- that Angela -- let me offer  
 25 the exhibit first. All of the pictures that Angela Paxton  
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1 had from her phone, all of these where they were at Lowe's  
2 and Home Depot pricing repairs to their home that they -- and  
3 they paid for out of their own pocket.

4 MS. EPLEY: Objection, Your Honor, assumes  
5 facts not in evidence.

6 MR. BUZBEE: If I could finish.

7 PRESIDING OFFICER: Excuse me, Counselor, let  
8 him finish. Okay. You'll have plenty of time to object.

9 MR. BUZBEE: Proven up with an affidavit from  
10 Senator Paxton herself establishing that these are records  
11 that they keep -- that they kept. And she confirms that they  
12 are what they -- she say they are. And they're nonhearsay,  
13 they're mostly just pictures.

14 MS. EPLEY: Your Honor, Mr. President, if I  
15 may respond.

16 MR. BUZBEE: Be Exhibit 433, all the pictures  
17 from Angela Paxton's phone.

18 MS. EPLEY: I am not calling Senator Paxton's  
19 credibility on this issue --

20 PRESIDING OFFICER: Give me one second.

21 MS. EPLEY: -- into question.

22 PRESIDING OFFICER: Let me ask you. Do you  
23 object?

24 MS. EPLEY: I do.

25 PRESIDING OFFICER: What basis?

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1 defense has not followed the rules established by this body  
2 in order to have a Senator testify which is de facto what is  
3 happening by affidavit. I want to -- I want to encourage  
4 everyone to realize I'm not questioning that she signed what  
5 she believes to be a valid affidavit. It's that it is not in  
6 compliance with the rules and it does not tell us what it  
7 purports to depict.

8 MR. BUZBEE: Your Honor, our mission here --  
9 this is Article X. Our mission here is to find the truth.  
10 And they have alleged that Ken Paxton and Angela Paxton, a  
11 member of this body, were bribed, that someone else paid for  
12 their house repairs.

13 The documents you have in your hand directly  
14 contradict that in and, in fact, prove the opposite. Those  
15 are proved up by affidavit. The pictures fairly and  
16 accurately represent pictures they were taking when they were  
17 pricing at Lowe's and Home Depot. They also have pictures of  
18 the house itself as it was undergoing renovations. And I'll  
19 compare those pictures with the pictures of the home now to  
20 demonstrate that all of the things Angela Paxton wanted, like  
21 a new sink, she got --

22 MS. EPLEY: Objection, Your Honor.

23 MR. BUZBEE: If I could finish, Your Honor.

24 MS. EPLEY: Counsel continues to testify on  
25 behalf of his client. It is inappropriate. I ask that we

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1 MS. EPLEY: I am not calling the question --  
2 the affidavit itself into question. What I am saying is  
3 there is inadequate information in that packet to establish  
4 it is relevant. For example, there are about 300 pages of  
5 what looks like scrolling online shopping or photographs from  
6 catalogs from Home Depot and Lowe's. They have no point of  
7 relevance. You don't know when the pictures were taken or by  
8 whom. So while she can establish they are her records, we do  
9 not know what they imply. There's nothing to show us what  
10 they fairly and accurately depict or when it was taken.

11 MR. BUZBEE: That's what the affidavit does.

12 PRESIDING OFFICER: Mr. Buzbee?

13 MR. BUZBEE: The affidavit specifically does  
14 what she claims it doesn't do.

15 MS. EPLEY: She does not claim the time frame  
16 or when the pictures were taken.

17 MR. BUZBEE: Right here, Your Honor.

18 PRESIDING OFFICER: Can I see the affidavit?

19 MR. BUZBEE: You may.

20 MS. EPLEY: Further, Mr. President, I would  
21 point out that their business record affidavit has not been  
22 on file for 14 days, and no metadata is included which would  
23 have been easily provided if they had done a Cellebrite dump  
24 of the cell phone.

25 One other point of order, Mr. President. The

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1 approach and that the testimony be stricken and the Senators  
2 asked to disregard. I am not attacking a Senator here, but  
3 he has to follow the rules of evidence because this is a  
4 court and we follow the rules.

5 PRESIDING OFFICER: Come on up. Come on up.  
6 (Conference at the bench off the record)

7 PRESIDING OFFICER: Members, we'll take a  
8 lunch break now. Be back at one o'clock.

9 (Recessed for lunch at 12:07 p.m.)

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C E R T I F I C A T E

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THE STATE OF TEXAS    )  
COUNTY OF TRAVIS     )

I, Kim Cherry, Certified Shorthand Reporter in and  
for the State of Texas, do hereby certify that the  
above-mentioned matter occurred as hereinbefore set out.

I further certify that I am neither counsel  
for, related to, nor employed by any of the parties  
or attorneys in the action in which this proceeding was  
taken, and further that I am not financially or  
otherwise interested in the outcome of the action.

Certified to by me this 13th day of September,  
2023.

/s/Kim Cherry  
KIM CHERRY, CSR, RMR  
Texas Certified Shorthand Reporter  
CSR No. #4650 Expires: 7/31/24  
kcherry.csr@gmail.com



VOLUME 7 -- PM SESSION  
SENATE IMPEACHMENT TRIAL

SEPTEMBER 13, 2023 PAGE VOL.

PROCEEDINGS ..... 6 7

HBM WITNESSES: Direct Cross Voir Dire Vol.

ANDREW WICKER  
BY MR. BUZBEE           --     7,50,64     --     7  
BY MS. EPLEY           30,62     --     --     7

JAMES BLAKE BRICKMAN  
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HOUSE BOARD OF MANAGERS REST ..... 131 7

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REPORTER'S CERTIFICATE ..... 138 7

PROCEEDINGS  
WEDNESDAY, SEPTEMBER 13, 2023  
(1:37 p.m.)

THE BAILIFF: All rise. The Court of Impeachment of the Texas Senate is now in session.

PRESIDING OFFICER: You may be seated.

Thank you.

Would the parties come forward.  
(At the bench, off the record)

PRESIDING OFFICER: Members of the jury, we have some resolution between the parties on the issue when we left that they're going to work on and bring that issue back up tomorrow. So I think both parties have come to an agreement.

Recall the witness.  
(Witness entered Senate chamber)

PRESIDING OFFICER: You're still under oath. Please be seated.

You did an excellent job of speaking loudly into the mic so continue.

Mr. Buzbee.

MR. BUZBEE: Yes, sir.

ANDREW WICKER,  
having been first duly sworn, testified as follows:

CROSS-EXAMINATION (CONTINUED)

BY MR. BUZBEE:

Q. I want to make sure we're all on the same page about what we're attempting to do here.

MR. BUZBEE: Erick, would you mind putting in front of our senators Article X, please.

Q. (BY MR. BUZBEE) Drew, help me here a little bit. Article X alleges constitutional bribery. Do you see that?

A. Yes, sir, I do.

Q. It says in the second paragraph, Specifically, Paxton benefited from Nate Paul providing renovations to Paxton's home.

Did I read that right?

A. Yes, sir, you did.

Q. You understand that's the allegation being made, right?

A. Yes, sir.

Q. Now, you had told us about a conversation you heard at the Paxton's Tarrytown home, right?

A. Yes, sir.

Q. It was you, it was General Paxton, and it was a gentleman named Kevin Wood in the kitchen, correct?

A. That is correct.

Q. Now, of course, you've -- you've told us all

that you never saw Nate Paul at General Paxton's home, true?

A. That is correct.

Q. And you knew that the Paxton's home had water damage, right?

A. Correct.

Q. And you knew Kevin Wood was the contractor, right?

A. That is correct.

Q. And you knew that the Paxtons had decided to do some additional renovations at the same time they were fixing the water damage, right?

A. Yes, sir.

Q. And you say you were in the kitchen with General Paxton and Kevin Wood and they were talking about redoing the countertops, right?

A. That is correct.

Q. And the mention was that Angela wanted granite countertops, right?

A. That General Paxton and her had both decided they would like granite countertops, correct.

Q. And you said that at some point the cost of that was mentioned to be \$20,000?

A. Yes, sir.

Q. Okay. And you can't tell us here whether the

1 Paxtons actually got these \$20,000 countertops, can you?  
 2 A. No, sir.  
 3 Q. Now, one way we could figure that out is for  
 4 all of us to go to the Paxton's home right now, couldn't  
 5 we?  
 6 A. Yes, sir.  
 7 MR. BUZBEE: I mean, Your Honor, we could  
 8 right now, if the Court would allow it, get on a bus and  
 9 drive over to Tarrytown and look at the Paxton's  
 10 countertops. Could we do that, Your Honor?  
 11 MS. EPLEY: Objection. Relevance, Your  
 12 Honor. He can bring in photographs if he chooses to  
 13 that were taken at a current time period.  
 14 PRESIDING OFFICER: I'm going to  
 15 overrule. He simply asked a question. That's something  
 16 I could do.  
 17 MR. BUZBEE: Yes, sir. And we make may a  
 18 motion in that regard. But maybe we can fix it in this  
 19 way, Your Honor.  
 20 Q. (BY MR. BUZBEE) We had previously looked at  
 21 an exhibit put into evidence by the House Board of  
 22 Managers.  
 23 MR. BUZBEE: Let's look at House Board of  
 24 Managers 703.  
 25 And, Erick, if you would, turn to the

1 fourth page of this exhibit that's in evidence.  
 2 Q. (BY MR. BUZBEE) We can see here, can we not,  
 3 that Kevin Wood has an e-mail that's sent on July 4th,  
 4 2020. Do you see that?  
 5 A. Yes, sir.  
 6 Q. And he attaches some pictures of the home at  
 7 that time -- point in time, right?  
 8 A. I can't see that, but I do see that there are  
 9 attachments.  
 10 MR. BUZBEE: Okay. Now let's turn over,  
 11 Erick, if we could, to the page Bates-stamped 29672  
 12 within that exhibit and pull that up so everybody can  
 13 see.  
 14 And try to -- try to bring that picture  
 15 up so we all can see it, Erick.  
 16 Q. (BY MR. BUZBEE) All right. Now, we can see  
 17 what that kitchen looked like as of July of 2020, can't  
 18 we?  
 19 A. Yes, sir.  
 20 Q. I want you to look very carefully at it. Can  
 21 you see the stove?  
 22 A. Yes, sir.  
 23 Q. Can you see the countertops?  
 24 A. It's a little bit grainy, but, yes.  
 25 Q. And that's how the house looked when you were

1 in that kitchen with General Paxton and with Kevin Wood;  
 2 isn't that right?  
 3 A. It was mostly covered up by renovations, but,  
 4 yes.  
 5 Q. Now -- so this is -- we'll call this "the  
 6 before," okay?  
 7 A. Yes, sir.  
 8 Q. This was the before, the suggestion that we're  
 9 going to make those countertops granite, right?  
 10 A. Yes.  
 11 Q. And we're going to redo the cabinetry, right?  
 12 That's another thing you mentioned?  
 13 A. Yes, sir.  
 14 MR. BUZBEE: All right. Now, let's go  
 15 back if we could to the picture that's in evidence and  
 16 marked as AG 371 and bring that up.  
 17 Erick has the most stressful job in this  
 18 trial. No pressure, Erick.  
 19 Q. (BY MR. BUZBEE) Okay. Here we have a picture  
 20 of that same kitchen; is that true?  
 21 A. It would appear so, yes.  
 22 Q. And you see the same countertops that you saw  
 23 in the previous picture, don't you?  
 24 A. It would appear so, yes.  
 25 Q. And you see the same cabinets as in the

1 previous picture, right?  
 2 A. Again, it would appear so.  
 3 Q. So the question, the question is --  
 4 MS. EPLEY: I'm going to object, Your  
 5 Honor, to relevance. I don't believe this is in the  
 6 packet that we're referencing. Mr. Buzbee can cite me  
 7 if I'm incorrect.  
 8 MR. BUZBEE: I have already said this is  
 9 in evidence at AG 371.  
 10 PRESIDING OFFICER: Overruled.  
 11 Q. (BY MR. BUZBEE) The question is when was  
 12 AG 371 taken, right?  
 13 A. Yes, sir.  
 14 Q. Because if this picture was taken on  
 15 August 22nd of 2023, then anybody with any common sense  
 16 would know that nothing was done to the cabinets or the  
 17 countertops, right?  
 18 A. That would be correct.  
 19 MR. BUZBEE: May I approach the witness,  
 20 Your Honor?  
 21 PRESIDING OFFICER: Yes, you may.  
 22 Q. (BY MR. BUZBEE) Before you testify about it,  
 23 just confirm with me that what you've been handed, which  
 24 is now --  
 25 MS. EPLEY: Objection, Your Honor, to



1 publishing a document that's not in evidence that he has  
 2 not attributed for the record.  
 3 MR. BUZBEE: I have not published  
 4 anything at this point, Your Honor.  
 5 MS. EPLEY: The picture is on the screen,  
 6 Mr. Buzbee.  
 7 MR. BUZBEE: That's the picture AG 371.  
 8 This is something different.  
 9 PRESIDING OFFICER: Overruled.  
 10 Q. (BY MR. BUZBEE) Now take a look at what I've  
 11 handed you, AG 1051. And would you confirm with me that  
 12 the picture you're holding in your hands is the same  
 13 picture that we see on the screen, which is AG 371?  
 14 A. It appears so, yes.  
 15 Q. And do you see the exhibit you're holding in  
 16 your hand has, in fact, the date and where the picture  
 17 was taken?  
 18 A. It does.  
 19 MR. BUZBEE: Your Honor, we offer AG 151  
 20 (sic).  
 21 PRESIDING OFFICER: Will you show it to  
 22 the defense?  
 23 MS. EPLEY: May I -- may I see a copy and  
 24 the date that was referenced?  
 25 PRESIDING OFFICER: It's coming to both

1 of us. We would like to have one.  
 2 MR. BUZBEE: Give a copy to the other  
 3 side.  
 4 PRESIDING OFFICER: Give it to them  
 5 first.  
 6 And you can give us a copy. Sir, you can  
 7 give us a copy.  
 8 That's the only one you have? Do you  
 9 have another copy?  
 10 MS. EPLEY: Mr. President, I don't want  
 11 to stave off his direct -- I mean cross, but I think  
 12 that I can clear something up if I can take Mr. Wicker  
 13 on a brief voir dire. I think he's been misled as to  
 14 the date and time of the photograph he originally  
 15 identified.  
 16 MR. BUZBEE: Again, Your Honor, I'm  
 17 asking this witness if he has now the date the picture  
 18 was taken on a cell phone, the exact same picture that's  
 19 already in evidence. It's not very hard. We're going  
 20 to get to the truth here.  
 21 PRESIDING OFFICER: Overruled.  
 22 Q. (BY MR. BUZBEE) Tell us, sir, the date of the  
 23 picture you have in your hand.  
 24 A. It states that it was Tuesday, August 22nd,  
 25 2023, at 4:50 p.m.

1 Q. And where was the picture taken?  
 2 A. It says Austin, Tarrytown.  
 3 MR. BUZBEE: Your Honor, we offer  
 4 AG 1051.  
 5 PRESIDING OFFICER: Do you object?  
 6 MS. EPLEY: I do, Your Honor. Objection.  
 7 Hearsay. He hasn't established a proper predicate to  
 8 make it relevant to this trial. It doesn't have an  
 9 address. And Mr. Wicker cannot say that he fairly and  
 10 accurately depicts something that he's actually seen.  
 11 PRESIDING OFFICER: Overruled.  
 12 MR. BUZBEE: Now, Erick, please publish  
 13 for the ladies and gentlemen of this distinguished jury  
 14 the picture of the Tarrytown Paxton home that was taken  
 15 in August of this year.  
 16 Q. (BY MR. BUZBEE) Do you see there, sir, that  
 17 the cabinets have never changed?  
 18 A. It would appear so, yes.  
 19 Q. Do you see there, sir --  
 20 MS. EPLEY: Mr. President --  
 21 Q. (BY MR. BUZBEE) -- that the countertops have  
 22 never changed?  
 23 MS. EPLEY: Mr. President, I'm sorry. I  
 24 must insist. He's provided metadata, but without any  
 25 source for it. I'm not trying to impugn his character,

1 but this is a court of law and he has to establish the  
 2 predicate for the information that's contained below.  
 3 He has not done that and he intends to rely upon it. It  
 4 is hearsay.  
 5 MR. BUZBEE: It's in evidence already,  
 6 Your Honor. You've ruled on it. It's in evidence.  
 7 MS. EPLEY: Your Honor, with all respect  
 8 to Mr. Buzbee, he's misleading you. The photograph is  
 9 in evidence. The information contained beneath it is  
 10 not. That's what he's asking you to do now.  
 11 MR. BUZBEE: Again, we can look back with  
 12 the court reporter, but I offered 1051. The Court  
 13 allowed it.  
 14 MS. EPLEY: In that case, Mr. President,  
 15 it is fully within your discretion to correct an error.  
 16 I'm not conceding that it is admitted, but if it were,  
 17 in light of the fact that he cannot establish that  
 18 anything beneath that photograph is true, and he intends  
 19 to dance upon it, I would ask that the Court help  
 20 correct that issue.  
 21 MR. BUZBEE: That picture, Your Honor, as  
 22 you can tell, is the same picture that's in evidence.  
 23 The only addition to it is now we know exactly when the  
 24 picture was taken and where it was taken.  
 25 MS. EPLEY: Which establishes the exact

1 issue, Your Honor. There is no one here who can  
 2 establish whether or not this picture was, in fact,  
 3 taken August 22nd, 2023. And any 12-year-old can create  
 4 that graphic on a computer.  
 5 MR. BUZBEE: Your Honor, this counsel --  
 6 this lawyer is suggesting that me, an officer of this  
 7 court, has somehow doctored a picture, when I've offered  
 8 to go over to the home right now and look at the kitchen  
 9 and it will look exactly like that.  
 10 Why would somebody who has an obligation  
 11 as a prosecutor to find the truth try to prevent the  
 12 truth from coming out? This is in evidence. The  
 13 picture is in evidence already. The Court has allowed  
 14 now the picture in evidence that shows when it was  
 15 taken. I would allow --  
 16 MS. EPLEY: I am not trying to impugn  
 17 anyone's character. I'm acting as a prosecutor and a  
 18 rule follower. And I expect to do that here so no  
 19 misimpressions are left with the Court.  
 20 PRESIDING OFFICER: This is allowed in  
 21 evidence.  
 22 MR. BUZBEE: Thank you, Your Honor.  
 23 PRESIDING OFFICER: Overruled.  
 24 (AG Exhibit 1051 admitted)  
 25 Q. (BY MR. BUZBEE) Now, you care about the

1 truth, don't you, Drew?  
 2 A. Yes, sir.  
 3 Q. You want the truth to come out?  
 4 A. I believe it has to.  
 5 Q. Yes. It's important, isn't it?  
 6 A. Yes, sir.  
 7 Q. And now we see that the picture of the Paxton  
 8 home, we can see that there were no work done on the  
 9 countertops, can't we?  
 10 A. Yes, we can.  
 11 Q. We can see that there was no work done on the  
 12 cabinetry, can't we?  
 13 A. Yes, sir.  
 14 Q. Pretty clear, isn't it?  
 15 A. From those images, yes.  
 16 Q. Accusing someone of bribery for accepting  
 17 granite countertops and new cabinetry is a very serious  
 18 allegation, isn't it?  
 19 A. I would agree.  
 20 Q. And you understand that Mr. Paxton,  
 21 General Paxton, has no obligation to prove anything,  
 22 right? He's being accused.  
 23 A. Yes, sir.  
 24 Q. He doesn't have to prove anything, does he?  
 25 A. Yes, sir.

1 Q. But we've proven that the countertops were not  
 2 altered in any way, haven't we?  
 3 A. The countertops appear to have not been  
 4 altered, that's correct.  
 5 Q. The cabinets have not been altered in any way,  
 6 have they?  
 7 A. It would appear that way, yes, sir.  
 8 Q. And, in fact, we've created a comparison  
 9 picture. It's Exhibit 1 -- or 1052, AG 1052.  
 10 MR. BUZBEE: May I approach?  
 11 Q. (BY MR. BUZBEE) And we agree, Drew, that 1052  
 12 that you're holding in your hands is a picture. The one  
 13 on the left is the one we just looked at, right?  
 14 A. Yes, sir.  
 15 Q. And the one on the right is the one we looked  
 16 at from Kevin Wood, right?  
 17 A. That is correct.  
 18 Q. And they're -- they're side by side on this  
 19 exhibit, true?  
 20 A. That is correct.  
 21 Q. And we know the one on the right was taken in  
 22 July of 2020, right?  
 23 A. Yes, sir.  
 24 Q. And we know the one on the -- on the left was  
 25 taken years later, August 2023, don't we?

1 A. Yes, sir.  
 2 MR. BUZBEE: We offer 1052.  
 3 PRESIDING OFFICER: Do you have a copy of  
 4 that? Would you please provide a copy?  
 5 MS. EPLEY: To -- to clarify, I see AG  
 6 371, and I see a House Board of Managers 73 on 1052.  
 7 Which one of these two photos is supposed to be 1051?  
 8 MR. BUZBEE: I'm not answering her  
 9 questions, Your Honor. I've offered this exhibit.  
 10 MS. EPLEY: Then I object to relevance.  
 11 MR. BUZBEE: This is a comparison, as  
 12 I've laid out with the witness. He's established the  
 13 relevance of this picture. It compares the one taken  
 14 years back in 2020 with the one taken last month. We  
 15 would offer it.  
 16 PRESIDING OFFICER: Overruled.  
 17 MR. BUZBEE: Would it be accepted, Your  
 18 Honor?  
 19 PRESIDING OFFICER: What is the number  
 20 again?  
 21 MR. BUZBEE: 1052.  
 22 PRESIDING OFFICER: 1052 is admitted into  
 23 evidence.  
 24 (AG Exhibit 1052 admitted)  
 25 MR. BUZBEE: Thank you, Your Honor.

1 Q. (BY MR. BUZBEE) So can we agree, Drew,  
2 that -- that your concerns now have been put to bed, at  
3 least with regard to the countertops and the cabinetry?  
4 A. With regards to those two items yes, sir.  
5 Q. I mean, now you're satisfied, right?  
6 A. Yes, sir.  
7 Q. Okay. Now, I want to show you some other  
8 documents in evidence. I mean, it shouldn't be that --  
9 that a friend -- a family member has to prove their  
10 innocence, should it?  
11 A. In -- in a court of law, my understanding is  
12 that they're supposed to provide evidence to answer the  
13 charges. The answer to your question is no, you're  
14 innocent until proven guilty.  
15 Q. Yeah.  
16 MR. BUZBEE: AG Exhibit 332.  
17 Thank you, Erick.  
18 Q. (BY MR. BUZBEE) This is an invoice. Can you  
19 tell us all the date of the invoice?  
20 A. The date of the invoice is September 1st,  
21 2020.  
22 Q. And the invoice is from whom?  
23 A. Cupertino Builders.  
24 Q. I just want to keep -- keep that date in your  
25 mind. September 1, 2020. Can you do that for me, Drew?

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1 A. Yes, sir.  
2 MR. BUZBEE: All right. Erick, go to AG  
3 Exhibit 410.  
4 Q. (BY MR. BUZBEE) Can you see the date there on  
5 this USAA claims correspondence?  
6 A. September 16th of 2020.  
7 Q. So here we are 15 days after that invoice that  
8 we saw previously?  
9 A. Yes, sir.  
10 MR. BUZBEE: And turn the page, Erick.  
11 Q. (BY MR. BUZBEE) And we can see as of that  
12 time the claim being made with regard -- or with USAA is  
13 being administered?  
14 A. Yes.  
15 MR. BUZBEE: Okay. AG 428.  
16 Q. (BY MR. BUZBEE) Drew, this is a document  
17 that's in evidence from the state of Delaware. Do you  
18 see that?  
19 A. I do.  
20 Q. And do you see it's a document related to  
21 Cupertino Builders?  
22 A. I do.  
23 Q. And can we -- can we agree that that's the  
24 same entity that we saw in the September 1, 2020,  
25 invoice?

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1 A. Yes, sir.  
2 Q. And would you look at the very bottom line  
3 that gives us the date that that company was  
4 incorporated in the state of Delaware?  
5 A. It appears that the filing was April 16th of  
6 2020.  
7 Q. So what we know is, is in April of 2020  
8 Cupertino Builders was incorporated in the state of  
9 Delaware?  
10 A. Yes, sir.  
11 Q. And we know that months later it issued an  
12 invoice to the Paxtons for work on their home?  
13 A. That's correct.  
14 MR. BUZBEE: Go back to the invoice,  
15 please, Erick.  
16 Go back to AG 332, Erick.  
17 I just want to look at this invoice that  
18 was issued September 1, 2020, okay. Turn to the second  
19 page, Erick.  
20 Q. (BY MR. BUZBEE) Do you see the total amount  
21 invoiced to the Paxtons for the renovations of their  
22 home?  
23 A. \$121,817 (sic).  
24 Q. Do you have a pen with you?  
25 A. No, sir, I do not.

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1 MR. BUZBEE: May I approach the witness?  
2 PRESIDING OFFICER: Yes.  
3 Q. (BY MR. BUZBEE) Drew, would you do me the  
4 favor of writing down the amount of that invoice on your  
5 postie note there? \$121,617.  
6 A. Yes, sir.  
7 Q. And we know, of course, that Cupertino  
8 Builders was a Delaware corporation as of the time this  
9 invoice was issued?  
10 A. That is what it says.  
11 MR. BUZBEE: Let's look now at AG  
12 Exhibit 48. And turn, Erick, if you would, to the Bates  
13 stamp EBT184. These are some texts messages between  
14 General Paxton and a guy we may hear from in this case  
15 named Chip Loper. All right?  
16 And could you pull that text up, Erick.  
17 Q. (BY MR. BUZBEE) We saw that invoice was due  
18 on September 30th, 2020, right?  
19 A. That is correct.  
20 Q. And now we have a text from General Paxton to  
21 his blind trust -- or his trustee of his trust  
22 instructing him to make a payment, don't we?  
23 A. That is what the text message says, yes.  
24 Q. And confirm with me, if you would, that the  
25 amount that Chip Loper, the trustee, is being instructed

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1 to pay is exactly the amount that's on your postie note  
 2 that you just wrote.  
 3 A. I can confirm.  
 4 Q. Say it again?  
 5 A. I confirm that.  
 6 Q. Exact, right?  
 7 A. Yes, sir.  
 8 MR. BUZBEE: Erick, bring up AG  
 9 Exhibit 47.  
 10 Q. (BY MR. BUZBEE) So what we've seen so far,  
 11 Drew, is we've seen an invoice that's due on  
 12 September 30th, right?  
 13 A. Yes, sir.  
 14 Q. We've seen a text from Mr. Paxton to his  
 15 trustee instructing him to pay, right?  
 16 A. Yes, sir.  
 17 Q. And we know those amounts are the same, true?  
 18 A. Yes.  
 19 Q. And now what we have in front of us is a bank  
 20 statement from Prosperity Bank, right?  
 21 A. That is what it says.  
 22 Q. And would you please confirm with me -- go to  
 23 page -- we're looking at AG 47. Go to page 116, EBT116.  
 24 And would you confirm that the day  
 25 after -- the day after Mr. Paxton, General Paxton, sent

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1 the text to his trustee that a wire was made from  
 2 Mr. Paxton's account of \$121,617?  
 3 A. I can.  
 4 Q. And is that the same number that you wrote on  
 5 your postie note?  
 6 A. Yes.  
 7 MR. BUZBEE: Now let's go to AG 333.  
 8 Q. (BY MR. BUZBEE) Do you see here that this is  
 9 another record from a bank BBVA?  
 10 A. I do not see BBVA -- oh, yes, I do. Okay. Up  
 11 there.  
 12 Q. Business Choice checking account?  
 13 A. Yes, sir.  
 14 Q. And can you confirm that that account received  
 15 a wire in the exact same amount as you wrote on your  
 16 postie note?  
 17 A. Yes.  
 18 Q. And it matches to the letter, to the penny,  
 19 the amount of the invoice?  
 20 A. Yes.  
 21 Q. And the amount of the wire out of the Paxton's  
 22 account?  
 23 A. I don't see where this says that this is the  
 24 Paxtons' account.  
 25 Q. Well, you saw the previous Paxtons' account.

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1 What we've seen is the invoice, the wire out, and the  
 2 wire in, haven't we?  
 3 A. Yes.  
 4 Q. Okay. When you raised your concern because --  
 5 I mean, you -- you raised it first with some of the  
 6 folks in the office. Is that how it went?  
 7 A. I sought advice from a trusted individual who  
 8 brought me into the office first, yes.  
 9 Q. Is that Brickman?  
 10 A. No, sir. That was Marc Rylander.  
 11 Q. Okay. So you went to Rylander and said, Look,  
 12 I heard something. It sounds a little weird. What do I  
 13 do?  
 14 A. Yes.  
 15 Q. Because you -- you didn't know what to do  
 16 about it?  
 17 A. No, sir.  
 18 Q. And what he told you to do, Hey, just raise it  
 19 with General Paxton, right?  
 20 A. His advice was that if I was comfortable  
 21 raising it with General Paxton, that I do so. And that  
 22 I also inform Blake Brickman as my direct report.  
 23 Q. Okay. And he told that your understanding was  
 24 just wrong, didn't he?  
 25 A. That is what General Paxton said, yes.

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1 Q. He also told you he appreciated you bringing  
 2 that to his attention, right?  
 3 A. That is correct.  
 4 Q. And -- and you accepted that, didn't you?  
 5 A. Yes.  
 6 Q. And it seemed logical, didn't it?  
 7 A. I still had some questions, but, yes, I did  
 8 take it at face value.  
 9 Q. And he never told you not to tell anybody, did  
 10 he?  
 11 A. No, sir.  
 12 Q. I mean, he never said, Hey, keep it on the  
 13 down low, Drew, did he?  
 14 A. No, sir.  
 15 Q. He told you specifically, Drew, I'm paying for  
 16 these renovations, but I appreciate you sharing that  
 17 with me, but that is not what this is, right?  
 18 A. Yes, sir.  
 19 Q. And you took his word for it, didn't you?  
 20 A. I took his word for it.  
 21 Q. Now, you don't have any personal knowledge  
 22 about any relationship General Paxton may or may not  
 23 have had with anyone named Laura Olson, do you?  
 24 A. I've only witnessed them together the one  
 25 time.

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1 Q. So you don't have any personal knowledge about  
 2 their relationship other than you saw a woman come out  
 3 of an elevator, right?  
 4 A. I saw Laura Olson come out of an elevator,  
 5 yes.  
 6 Q. Okay. Now, these trusted people you -- you  
 7 mentioned in the office, you were talking to them often,  
 8 weren't you?  
 9 A. On a daily basis.  
 10 Q. Y'all were friends?  
 11 A. Yes.  
 12 Q. Did you know they took General Paxton's name  
 13 off the letterhead?  
 14 A. I don't know --  
 15 MS. EPLEY: Objection, Your Honor. Facts  
 16 not in evidence.  
 17 MR. BUZBEE: I'm asking --  
 18 MS. EPLEY: Proven to be false in the  
 19 course of this trial.  
 20 PRESIDING OFFICER: Sustained.  
 21 Q. (BY MR. BUZBEE) Did you ever discuss with  
 22 them taking General Paxton's name off his own  
 23 letterhead?  
 24 A. No.  
 25 MS. EPLEY: Objection, Your Honor.

1 Question calls for hearsay. And it's facts not in  
 2 evidence.  
 3 PRESIDING OFFICER: Sustained.  
 4 Q. (BY MR. BUZBEE) Now, just so we're clear, you  
 5 are not accusing or providing any evidence that  
 6 General Paxton did anything wrong in this case, are you?  
 7 A. The only evidence that I bring to the table is  
 8 what I overheard and what I have reported. That is it.  
 9 MR. BUZBEE: Pass the witness, Your  
 10 Honor.  
 11 PRESIDING OFFICER: Your witness.  
 12 MS. EPLEY: Thank you.  
 13 REDIRECT EXAMINATION  
 14 BY MS. EPLEY:  
 15 Q. Mr. Wicker, you sometimes ran personal errands  
 16 for General Paxton; is that right?  
 17 A. That is correct.  
 18 Q. When you did that, were you advised what --  
 19 which service you were using, the campaign fund money or  
 20 work money? Did you have to attribute where money was  
 21 spent or your time was spent?  
 22 A. I -- I wasn't compensated for most of those  
 23 services, so, no, I was not.  
 24 Q. Okay. Thank you.  
 25 The second, because Mr. Buzbee asked you

1 extensive questions, you had told us that the damage was  
 2 in the bedroom, correct?  
 3 A. Yes.  
 4 Q. And did you see actual renovations anywhere in  
 5 the home outside of the bedroom?  
 6 A. Yes.  
 7 Q. Is it fair to say if you knew people were  
 8 looking into your countertops and your cabinets, you  
 9 might choose at that point not to get them upgraded?  
 10 MR. BUZBEE: Objection. Speculation,  
 11 Your Honor.  
 12 PRESIDING OFFICER: Sustained.  
 13 Q. (BY MS. EPLEY) Okay. Do you know in the  
 14 course of working with the adjustor in looking at Steam  
 15 Clean and those groups that work for the insurance  
 16 side -- or let me do this differently.  
 17 Do you know that payments were made by  
 18 insurance?  
 19 A. I -- I do not know that firsthand, no.  
 20 Q. But we've all taken as a given, I think  
 21 through the course of talking to Mr. Buzbee, that more  
 22 further renovations were done, correct?  
 23 A. Yes. And that's what the document said.  
 24 Q. Okay. I want to clarify something else, and  
 25 I'm sorry to put you on the spot.

1 When Mr. Buzbee was showing you pictures  
 2 of the kitchen, do you have an independent memory now in  
 3 regards to what those granite -- I mean, what the  
 4 countertops looked like or are you taking his word for  
 5 it?  
 6 A. To the best of my recollection, those were the  
 7 countertops.  
 8 Q. I do not want to lead, so I'm going to ask you  
 9 a question only because of a prior conversation. The  
 10 answer doesn't really matter, but I want to clarify.  
 11 Didn't you say redo the granite  
 12 countertops when we first spoke, meaning what was being  
 13 changed may or may not be granite again?  
 14 A. That was a mistake on my part. And as I  
 15 mentioned to both you and Mr. Buzbee, I had to amend  
 16 that statement to be more consistent with other  
 17 statements made to law enforcement.  
 18 Q. I see. So you've already had a conversation  
 19 specific about this with Mr. Buzbee?  
 20 A. I did.  
 21 Q. Okay. Have you and I had this particular  
 22 conversation?  
 23 A. To the best of my recollection, yes.  
 24 Q. Okay. And so when you made that correction  
 25 for yourself, it's not because you were lying the first

1 time, right?  
 2 A. No.  
 3 Q. Okay. What is the most relevant part of that  
 4 conversation with Kevin Wood, the renovations which we  
 5 know took place, which people only know about because of  
 6 you, or the state of the cabinets and countertops?  
 7 MR. BUZBEE: Objection, Your Honor.  
 8 Leading, number one.  
 9 And number two, I don't think it's  
 10 appropriate to ask the witness what's most relevant.  
 11 That's the Court's job.  
 12 MS. EPLEY: I think I've made the point.  
 13 That's okay. I'll move on.  
 14 PRESIDING OFFICER: Sustained.  
 15 MS. EPLEY: Thank you.  
 16 Q. (BY MS. EPLEY) How many times did you hear  
 17 the phrase, "I'll have to check with Nate"?  
 18 A. Three times.  
 19 Q. Over the course of one day or multiple days?  
 20 A. In the course of one conversation.  
 21 Q. Thank you, sir.  
 22 Do you have any question, then, that on  
 23 three different occasions the response to a question  
 24 directed at Kevin Wood about financial impact of  
 25 renovations was, "I'll have to check with Nate"?

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1 A. That is correct.  
 2 Q. Since you've already spoken to Mr. Buzbee, let  
 3 me ask you a few questions about that.  
 4 How did your conversation go? Did you  
 5 call him or did he call you?  
 6 A. Whenever we were -- in preparing for this  
 7 trial, every effort was made, whenever the House team  
 8 reached out to offer the same thing for the defense.  
 9 And it was in response to that in preparation for this  
 10 testimony here today that my counsel and I both reached  
 11 out to Mr. Buzbee's team to have a conversation prior to  
 12 me taking the stand.  
 13 Q. That's an honorable and fair thing to do.  
 14 Had you made prior effort -- efforts to  
 15 speak to Mr. Buzbee or Paxton's team?  
 16 A. My legal counsel had, yes.  
 17 Q. On your behalf?  
 18 A. Yes.  
 19 Q. And at any point until the last week did they  
 20 take you up on that?  
 21 A. They did not.  
 22 Q. He asked you a lot of questions about whether  
 23 or not you overheard an agreement between Nate Paul and  
 24 Ken Paxton. Do you recall that?  
 25 A. Yes.

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1 Q. Do most people who are working together stand  
 2 on top of a mountain, hands on their hips, and say, I'll  
 3 do this for you if you'll give me X?  
 4 MR. BUZBEE: Objection, Your Honor.  
 5 That's an improper question. Leading. And --  
 6 PRESIDING OFFICER: Sustained.  
 7 MR. BUZBEE: Thank you, Your Honor.  
 8 Q. (BY MS. EPLEY) Do you -- do you understand  
 9 that law enforcement in this investigative body can use  
 10 circumstantial evidence --  
 11 MR. BUZBEE: Objection, Your Honor.  
 12 Q. (BY MS. EPLEY) -- to determine whether or not  
 13 there's a conspiracy?  
 14 MR. BUZBEE: I'm sorry to interrupt.  
 15 Objection. Improper question. Speculation.  
 16 PRESIDING OFFICER: Sustained.  
 17 MS. EPLEY: Yes, Your Honor.  
 18 Q. (BY MS. EPLEY) Let me do this differently  
 19 then. Do you have any memory of when the Paxtons moved  
 20 back into their home?  
 21 A. This would have been probably August/September  
 22 time frame, if I had to guess.  
 23 Q. Okay.  
 24 MS. EPLEY: May I approach the witness,  
 25 Your Honor?

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1 PRESIDING OFFICER: Yes.  
 2 MS. EPLEY: For the record, I'm showing  
 3 him what's marked as 698 and not in evidence as a  
 4 document to refresh his recollection.  
 5 Q. (BY MS. EPLEY) Mr. Wicker, do you recognize  
 6 that?  
 7 A. I do. If you can just give me one second to  
 8 read it.  
 9 Q. Yes, sir.  
 10 MR. BUZBEE: Can I get a copy of that,  
 11 Your Honor?  
 12 PRESIDING OFFICER: He would like to have  
 13 a copy.  
 14 MS. EPLEY: I mean, in candor, there are  
 15 multiple copies over there, but I don't have them. May  
 16 I take his and pass it around?  
 17 PRESIDING OFFICER: Yes. Give it to the  
 18 defense first.  
 19 Let's stop the clock for a moment.  
 20 Are you ready?  
 21 MS. EPLEY: I am.  
 22 PRESIDING OFFICER: You can resume the  
 23 clock.  
 24 MS. EPLEY: Since we do have a copy for  
 25 everyone, I'm going to change course actually. This is

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1 a text message that's included in 698, which is a set of  
 2 documents provided with the business records affidavit,  
 3 which have been provided to defense, and they've had  
 4 notice of it for over 14 days, at which point I would  
 5 move to admit 698.  
 6 MR. BUZBEE: I have no objection to this,  
 7 Your Honor.  
 8 PRESIDING OFFICER: The Court will admit  
 9 Exhibit 698 into evidence.  
 10 (HBOM Exhibit 698 admitted)  
 11 MS. EPLEY: And would you publish? Thank  
 12 you, Stacey.  
 13 Q. (BY MS. EPLEY) Who is this a conversation  
 14 between?  
 15 A. It -- this states to be a conversation between  
 16 myself, Marc Rylander, and Jeff Mateer.  
 17 Q. What is the date?  
 18 A. It appears to be July 19th of 2020.  
 19 Q. Okay. And do you see any reference to when  
 20 the Paxtons might be moving back into their home?  
 21 A. It appears that it was around that time frame.  
 22 And so judging by the context here, he had been storing  
 23 clothes at the AG's office, and we moved those back  
 24 around that time frame.  
 25 Q. Okay. So fair to say, then, the Paxtons' home

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1 was at least renovated enough for them to return to it  
 2 in the middle of July?  
 3 A. Yes.  
 4 Q. And would it surprise you to know that nowhere  
 5 in those Cupertino records is there an invoice or  
 6 estimate at any time during June or July?  
 7 MR. BUZBEE: Leading, Your Honor.  
 8 THE WITNESS: I did not say that.  
 9 MR. BUZBEE: I'm going to have to object  
 10 to leading.  
 11 PRESIDING OFFICER: Sustained.  
 12 Q. (BY MS. EPLEY) Next, let me ask you -- let's  
 13 turn to item 683, which is already in evidence. And,  
 14 Mr. Wicker, I'm sorry to take advantage of you since  
 15 you're on the stand, but I need to recap a couple of  
 16 things Buzbee went through.  
 17 Tell me, if you would, the date on this  
 18 document.  
 19 A. September 30th of 2020.  
 20 Q. This document has been admitted as what we  
 21 refer to as the cease and desist letter. So notice to  
 22 Brandon Cammack to stop working.  
 23 Are you aware of that time frame in the  
 24 office?  
 25 A. I am.

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1 Q. And do you know that Brandon Cammack reaches  
 2 out to Ken Paxton to let him know there are -- there are  
 3 problems?  
 4 A. I learned this later, yes.  
 5 Q. Okay. But does this e-mail corroborate what  
 6 you heard?  
 7 A. It does --  
 8 MR. BUZBEE: Objection, Your Honor. I'm  
 9 sorry. He just said he heard it later. That's hearsay.  
 10 Now she wants him to corroborate hearsay with something  
 11 else. Improper.  
 12 PRESIDING OFFICER: Sustained.  
 13 Q. (BY MS. EPLEY) Okay. Let's look at the  
 14 document itself. September 30th cease and desist letter  
 15 to Brandon Cammack. Let's look at item 130.  
 16 Do you see the date on this letter?  
 17 A. September -- September 30th, 2020.  
 18 MS. MANELA: Is that 130?  
 19 MS. EPLEY: Yes, ma'am, please.  
 20 I'm sorry, Stacey. Thank you.  
 21 Q. (BY MS. EPLEY) Do you see September 30th  
 22 referenced on this document as well?  
 23 A. I do.  
 24 Q. And in the records provided by Esther Blind  
 25 Trust, this is the first conversation about payment to

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1 Cupertino. Would that surprise you?  
 2 A. I was not aware of the Esther Blind Trust, so  
 3 I'll take your word for it.  
 4 Q. So -- but September 30th, Brandon Cammack is  
 5 notified that there's a problem. Ken Paxton finds out.  
 6 And the first thing he does is tell the Esther Blind  
 7 Trust to send \$121,000 to someone else?  
 8 A. Okay.  
 9 Q. I'm going to turn your attention to item 223.  
 10 MS. EPLEY: I think this is also not in  
 11 evidence. So do not -- yet.  
 12 It isn't? I got thumbs-up from this  
 13 side.  
 14 In that case will you pull up item 223.  
 15 Can I have you scroll down, Stacey, to the return?  
 16 Q. (BY MS. EPLEY) Do you recall General Paxton  
 17 being out of town at the end of September, early  
 18 October, as the whistleblowers are coming forward and  
 19 law enforcement is being notified that they're concerned  
 20 he's accepting bribes and misusing the office?  
 21 MR. BUZBEE: Your Honor, I --  
 22 MS. EPLEY: These questions are no  
 23 different than the way --  
 24 MR. BUZBEE: If I could, without being  
 25 interrupted.

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1 Your Honor, this is outside the scope. I  
 2 just want to flag that for the Court. I'm going to let  
 3 her do this because I want to talk about a few of these  
 4 things that are outside as well.  
 5 PRESIDING OFFICER: It is outside the  
 6 scope, but he's not objecting, so he'll be able to do  
 7 the same.  
 8 MS. EPLEY: Yes, Your Honor. If it would  
 9 have been helpful that I took extensive notes,  
 10 Mr. Buzbee opened up all of these doors for me.  
 11 Yes, sir. Thank you.  
 12 PRESIDING OFFICER: You're both out of  
 13 scope. Okay. You're both free.  
 14 Q. (BY MS. EPLEY) On October 1st, do you know  
 15 where General Paxton was in regards to the office? Did  
 16 he come in?  
 17 A. No, ma'am.  
 18 Q. And I'm going to have Stacey scroll down a  
 19 little.  
 20 Are these texts between you and Jeff  
 21 Mateer?  
 22 A. I -- can -- can you scroll up? Yes. Yes.  
 23 Q. And what is it that you understood on  
 24 October 1st was happening with the general?  
 25 A. I really didn't have an understanding at that

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1 time.  
 2 Q. Did you think anything about the fact that he  
 3 wasn't there or didn't want you to let people know what  
 4 he was doing?  
 5 MR. BUZBEE: Objection, Your Honor.  
 6 Leading. And he's already said he doesn't know.  
 7 MS. EPLEY: I'm going to --  
 8 PRESIDING OFFICER: Sustained.  
 9 MS. EPLEY: I'm going to read from a  
 10 document because it is in evidence.  
 11 Q. (BY MS. EPLEY) It says he has a lot to do out  
 12 of the office and that I'm to tell anyone that asks that  
 13 I don't know where he is.  
 14 Is he telling you to lie?  
 15 A. I don't know that he's asking me to lie, just  
 16 to state that I don't know where he is.  
 17 MS. EPLEY: Stacey, if you would, please  
 18 turn to Exhibit 131.  
 19 Pause for a moment.  
 20 Q. (BY MS. EPLEY) In the upper left-hand corner,  
 21 do you see that this account is affiliated with the  
 22 Esther Blind Trust?  
 23 A. I do.  
 24 Q. The same organization that was being told to  
 25 make payment the day before by text, at least according

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1 to the documents in evidence before you?  
 2 A. Yes.  
 3 Q. Do you see --  
 4 MS. EPLEY: Scroll down for me.  
 5 Q. (BY MS. EPLEY) Do you see that same \$121,000  
 6 payment -- \$617 being made as it was requested by  
 7 Ken Paxton?  
 8 A. I do.  
 9 Q. And do you see who the recipient is?  
 10 A. Cupertino Builders LLC.  
 11 MS. EPLEY: Ms. Stacey, if you'll pull up  
 12 703 for me, please. I would like to see page 21.  
 13 Q. (BY MS. EPLEY) Mr. Wicker, do you see who is  
 14 supposed to be the account holder on these documents?  
 15 It's under Business Choice Checking, Specifically  
 16 Choice?  
 17 A. Cupertino Builders LLC.  
 18 Q. And do you see the first line in the  
 19 transaction sheet?  
 20 A. It shows an incoming wire in the amount of  
 21 \$121,617.  
 22 Q. Consistent with Cupertino being paid for  
 23 remodeling or doing work at Ken Paxton's house, if  
 24 that's what he has alleged, correct?  
 25 A. Yes, ma'am.

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1 Q. Let's turn to page 3.  
 2 These are the same records that include  
 3 Kevin Wood, the contractor who you personally met, who  
 4 helped facilitate whatever upgrades Ken Paxton might  
 5 want, a person whose e-mail address suggests he's Nate  
 6 at World Class, and an individual named Raj Kumar; is  
 7 that correct?  
 8 A. Yes, ma'am.  
 9 MS. EPLEY: Stacey, may we see the face  
 10 of the business record affidavit.  
 11 Q. (BY MS. EPLEY) Do you see before you that the  
 12 business records we've been referencing and that already  
 13 are admitted belong to Cupertino Builders?  
 14 A. Yes.  
 15 Q. Would it surprise you to know that as  
 16 Mr. Buzbee pointed out, it's when they were in Delaware  
 17 and before they opened a Texas affiliate? Would you  
 18 have any reason to be surprised by that?  
 19 MR. BUZBEE: Objection. Leading, Your  
 20 Honor.  
 21 PRESIDING OFFICER: Sustained.  
 22 Q. (BY MS. EPLEY) Do you also see that the  
 23 individual otherwise referred to as Raj Kumar is in here  
 24 named -- I'm going to -- I'm going to butcher it,  
 25 frankly, on the second page, Narsimha Raju Sagiraju?

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1 A. I do see that.  
 2 Q. It was a valiant effort. I saw your smile.  
 3 MS. EPLEY: Next, Stacey, may we see  
 4 page 16.  
 5 Q. (BY MS. EPLEY) Is this the same invoice  
 6 Mr. Buzbee showed you a moment ago?  
 7 A. It appears to be, yes.  
 8 Q. The same invoice that he splashed in his press  
 9 conference for representation of General Paxton?  
 10 MR. BUZBEE: Objection, Your Honor.  
 11 Improper question. He's talking about a press -- she's  
 12 talking about a press conference? I mean, that's not  
 13 proper.  
 14 PRESIDING OFFICER: I'm going to sustain.  
 15 Rephrase.  
 16 MS. EPLEY: Stacey, if you would for me,  
 17 please turn to page 22.  
 18 Q. (BY MS. EPLEY) Now, Mr. Wicker, in all of the  
 19 records before you, if there had been payments or  
 20 estimates or supplies or timelines or communication in  
 21 regard to payment in any way in regards to Ken Paxton  
 22 and Cupertino, don't you think Mr. Buzbee would have  
 23 pointed it out?  
 24 MR. BUZBEE: Objection, Your Honor.  
 25 Leading.

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1 PRESIDING OFFICER: Sustained.  
 2 Q. (BY MS. EPLEY) Then the very last thing I  
 3 would like to ask you is this: In regards to the  
 4 document, the invoice we had just looked at, this  
 5 document is the metadata that was provided by Cupertino.  
 6 It is already admitted into evidence. Please tell me  
 7 what date that invoice was created.  
 8 A. October 20 -- October 1st, 2020, at 7:50 p.m.  
 9 Central Standard Time.  
 10 Q. After the whistleblowers, after he knows that  
 11 you're aware of the renovations, after a cease and  
 12 desist, after directing payment, only after all of those  
 13 things does he get the first piece of documentation that  
 14 would in any way credit that it was valid?  
 15 MR. BUZBEE: Objection. Leading.  
 16 PRESIDING OFFICER: Sustained.  
 17 Q. (BY MS. EPLEY) I guess I'll end where the  
 18 defense began. There are no coincidences in Austin.  
 19 But the next piece I think --  
 20 MR. BUZBEE: Objection to the sidebar.  
 21 PRESIDING OFFICER: We've heard a lot of  
 22 sidebars in this, a little bit of sidebars. I'll give  
 23 you a sidebar. They've had a few.  
 24 MR. BUZBEE: One sidebar.  
 25 PRESIDING OFFICER: Overruled.

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1 You're even now on sidebars. Okay.  
 2 MS. EPLEY: The very last piece -- I wish  
 3 I could have ended there, but I need to get in the Uber  
 4 records we discussed yesterday. The Court had already  
 5 said that they could be admitted, after extensive  
 6 arguments between both sides. I just failed to offer on  
 7 the record for their admission.  
 8 PRESIDING OFFICER: Go ahead.  
 9 MS. EPLEY: House moves to admit item --  
 10 I'm sorry -- 700.  
 11 PRESIDING OFFICER: 700 will be -- we've  
 12 already settled that, right, 700 -- yesterday. 700 will  
 13 be admitted into evidence.  
 14 (HBOM Exhibit 700 admitted)  
 15 MR. BUZBEE: Your Honor, can we be heard  
 16 on that? I think we have -- I didn't know this -- this  
 17 would not be the right witness for this, but can we be  
 18 heard on those records?  
 19 MR. STONE: Can we --  
 20 PRESIDING OFFICER: Yes.  
 21 MS. EPLEY: We spoke extensively, and the  
 22 Court ruled yesterday.  
 23 MR. STONE: Your Honor, we saw -- I  
 24 apologize.  
 25 MS. EPLEY: I'm going to object to using

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1 the time. And may we approach?  
 2 PRESIDING OFFICER: We'll -- we'll stop  
 3 the clock for a moment. Approach.  
 4 (At the bench, off the record)  
 5 PRESIDING OFFICER: The Court will come  
 6 back to order.  
 7 Where were we?  
 8 Ms. Epley, were you up here? I think you  
 9 were.  
 10 So when we last left -- and restart the  
 11 clock -- you were asking to admit 700.  
 12 MS. EPLEY: Yes, Your Honor.  
 13 PRESIDING OFFICER: There was an  
 14 objection. We've looked at the two documents. I ruled  
 15 that in yesterday. We see that they are similar. And  
 16 so 700 is admitted into evidence.  
 17 (HBOM Exhibit 700 admitted)  
 18 MS. EPLEY: Thank you, Mr. President.  
 19 Pass the witness.  
 20 MR. BUZBEE: Erick, would you do me the  
 21 service of putting on the screen what's in evidence  
 22 House Exhibit 571.  
 23 MS. EPLEY: Objection, Your Honor. I  
 24 don't believe this document has been admitted.  
 25 MR. BUZBEE: We offer 571 if it's not in

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1 evidence.  
 2 MS. EPLEY: I would ask that he take it  
 3 off the screen, Your Honor.  
 4 PRESIDING OFFICER: Yeah. Take it off  
 5 the screen for now, Erick.  
 6 We all know Erick.  
 7 MR. BUZBEE: We love Erick.  
 8 PRESIDING OFFICER: And everyone knows  
 9 Stacey.  
 10 MR. BUZBEE: It's actually in evidence,  
 11 I'm told.  
 12 PRESIDING OFFICER: We're checking. You  
 13 don't have it? We'll check.  
 14 Just the House or AG's?  
 15 MR. BUZBEE: House Board of Managers  
 16 Exhibit 571.  
 17 PRESIDING OFFICER: That is -- Ms. Epley,  
 18 it is in evidence, according to our records.  
 19 MR. BUZBEE: Thank you, Your Honor.  
 20 MS. EPLEY: Very good. Thank you.  
 21 PRESIDING OFFICER: All right.  
 22 MR. BUZBEE: Put it on the screen, Erick.  
 23 And make it big. And make sure you capture the time and  
 24 date of this text.  
 25 Get the date too, Erick.

1 I'm going to need somebody to confirm the  
 2 date. Penley 5.  
 3 REXCROSS-EXAMINATION  
 4 BY MR. BUZBEE:  
 5 Q. As we're getting this date, can you see there  
 6 that there's a text sent from Jeff Mateer to  
 7 General Paxton where he tells the general that yesterday  
 8 each of the individuals on this text made a good faith  
 9 report of violations of law?  
 10 A. I can.  
 11 Q. Do you know what date that was done?  
 12 A. I do not.  
 13 Q. Okay. If this text was sent on October 1st,  
 14 because we know they went to the FBI on September 30th,  
 15 that means they -- they were sending this text the day  
 16 after, correct?  
 17 A. Yes.  
 18 Q. On October 1st, 2020. Make sense?  
 19 A. Yes.  
 20 Q. So on October the 1st, 2020, Jeff Mateer,  
 21 along with several other individuals, sent this text to  
 22 General Paxton, right?  
 23 A. That is what it appears to be, yes.  
 24 MR. BUZBEE: Now, let's look back now, if  
 25 we could, Erick, at the date and time that the general

1 instructed his trustee to wire the money to pay for his  
 2 home renovations.  
 3 Q. (BY MR. BUZBEE) You heard the suggestion, I'm  
 4 sure, Drew. You heard they suggested he only did that  
 5 because he knew that his people had went to the FBI?  
 6 MS. EPLEY: Objection. Compound. I  
 7 don't understand the question.  
 8 PRESIDING OFFICER: Overruled.  
 9 Q. (BY MR. BUZBEE) Yes. You heard that  
 10 suggestion, didn't you, Drew, that the general learned  
 11 that his -- a few of his subordinates went to the FBI,  
 12 therefore, he hurriedly sent a text to pay for his house  
 13 repairs? You heard that?  
 14 A. That was the insinuation in the last line of  
 15 questioning, yes.  
 16 Q. That's what she was insinuating, wasn't it?  
 17 A. That was what I understood, yes.  
 18 Q. But the truth is, if we look at AG Exhibit 48  
 19 and we go to EBT184, could you just tell us all so we'll  
 20 be clear about how the timing actually was. What was  
 21 the time and date of when the general instructed his  
 22 trustee to pay for his home renovations?  
 23 A. September 30th.  
 24 Q. And that's also the same date that the invoice  
 25 was due, right?

1 A. That is what the invoice said was due, yes.  
 2 Q. Okay. And can we agree that September 30th,  
 3 2020, is before October 1, 2020?  
 4 A. Yes, sir.  
 5 Q. Now, when we talked previously, I failed to  
 6 ask you something that's real important.  
 7 First, did these folks -- how many times  
 8 did you interview with these folks over there to the  
 9 right?  
 10 A. I've spoken with them three times in  
 11 preparation for this.  
 12 Q. Okay. And the only reason you spoke to me is  
 13 because you felt it would be fair that -- to let me have  
 14 a chance to talk to you as well after you had talked to  
 15 them?  
 16 A. Any time they reached out, I reciprocated and  
 17 extended the same offer.  
 18 Q. Okay. Did they ever show you any of the  
 19 documents I showed you today?  
 20 A. Not to my recollection, no.  
 21 Q. They didn't show you the bank wire showing  
 22 that General Paxton and Angela Paxton paid for their  
 23 renovations?  
 24 A. Not to my recollection.  
 25 Q. They didn't show you the -- the text message

1 to the trustee instructing the payment?  
 2 A. Not to my recollection.  
 3 Q. They didn't show you the document showing that  
 4 the -- the wire was actually received by the contractor?  
 5 A. Not to my recollection.  
 6 Q. Did you ever wonder why they didn't do that?  
 7 MS. EPLEY: Objection, Your Honor.  
 8 Question calls for speculation.  
 9 PRESIDING OFFICER: Sustained.  
 10 Q. (BY MR. BUZBEE) There was a suggestion that  
 11 you delivered some kind of document to Nate Paul. Do  
 12 you remember that suggestion?  
 13 A. Yes.  
 14 Q. You said it was a manila envelope?  
 15 A. Yes.  
 16 Q. You -- you had told us that you picked up an  
 17 envelope from Vassar that had a -- a CD taped to it?  
 18 A. I don't recall that it was taped.  
 19 Q. It was inside of it?  
 20 A. No, sir. It was on the exterior.  
 21 Q. On the exterior of the envelope?  
 22 A. Yes.  
 23 Q. You know for sure you didn't deliver that  
 24 envelope to Nate Paul, don't you?  
 25 A. Not that envelope, no.

1 Q. Okay. Let's be clear. Whatever Vassar gave  
 2 you that was checked out -- you didn't check anything  
 3 out, did you?  
 4 A. No, sir. There were signatures on the  
 5 document, but I don't recall checking anything out.  
 6 Q. Right. Vassar gave you something that you  
 7 gave to the general, right?  
 8 A. That is correct.  
 9 Q. And that particular document had a CD on the  
 10 outside of the envelope?  
 11 A. That is correct.  
 12 Q. And that certainly was not the envelope  
 13 delivered to Nate Paul, was it?  
 14 MS. EPLEY: Objection. Question calls  
 15 for speculation. And lack of foundation based on  
 16 Drew Wicker's previous testimony.  
 17 PRESIDING OFFICER: Sustained.  
 18 Q. (BY MR. BUZBEE) Did the document or the  
 19 envelope that you delivered to Nate Paul, was it -- did  
 20 it have a CD on the exterior?  
 21 A. It did not have a CD on the exterior.  
 22 Q. Okay. And just so we're clear, you never met  
 23 Nate Paul in the dark of night in an alleyway and  
 24 delivered anything, did you?  
 25 A. No, sir. It was in the afternoon.

1 Q. In -- in the light of day?  
 2 A. Yes.  
 3 Q. It wasn't a secret at all, was it?  
 4 A. No, sir.  
 5 Q. You did hear some conversations between  
 6 Nate Paul and General Paxton, didn't you?  
 7 A. Yes.  
 8 Q. Let's focus on what you heard. One of the  
 9 things that was discussed was whether the raid by the  
 10 federal agents --  
 11 MS. EPLEY: Your Honor, objection.  
 12 Normally I wouldn't mind, but since I tried to elicit  
 13 this exact testimony and don't want to waste the  
 14 senators' -- waste the senators' time with the second  
 15 redirect, I must object to hearsay.  
 16 MR. BUZBEE: It's already -- she already  
 17 asked this question, Your Honor. I'm just clarifying  
 18 what she asked this young man.  
 19 MS. EPLEY: I did ask it. And he  
 20 objected, despite me being absolutely certain it would  
 21 come in. And at this point he doesn't have the same  
 22 exception because Ken Paxton is not his party opponent.  
 23 PRESIDING OFFICER: Sustained.  
 24 Q. (BY MR. BUZBEE) Sir, you know that the focus  
 25 of the conversation was whether the raid was just; isn't

1 that true?  
 2 MS. EPLEY: Objection. Question calls  
 3 for hearsay.  
 4 PRESIDING OFFICER: Sustained.  
 5 Q. (BY MR. BUZBEE) You know that the -- the  
 6 discussion that they had was whether the FBI had  
 7 followed the rules, right?  
 8 MS. EPLEY: Objection. Question calls  
 9 for hearsay.  
 10 PRESIDING OFFICER: Sustained.  
 11 Q. (BY MR. BUZBEE) You know that Mr. Paxton --  
 12 General Paxton's discussion was whether the feds had  
 13 violated the law; isn't that right?  
 14 MS. EPLEY: Objection. Question calls  
 15 for hearsay.  
 16 MR. BUZBEE: Again, Your Honor, we've  
 17 heard -- he talked all about what Ken Paxton has said,  
 18 and I'm entitled to explore that, exactly what was said.  
 19 MS. EPLEY: He successfully shut down  
 20 this entire line of questioning, whether he should or  
 21 shouldn't have, and he shouldn't be given the latitude  
 22 now because he does not have an exception to hearsay.  
 23 PRESIDING OFFICER: Overruled.  
 24 Q. (BY MR. BUZBEE) You know that what your boss  
 25 was saying was whether Nate Paul had been unfairly

1 targeted, right?

2 A. In the discussions that I was privy to, Nate

3 Paul did most of the talking.

4 Q. Whether he had been unjustly targeted, right?

5 A. That was the concern that he had expressed.

6 Q. Because you know sometimes the legal system

7 gets politicized, don't you?

8 MS. EPLEY: Objection. Relevance.

9 MR. BUZBEE: He was asked this by the

10 Board of Managers, Your Honor.

11 PRESIDING OFFICER: Overruled.

12 Q. (BY MR. BUZBEE) You know that sometimes the

13 legal system gets politicized, don't you?

14 A. Yes, sir.

15 Q. And Mr. Paxton, General Paxton's concern was

16 whether there had been a miscarriage of justice; isn't

17 that right?

18 MS. EPLEY: Objection. Question calls

19 for speculation.

20 MR. BUZBEE: He said it in his own words,

21 Your Honor.

22 MS. EPLEY: He can't say that in his own

23 words, Your Honor.

24 PRESIDING OFFICER: Sustained.

25 Q. (BY MR. BUZBEE) Now, you knew that

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1 General Paxton had some distrust of DPS, didn't you?

2 MS. EPLEY: Objection. Relevance and

3 hearsay.

4 PRESIDING OFFICER: Overruled.

5 Q. (BY MR. BUZBEE) You knew that, didn't you?

6 A. I did.

7 Q. You never heard General Paxton say he was

8 going to do anything for Nate Paul; isn't that true?

9 A. He never stated that he would take any action

10 directly on his behalf, no.

11 Q. Now, there was some suggestion about something

12 that you delivered in a manila envelope, right?

13 A. Yes, sir.

14 Q. Was it like this one?

15 A. Yes, sir.

16 Q. Just like this?

17 A. Very, very similar, if not the same.

18 Q. You don't know what was inside of it?

19 A. No, sir. I did not look.

20 Q. You have -- you have no evidence to offer

21 about what was in the envelope?

22 A. No.

23 MS. EPLEY: Objection. Asked and

24 answered.

25 THE WITNESS: I do not.

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1 PRESIDING OFFICER: Overruled.

2 Q. (BY MR. BUZBEE) You do know, of course, that

3 it was a couple of pages at most, right?

4 A. What I stated was that I am -- I do not recall

5 the thickness of the document.

6 Q. Was it this thick?

7 A. Again, sir, I do not recall.

8 Q. You can't say that it was anything near this

9 thick, can you?

10 A. I can't say.

11 MS. EPLEY: Objection, Your Honor.

12 Inconsistent with his prior testimony. He's

13 mischaracterizing the evidence. Mr. Wicker used his

14 fingers to show roughly, I don't know, 2 centimeters to

15 an inch in thickness, which is consistent with what is

16 in Tony Buzbee's hands.

17 MR. BUZBEE: I appreciate all the

18 speaking objections you asked us not to do, but I would

19 like to finish up so we can get on down the road.

20 PRESIDING OFFICER: Overruled.

21 Go ahead.

22 Q. (BY MR. BUZBEE) Now, could it be -- let me

23 ask you: Did you ever exchange texts with Nate Paul?

24 A. I don't recall any text exchanges, no.

25 MR. BUZBEE: May I approach the witness,

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1 Your Honor?

2 PRESIDING OFFICER: You may.

3 Q. (BY MR. BUZBEE) Would your texts refresh your

4 recollection?

5 A. If there are any, yes.

6 Q. Now, you've had a chance to look at the

7 document. Without testifying what's in the document,

8 does that refresh your recollection?

9 A. Yes.

10 Q. Okay. You had told us that that packet -- not

11 a packet. The manila envelope you delivered was

12 sometime in the summer, maybe even in the fall, right?

13 A. No, sir. The testimony that I provided was

14 summer.

15 Q. Summer. June perhaps, right?

16 A. Yes, sir. Earlier in the day I stated that it

17 was likely May or June.

18 Q. And that text you had that you were exchanging

19 with Nate Paul was in June of 2020; isn't that true?

20 A. Yes.

21 Q. And you exchanged texts with Nate Paul before

22 you delivered an envelope just like this one, didn't

23 you?

24 MS. EPLEY: Objection, Your Honor.

25 MR. BUZBEE: I'm asking the man a

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1 question. I'm entitled to an answer.  
 2 PRESIDING OFFICER: Overruled.  
 3 Q. (BY MR. BUZBEE) You exchanged texts with him  
 4 before you delivered an envelope just like this one;  
 5 isn't that true?  
 6 MS. EPLEY: Objection, Your Honor. It  
 7 assumes facts not in evidence.  
 8 MR. BUZBEE: I want to --  
 9 MS. EPLEY: He needs to be very clear  
 10 about the time line and Mr. Buzbee --  
 11 PRESIDING OFFICER: Overruled.  
 12 Q. (BY MR. BUZBEE) Didn't you?  
 13 A. I don't recall whether or not this text  
 14 message occurred before delivery or after.  
 15 Q. Can we agree that the -- that you were texting  
 16 Nate Paul about Dick Weekley?  
 17 A. That is what the text messages show, yes.  
 18 Q. Can we agree that you delivered to Nate Paul  
 19 information about an event Dick Weekley was holding  
 20 because Dick Weekley was trying to get Nate Paul to  
 21 donate money to Texans for Lawsuit Reform?  
 22 A. No, sir.  
 23 Q. You don't remember that?  
 24 A. No, sir, I do not.  
 25 Q. Can we agree that that text that you're

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1 holding in your hand confirms that you were texting  
 2 information about Dick Weekley to Nate Paul?  
 3 A. It does.  
 4 MR. BUZBEE: Your Honor, with that, I  
 5 pass the witness.  
 6 MS. EPLEY: The briefest of redirects,  
 7 please, Mr. President.  
 8 MR. BUZBEE: You don't get one.  
 9 PRESIDING OFFICER: You're back up.  
 10 MS. EPLEY: May I proceed?  
 11 PRESIDING OFFICER: You may.  
 12 FURTHER REDIRECT EXAMINATION  
 13 BY MS. EPLEY:  
 14 Q. Is the conversation you had with Dick Weekley,  
 15 if it existed at all, something that would have to be  
 16 delivered by hand to Nate Paul?  
 17 A. No.  
 18 Q. What was it? What was the construct -- the  
 19 construct of the conversation?  
 20 A. The conversation that I had had with Dick  
 21 Weekley was with General Paxton on his -- Dick Weekley's  
 22 back porch, in which we were engaging in a fundraising  
 23 conversation. I do not recall Nate Paul having been  
 24 mentioned. And if it was any information tied to TLR, I  
 25 don't see why that couldn't have been sent via e-mail,

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1 if that's the question.  
 2 Q. So it's completely made up in regards to this  
 3 to your knowledge?  
 4 MR. BUZBEE: Objection. Leading. And  
 5 also, Your Honor, I'm just curious, are we going to keep  
 6 questioning the witness? Are you going to give extra  
 7 turns like this?  
 8 PRESIDING OFFICER: You'll get one more  
 9 cross and then we're done, Mr. Buzbee.  
 10 MR. BUZBEE: Okay. Thank you.  
 11 PRESIDING OFFICER: This is the first  
 12 time we've gone to two redirects, and you'll have a  
 13 chance to recross. But I thought the lateness of the  
 14 trial we'd allow it.  
 15 I think you smiled knowing I'm sustaining  
 16 his objection.  
 17 MS. EPLEY: I did. Thank you,  
 18 Mr. President.  
 19 Q. (BY MS. EPLEY) Do you have any reason to  
 20 think that this story Mr. Buzbee has told you has  
 21 anything to do with that manila envelope?  
 22 MR. BUZBEE: Objection. Leading.  
 23 Q. (BY MS. EPLEY) Do you?  
 24 PRESIDING OFFICER: Sustained.  
 25 Try another way.

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1 MS. EPLEY: Thank you.  
 2 Q. (BY MS. EPLEY) Did you ever need to deliver  
 3 an invitation from David Weekley to Nate Paul?  
 4 A. Not to my knowledge.  
 5 MS. EPLEY: Pass.  
 6 FURTHER RECROSS-EXAMINATION  
 7 BY MR. BUZBEE:  
 8 Q. The truth is you don't know what you  
 9 delivered, do you?  
 10 A. That is correct.  
 11 MR. BUZBEE: Pass the witness, Your  
 12 Honor.  
 13 PRESIDING OFFICER: Well, both of you --  
 14 can we dismiss the witness -- excuse the witness,  
 15 rather?  
 16 MS. EPLEY: I think -- yes.  
 17 MR. BUZBEE: Subject to recall.  
 18 PRESIDING OFFICER: Subject to recall.  
 19 You're excused subject to recall. Thank  
 20 you.  
 21 (Witness left the Senate chamber)  
 22 PRESIDING OFFICER: Mr. Hardin, who  
 23 should we have the bailiff bring in?  
 24 MR. HARDIN: I'm sorry?  
 25 PRESIDING OFFICER: Which witness are you

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1 calling?  
 2 MR. HARDIN: Mr. Blake Brickman, please,  
 3 Your Honor.  
 4 PRESIDING OFFICER: The bailiff will  
 5 bring in Mr. Blake Brickman.  
 6 MR. HARDIN: Mr. Buzbee, are these your  
 7 documents up here? Is any of this yours?  
 8 PRESIDING OFFICER: Mr. Hardin, as we  
 9 move forward, we're going to break around 3:30 for a  
 10 short break, just for planning purposes.  
 11 (Witness entered the Senate chamber)  
 12 PRESIDING OFFICER: Raise your right  
 13 hand.  
 14 (Witness was sworn by Presiding Officer)  
 15 PRESIDING OFFICER: Please be seated.  
 16 Speak close to the mic and speak up.  
 17 Mr. Hardin, you're on the clock.  
 18 MR. HARDIN: Thank you.  
 19 JAMES BLAKE BRICKMAN,  
 20 having been first duly sworn, testified as follows:  
 21 DIRECT EXAMINATION  
 22 BY MR. HARDIN:  
 23 Q. State your name -- full name, please.  
 24 A. James Blake Brickman, but I go by "Blake."  
 25 Q. How are you presently employed?

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1 A. I work here in Austin at a venture capital  
 2 firm.  
 3 Q. I'm going to move pretty fast with you here,  
 4 but I don't want you --  
 5 PRESIDING OFFICER: You need to move  
 6 closer to the mic.  
 7 MR. HARDIN: Yeah, you -- you need to  
 8 come through.  
 9 Q. (BY MR. HARDIN) I'm going to move pretty fast  
 10 here with you, but I don't want you to speak fast. I'm  
 11 just explaining to you they'll come kind of hot and  
 12 heavy, okay.  
 13 Would you give me an idea of where you  
 14 grew up, your college, and your jobs before you got to  
 15 the AG's office?  
 16 A. I grew up in Dallas, Texas. I went to  
 17 Vanderbilt University. And I went to the University of  
 18 Kentucky College of Law.  
 19 Q. And when you finished -- and during the time  
 20 that you were going to school, did you go to law school  
 21 at night school?  
 22 A. Yes, sir. I was the chief of staff for United  
 23 States Senator Jim Bunning in Washington D.C., and I  
 24 went to night law school during that time.  
 25 Q. And did you work -- did you work for another

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1 politician before you came back to Texas?  
 2 A. Yes. I was Governor Matt Bevin from  
 3 Kentucky's chief of staff from 2015 to 2019.  
 4 Q. My memory is that Governor Bevin was  
 5 considered a pretty conservative governor, was he not?  
 6 A. He was probably the most conservative governor  
 7 in the country.  
 8 Q. Is that the history of your public employment?  
 9 A. It is.  
 10 Q. All right.  
 11 A. Senator Jim Bunning was also known as the most  
 12 conservative senator at the time. Rand Paul took his  
 13 seat when he retired.  
 14 Q. All right. Now, when you came back to Dallas,  
 15 what year did you come back and how did you end up at  
 16 the AG's office?  
 17 A. I came back in the end of 2019. I interviewed  
 18 for a position as deputy attorney general with Jeff  
 19 Mateer and Attorney General Ken Paxton in December of  
 20 2019, when they personally recruited me to come back to  
 21 Texas.  
 22 Q. And did General Paxton himself interview you  
 23 and ask you come back and come?  
 24 A. He did. I met with General Paxton early in  
 25 2019 in Austin. And then after Christmas in 2019 he

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1 offered me the job when we had lunch at Campisi's in  
 2 Dallas together.  
 3 MR. HARDIN: May I have Attorney General  
 4 Exhibit 170?  
 5 THE WITNESS: Can I move this closer?  
 6 PRESIDING OFFICER: Sure.  
 7 MR. HARDIN: I think it should be either  
 8 right after or right before that, Stacey. I didn't have  
 9 the page number.  
 10 Thank you.  
 11 Q. (BY MR. HARDIN) Would you read that, please,  
 12 out loud?  
 13 A. This is a message from General Ken Paxton to  
 14 me.  
 15 Q. Dated what date?  
 16 A. January 11th, 2020.  
 17 Q. Is this right before you started or had you  
 18 actually started?  
 19 A. This is two weeks before I started, so --  
 20 Q. Go ahead.  
 21 A. I got a text from both Tommy and Doug Deason,  
 22 both singing your praises. I think highly of both those  
 23 guys so you keep good company. I am looking forward to  
 24 your coming to work with us. You are going to fit in  
 25 great and be a tremendous asset to our team.

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1 Q. And that is -- is that -- with that kind of  
2 endorsement, is that the way you began working for  
3 Judge -- not Judge -- for Attorney General Paxton?  
4 A. It is. Tommy Hicks is who he's referring to,  
5 who at the time was the co-chairman of the RNC and a  
6 very close friend of Donald Trump, Jr. Doug Deason is a  
7 conservative philanthropist in Dallas who is well-known  
8 in the Republican party.  
9 Q. All right. Now, when you began, what was your  
10 position?  
11 A. I was in charge of policy and strategic  
12 initiatives, but because I had not waived into the Texas  
13 Bar, my title initially was not deputy attorney general  
14 because I did not waive in until about June of 2020.  
15 Q. All right. When was the first time that you  
16 heard the name Nate Paul?  
17 A. Sometime in either late March 20 -- March of  
18 2020 or early April of 2020.  
19 Q. And without going into what was said, did you  
20 have a conversation with the young man that was called  
21 "the body man"?  
22 A. I had a conversation with Drew Wicker.  
23 Drew Wicker came to me.  
24 Q. And where was Drew Wicker's position in  
25 relation to you?

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1 A. Drew Wicker reported directly to me.  
2 Q. All right. And was Mr. Wicker concerned?  
3 A. He was very concerned.  
4 Q. And did he report to you his basis of his  
5 concern?  
6 A. He did.  
7 Q. And what did you tell him?  
8 MR. BUZBEE: Objection. Hearsay.  
9 MR. HARDIN: That's fine. We'll just  
10 move right along.  
11 Q. (BY MR. HARDIN) At -- did you give him some  
12 advice? Just yes or no.  
13 A. Yes.  
14 Q. All right. And later did he inform you that  
15 he had followed through on that advice?  
16 A. Yes.  
17 MR. BUZBEE: Objection, Your Honor.  
18 Hearsay.  
19 MR. HARDIN: All right.  
20 PRESIDING OFFICER: Sustained.  
21 Q. (BY MR. HARDIN) Did you become aware  
22 ultimately of who it was that he was concerned about?  
23 A. Attorney General Paxton was meeting privately  
24 with a man named Nate Paul without his security detail  
25 present and without the meetings being on his personal

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1 calendar -- on his official calendar.  
2 Q. And was Drew concerned about him periodically  
3 getting rid of the security detail?  
4 MR. BUZBEE: Your Honor, I'm sorry, I  
5 object. We heard from Drew Wicker. This is hearsay.  
6 PRESIDING OFFICER: Sustained.  
7 Q. (BY MR. HARDIN) My only question was did he  
8 relay his concerns about that matter, without telling me  
9 what they were?  
10 A. Yes.  
11 Q. All right. Now, I want to move now to  
12 September of 2020. Over a period of time, without going  
13 into detail, had you become familiar with and heard the  
14 Nate Paul in connection with other matters from several  
15 different or multiple occasions?  
16 A. Yes, sir.  
17 MR. BUZBEE: Objection. Leading and  
18 hearsay.  
19 MR. HARDIN: That's not leading. I just  
20 asked whether he did. He could have said no. He could  
21 have said yes.  
22 PRESIDING OFFICER: Overruled.  
23 MR. HARDIN: Thank you.  
24 Q. (BY MR. HARDIN) Now, by the time we hit  
25 September the 29th, what was your state of mind as to

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1 what your concerns were about Mr. -- about Mr. Paul?  
2 A. I was extremely concerned about Mr. Paxton's  
3 conduct. My office was about 5 feet away from Attorney  
4 General Ken Paxton's office. And what I saw over the  
5 course of those three, four, or five months, the summer  
6 of 2020, I was very concerned that Mr. Paxton was  
7 breaking the law.  
8 Q. I want to go back -- if I may step away to get  
9 an exhibit. But first I want to ask you about your  
10 relationship up until the summer when you started having  
11 concerns with the attorney general.  
12 Was there a particular occasion back in  
13 the spring in which the attorney general sought to  
14 praise you?  
15 A. Yes, sir. Attorney General Paxton and I had a  
16 very good relationship for the first few months I was in  
17 the office.  
18 Q. All right.  
19 MR. HARDIN: May I step over here, Your  
20 Honor?  
21 May I approach the witness, Your Honor?  
22 Q. (BY MR. HARDIN) Now, would you identify the  
23 exhibit I just showed you, which is obviously a book.  
24 And what exhibit number, just for identification  
25 purposes, is it?

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1 A. It's Exhibit 705.  
 2 Q. And what is the title of the book?  
 3 A. The book is called *Scalia Speaks* by Antonin  
 4 Scalia, Justice Scalia.  
 5 Q. And where did you get that book?  
 6 A. Attorney General Ken Paxton gave this book to  
 7 me in front of 40 or 50 of the most senior employees in  
 8 the Office of Attorney General in May of 2020.  
 9 Q. When did he give you -- in May. That's what I  
 10 was going to ask you.  
 11 Did he inscribe it?  
 12 A. He did.  
 13 Q. Is the inscription in the first page?  
 14 A. It is.  
 15 Q. What did he say?  
 16 A. Would you like me to read it?  
 17 Q. Yes.  
 18 A. Blake, I am so grateful you joined our team at  
 19 the Texas AG's office. You have been an amazing  
 20 addition. I'm confident that you will continue to make  
 21 a difference for our office and all of Texans.  
 22 Blessings, Ken Paxton.  
 23 Q. Thank you.  
 24 How would you characterize whether that  
 25 is an accurate description of the way he talks to and

1 about you up through the month of May of 2000 -- of  
 2 2020?  
 3 A. It was accurate.  
 4 Q. All right. Was there a particular event that  
 5 you'd been involved in on behalf of somebody that led  
 6 him to -- to be giving you that book and an award?  
 7 A. Yes, sir.  
 8 Q. What was it?  
 9 A. This was early May of 2020. And if you  
 10 remember, that was at the very beginning of the COVID  
 11 pandemic. And there was a situation in the DFW  
 12 Metroplex where I'm from where there was a hairdresser  
 13 named Shelley Luther who was put in Dallas County jail  
 14 because she violated a stay-at-home order so she could  
 15 provide for her family.  
 16 Q. How does that involve you?  
 17 A. I went to Attorney General Ken Paxton and  
 18 said, Sir, this is wrong that this is happening in this  
 19 country.  
 20 Q. And what was his reaction?  
 21 A. He said, Well, what -- what can we do about  
 22 it?  
 23 Q. And you said?  
 24 A. I said, You should speak out about this. This  
 25 is wrong. Use your bully pulpit.

1 And he did.  
 2 Q. And as a result, what was his reaction to  
 3 that?  
 4 A. He did several interviews. He was on Fox News  
 5 talking about this. Tucker Carlson even praised him.  
 6 Q. And then --  
 7 A. In early May of 2020. So he was very happy.  
 8 And this was my idea.  
 9 Q. And, of course, there were other public  
 10 officials that didn't -- that also spoke up around that  
 11 same time, correct?  
 12 A. There were many others after the fact, yes.  
 13 Q. All right. And so as a result, what was the  
 14 attorney general, of you having suggested that to him  
 15 and it turning out well, how was his attitude toward you  
 16 as you entered June of 2000 -- of 2020?  
 17 A. It was great. That's why he gave me the book.  
 18 He had never done this before, is what he told the  
 19 entire staff. He had never made an award like this ever  
 20 before.  
 21 Q. All right. Now, let's go to September  
 22 the 29th, September 30th of 2020. You said you had  
 23 become concerned. You expressed some of those concerns.  
 24 What was the focus and what was giving  
 25 rise to it for you personally in September the 29th and

1 30th of 2020?  
 2 A. I witnessed Attorney General Ken Paxton do  
 3 brazen things on behalf of Nate Paul. He abused the  
 4 entire Office of the Attorney General of Texas to  
 5 benefit Nate Paul. And it got worse and worse and worse  
 6 as the year progressed.  
 7 Q. Were you one of those who went to the FBI on  
 8 September the 30th?  
 9 A. Yes, sir.  
 10 Q. And are you also one of those that has been  
 11 colloquially called a "whistleblower"?  
 12 A. Yes, sir.  
 13 Q. Well, when you went to the FBI, did you go  
 14 with other persons?  
 15 A. There were seven of the most senior staffers  
 16 at the Office of Attorney General. We went together.  
 17 Q. Now, there seems to be some confusion in some  
 18 parts of the world as to what evidence is. Did y'all  
 19 take evidence with you?  
 20 A. We did.  
 21 Q. And what did you take in the form of evidence  
 22 to talk to the FBI?  
 23 A. Again, this is the seven most senior people in  
 24 the agency. We took firsthand personal knowledge of  
 25 Ken Paxton's illegal, immoral, and unethical conduct to



1 federal law enforcement officers.  
 2 Q. You took yourselves?  
 3 A. Yes.  
 4 Q. And did y'all -- can you describe the meeting  
 5 as to what y'all did?  
 6 A. Sure. There -- the meeting lasted several  
 7 hours. I don't remember exactly how much, but we all  
 8 went around the table and shared our concerns with  
 9 Ken Paxton's conduct.  
 10 Q. Is that evidence?  
 11 A. It is.  
 12 Q. Did you give eyewitness accounts of what you  
 13 observed?  
 14 A. Yes.  
 15 Q. Would it be just like an eyewitness account of  
 16 somebody seeing a robbery?  
 17 A. Yes.  
 18 Q. All right. Sometimes the victims of robbery  
 19 don't have any documents on them, do they?  
 20 A. Correct.  
 21 Q. All right. But at the end of that time, had  
 22 each of the seven of you provided your evidence of what  
 23 you believed was inappropriate and wrongful conduct by  
 24 the attorney general?  
 25 A. We did.

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1 Q. All right. And at that time had you seen the  
 2 grand jury subpoenas that were issued?  
 3 A. I had seen one or two, but not all of them.  
 4 Q. All right. And then, after that meeting, were  
 5 you present when it was decided to send a letter to --  
 6 actually, who did y'all send letters to? Let me put it  
 7 that way.  
 8 A. We sent a letter to Greg Simpson, who is the  
 9 head of HR for OAG.  
 10 Q. Now, if it keeps being -- I thought it was  
 11 dead, but not -- I guess not. It keeps being a  
 12 suggestion that somebody removed a letterhead from a  
 13 letter that you sent; is that true?  
 14 A. I don't even know what that is referring to.  
 15 Q. All right. Did you see -- was a letter sent  
 16 without General Paxton's name on it?  
 17 A. I believe the letter we sent had the attorney  
 18 general's crest on it.  
 19 Q. All right. Did -- what was the practice there  
 20 as far as letters that you had?  
 21 A. I don't recall ever discussing letterhead at  
 22 all with any of my colleagues when we signed the letter.  
 23 Q. All right. Did you have letters with --  
 24 regular letters that were printed and available with the  
 25 seal but not his name on it?

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1 MR. BUZBEE: Objection. Leading.  
 2 Q. (BY MR. HARDIN) Did you?  
 3 A. Yes.  
 4 MR. BUZBEE: Your Honor, can we get a --  
 5 PRESIDING OFFICER: That was sustained.  
 6 MR. BUZBEE: Thank you.  
 7 PRESIDING OFFICER: Rephrase.  
 8 MR. HARDIN: Thank you.  
 9 Q. (BY MR. HARDIN) Tell me what kind of  
 10 letterhead you had there.  
 11 A. There were many different types of letterhead.  
 12 I -- I don't even recall letterhead being a topic of  
 13 discussion at all amongst our colleagues.  
 14 Q. Well, did any of y'all move -- did you have  
 15 any knowledge or evidence or any belief regarding  
 16 whether somebody messed with the letterhead of a letter?  
 17 A. None at all.  
 18 Q. All right. If somebody has tried to keep  
 19 saying it and saying it and saying it, would that be  
 20 true or untrue?  
 21 A. Not true.  
 22 Q. Now, after the 30th, and then on the 1st, did  
 23 each of you attempt to visit with the attorney general?  
 24 A. We did.  
 25 Q. And what was his response?

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1 A. That he was out of the office and would not  
 2 meet with us but that we could e-mail him our concerns.  
 3 He said that back to us in a text message.  
 4 Q. All right. So then after -- after it  
 5 happened, there was some public -- were there some  
 6 public releases, some of -- Mr. Mateer resigned and so,  
 7 correct?  
 8 A. Jeff Mateer resigned on -- I believe it was  
 9 Friday, October 2nd --  
 10 Q. All right. Now -- what happened?  
 11 A. -- 2020.  
 12 Q. What happened with you after these events?  
 13 Did you resign?  
 14 A. I did not.  
 15 Q. And what happened? What was your -- what was  
 16 your circumstances going forward?  
 17 A. I showed up for work.  
 18 Q. And when you went to work, what were the  
 19 circumstances?  
 20 A. Monday, October 5th, was the very first time I  
 21 ever met a man named Brent Webster, who Attorney General  
 22 Ken Paxton had hired to be the first assistant. We had  
 23 a meeting previously scheduled at 9:00 a.m. that morning  
 24 about the legislative affairs team, of which I was  
 25 involved with. The very first thing that Brent Webster

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1 did in that meeting to me was he threw me out of the  
 2 meeting.  
 3 Q. All right. And then what happened next?  
 4 A. I went back to my office. And Brent Webster  
 5 came into my office with a woman who was armed and kept  
 6 threatening me to meet with him.  
 7 Q. What did you say?  
 8 A. I said --  
 9 MR. BUZBEE: Objection. Hearsay.  
 10 MR. HARDIN: All right. Fair enough.  
 11 PRESIDING OFFICER: Sustained.  
 12 MR. HARDIN: Fair enough.  
 13 Q. (BY MR. HARDIN) So then did you have a  
 14 conversation with him?  
 15 A. I did.  
 16 Q. And did you have a meeting with him?  
 17 A. I told Brent Webster that --  
 18 MR. BUZBEE: Objection. Hearsay.  
 19 MR. HARDIN: That's fine. If he doesn't  
 20 want to know, that's fine.  
 21 PRESIDING OFFICER: Sustained.  
 22 Q. (BY MR. HARDIN) Let me -- let me go -- after  
 23 that conversation, how much longer did you stay employed  
 24 with the attorney general's office?  
 25 A. I was terminated October 20th, 2020, so that

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1 would be 15 days.  
 2 Q. Briefly can you describe the circumstances of  
 3 the environment for you there before they ultimately  
 4 terminated you?  
 5 A. It was an extremely hostile work environment.  
 6 They had -- like I mentioned earlier, Brent showed up in  
 7 my office with a woman with a gun. They asked me to  
 8 take my cell phone to the car. They removed me from  
 9 access to Attorney General Paxton's schedule, which I  
 10 oversaw. They hired apparently another scheduler  
 11 without asking me. They sent a letter to the entire  
 12 House of Representatives in response to a request by  
 13 Jeff Leach that they did not even show me before they  
 14 sent out, even though I oversaw the legislative team.  
 15 I could go on.  
 16 Q. All right. Let me ask you this.  
 17 MR. HARDIN: Can I have 576 and 3350. I  
 18 believe they're in evidence, but I want to check before  
 19 you put them up.  
 20 PRESIDING OFFICER: We don't have 576 on  
 21 our list.  
 22 MR. HARDIN: All right. I think she's  
 23 getting copies, Your Honor.  
 24 PRESIDING OFFICER: What was the other  
 25 number?

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1 MR. HARDIN: The other -- the two numbers  
 2 were 576 and 3350.  
 3 And I'll -- I'll represent they are the  
 4 letter that Mr. Leach sent. And -- and the second  
 5 exhibit is the response from General Paxton.  
 6 PRESIDING OFFICER: Let me give them a  
 7 short moment to look at them.  
 8 Any objection?  
 9 MR. BUZBEE: Just taking a look, Your  
 10 Honor. Just a second.  
 11 PRESIDING OFFICER: Sure. Take your  
 12 time.  
 13 MR. BUZBEE: I guess no objection, Your  
 14 Honor.  
 15 PRESIDING OFFICER: Admit Exhibit 350 and  
 16 576 into evidence.  
 17 (HBOM Exhibits 350 and 576 admitted)  
 18 MR. HARDIN: All right. Can we have 576,  
 19 please?  
 20 PRESIDING OFFICER: Hold on, Mr. Hardin.  
 21 You offered 3350. Did you mean 350? Because what we  
 22 received was 350.  
 23 MR. HARDIN: Well, it was 350, I think.  
 24 Well, let me look and see. Can I look and see?  
 25 PRESIDING OFFICER: Sure, you can.

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1 MR. HARDIN: Just a moment, Counsel.  
 2 PRESIDING OFFICER: So it is 350, I  
 3 overheard. So admit 350 and 576 into evidence.  
 4 You may continue.  
 5 Q. (BY MR. HARDIN) Now, can you just -- we won't  
 6 go through the whole letter, but let's, if we can,  
 7 scroll up please.  
 8 If you look at it -- excuse me. This is  
 9 a letter, October the 9th, is it not, you were still  
 10 employed? Were you still employed or not?  
 11 A. Yes, sir, I was still employed.  
 12 Q. All right. And Mr. Leach at that time, did  
 13 you know what his position was in the House?  
 14 A. Mr. Leach was the chairman of the committee  
 15 that had direct oversight over the Office of Attorney  
 16 General.  
 17 Q. Got you.  
 18 MR. HARDIN: And in that capacity, if we  
 19 scroll up, please. Actually go to the next page, I  
 20 believe it is. Thank you.  
 21 If you could do the top of it.  
 22 Again, in October the 9th, can we go up?  
 23 Just scroll up just a little bit. The last paragraph,  
 24 I'll publish it with you to make sure I do it correctly.  
 25 Q. (BY MR. HARDIN) Irrespective of that

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1 decision, by way of this letter, I formally request that  
 2 you provide a written report as to what specific steps  
 3 are being taken by you and your newly appointed first  
 4 assistant attorney general, Brent Webster, to ensure  
 5 that the effective operations of the agency continue in  
 6 full force and effect, without delay, without  
 7 interference, and without interruption. I would ask  
 8 that such a report could be provided to all members of  
 9 the Legislature within seven days.

10 Now, in the paragraphs before, did Mr. --  
 11 what did Mr. Leach lay out for him before he came to  
 12 that final, if you can just -- just describe it?

13 A. Mr. Leach appeared to be concerned about the  
 14 state of the Office of Attorney General in light of the  
 15 fact that our allegations had been public at this time.

16 Q. All right. And so was this an opportunity to  
 17 ask the attorney general to respond to those  
 18 allegations --

19 A. It was.

20 Q. -- that had become public; is that right?

21 A. That's right.

22 Q. All right. Thank you.

23 MR. HARDIN: And now, Stacey, if I can  
 24 have 350, please -- that's 350.  
 25 If I can have 576.

1 Pardon me?

2 Q. (BY MR. HARDIN) All right. Now, if you  
 3 would, look at this letter. Do you recall this letter?

4 A. I do.

5 Q. And in his answer that he gives, how many  
 6 pages -- scroll through it, please.

7 Does he respond in any way specifically  
 8 with Chairman Leach's request for an explanation and  
 9 idea as to what is going forward to correct it?

10 A. No, but he does lie to Representative Leach  
 11 and the other members of the House.

12 Q. Can you -- can you point out where it's untrue  
 13 and what he said?

14 A. The very first line. The very first line he  
 15 says that we made false claims. We did not make false  
 16 claims.

17 Q. All right. Anywhere else?

18 Do you take issue with anything else?

19 A. On the second page, the second-to-last  
 20 paragraph, Attorney General Ken Paxton says, OAG's  
 21 regular business is moving forward at full capacity.  
 22 That is 100 percent false.

23 Q. All right. You're talking about the condition  
 24 of the office after y'all left?

25 A. That's correct.

1 Q. All right. I want to move on, but my only  
 2 question to you is at anywhere in this letter that you  
 3 read does he really address Chairman Leach's questions?

4 A. He does not.

5 Q. Okay. Now, what was the occasion exactly --  
 6 how were you terminated? What were the circumstances?

7 A. Brent Webster, who is the first assistant at  
 8 the time, called me into his office. There was another  
 9 woman there named -- I believe her name was Shelli  
 10 Gustafson. And he asked me if I would like to have  
 11 severance or if I wanted to be terminated.

12 And I told him, Brent, I've done nothing  
 13 wrong. I'm not going to resign to take severance.  
 14 So he terminated me.

15 Q. All right. Now, at some time after that, did  
 16 you and three others of the senior staff file a lawsuit?

17 A. We did.

18 Q. And is that lawsuit still pending?

19 A. It is.

20 Q. Was that lawsuit -- was there any attempt to  
 21 settle that lawsuit? And if so, when?

22 A. There was no attempt to settle the lawsuit  
 23 prior to Ken Paxton's re-election in 2022.

24 Q. I won't ask you that.  
 25 What date approximately or what month did

1 y'all file your lawsuit?

2 A. It was sometime in mid-November of 2020, if I  
 3 recall correctly. November of 2020.

4 Q. All right. When you filed that lawsuit in  
 5 November of '20, you were about a year away from the  
 6 election, were you not?

7 A. Two years.

8 Q. Two years away from the election, excuse me.  
 9 And during that period of time, what  
 10 happened with the lawsuit?

11 A. Attorney General Ken Paxton tied up our case  
 12 for two years, making the absurd legal argument that the  
 13 whistleblower law does not apply to him. He filed what  
 14 is called a plea to the jurisdiction, which effectively  
 15 stopped discovery in our case for over two years.

16 Q. So as of the election of November 22nd, was --  
 17 had there been any discovery or ability to legally lay  
 18 out the evidence or allegations in your lawsuit?

19 A. No.

20 Q. Now, once the election in November of '22 --  
 21 of 2020 was over -- or '22, excuse me, how was it the  
 22 settlement conversation started? How did that get  
 23 started?

24 A. Sometime in late January of 2023, so earlier  
 25 this year, Ken Paxton's lawyers called our lawyers and

1 said that they would like to discuss settlement and  
 2 mediation. So the idea of settlement --  
 3 Q. Stop. Stop. This is good. He's about to  
 4 jump up. I want him to save his energy.  
 5 MR. BUZBEE: Thank you.  
 6 Q. (BY MR. HARDIN) So he -- at the time that  
 7 he's -- they initiated settlement discussions, had there  
 8 ever been any settlement discussions prior to that?  
 9 A. No.  
 10 Q. Had there ever been any indication while the  
 11 lawsuit was pending and the election was in the future,  
 12 during that two years, was there ever any indication or  
 13 suggestion that the -- about a possible settlement?  
 14 A. Never.  
 15 Q. All right. Do you know of any circumstances  
 16 that changed and led to their reaching out to you to  
 17 discuss the settlement?  
 18 A. Ken Paxton was re-elected.  
 19 Q. Was he re-elected without knowing anything --  
 20 without the public being told any of the real facts and  
 21 so in the discovery with depositions or so?  
 22 A. I would say it's even worse than that. I  
 23 think Ken Paxton lied to the public for two years about  
 24 our case. So not only did we not have discovery, he did  
 25 the opposite and lied to the public about our

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1 allegations.  
 2 Q. Let me ask you, if you can -- then what I want  
 3 to do is to go to Exhibit 469. I want to move to  
 4 introduce 469 and 470, but I first want to ask a couple  
 5 of questions about it.  
 6 With the original settlement that  
 7 everybody has heard a good deal about, was there a  
 8 proposal that you actually personally individually held  
 9 up from reaching a settlement?  
 10 A. I did not go to the mediation.  
 11 Q. Hold on.  
 12 A. I never --  
 13 Q. Hold on. we're going to try to do this in a  
 14 question-and-answer way.  
 15 So was there a suggestion of a mediation  
 16 sometime in February?  
 17 A. Yes.  
 18 Q. All right. And who all went to that  
 19 mediation?  
 20 A. My other three co-plaintiffs went:  
 21 Mark Penley, David Maxwell, and Ryan Vassar.  
 22 Q. And out of that mediation, did the three of  
 23 them reach a settlement?  
 24 A. They did.  
 25 Q. And what was this amount that they settled

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1 for?  
 2 A. \$3.3 million.  
 3 Q. Why did you not go to the mediation?  
 4 A. Because I did not want to settle the case.  
 5 Q. Why did you not want to settle the case?  
 6 A. Because I wanted to be vindicated for what  
 7 happened to me and my colleagues, and I did not want to  
 8 settle the case. What happened to us should never ever  
 9 happen to any other public servant in Texas.  
 10 MR. BUZBEE: Objection. Nonresponsive at  
 11 this point.  
 12 PRESIDING OFFICER: All right.  
 13 Sustained.  
 14 Q. (BY MR. HARDIN) All right. Moving on. Now,  
 15 when you -- did you have conditions for money as to how  
 16 much money you wanted or anything?  
 17 A. No, sir.  
 18 Q. Did you even give them a figure?  
 19 A. I never gave them a figure.  
 20 Q. What happened after the mediation when three  
 21 had settled and the attorney general had settled, did  
 22 you see pressure or response or any attempts to pay you  
 23 more money to get you to settle?  
 24 A. Yes. What happened was, the parties came  
 25 to me and said, Okay, Mr. Brickman, what would it

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1 take --  
 2 MR. BUZBEE: Your Honor, I'm sorry to  
 3 object. These are Rule 408 settlement discussions,  
 4 number one.  
 5 PRESIDING OFFICER: Sustained.  
 6 MR. BUZBEE: And number two --  
 7 MR. HARDIN: Your Honor, I move to  
 8 introduce Exhibits 469 and 470.  
 9 PRESIDING OFFICER: Was there any  
 10 objection? I don't believe there was.  
 11 MR. BUZBEE: I need to see those.  
 12 PRESIDING OFFICER: We need to see those.  
 13 MR. BUZBEE: If these are Rule 408  
 14 settlement discussions, that would be my objection.  
 15 Q. (BY MR. HARDIN) Do you have those exhibits in  
 16 front of you?  
 17 A. I do.  
 18 MR. HARDIN: For the record and the  
 19 Court, they're not in evidence yet.  
 20 PRESIDING OFFICER: I have 470 and 469.  
 21 MR. HARDIN: Yes, sir. I move to  
 22 introduce.  
 23 MR. BUZBEE: Same objection. Not only  
 24 are they hearsay, but it's protected communications  
 25 under Rule 408 settlement discussions.

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1 MR. HARDIN: Your Honor, there's nothing  
 2 protected. These documents have already been public in  
 3 numerous ways.  
 4 MR. BUZBEE: The trial is here in the  
 5 court, not in the public. In this Court, Your Honor,  
 6 these are inadmissible.  
 7 MR. HARDIN: That's fine. The objection  
 8 is invalid, Your Honor. These are documents that --  
 9 PRESIDING OFFICER: Give me a moment.  
 10 MR. HARDIN: Sure.  
 11 PRESIDING OFFICER: Give me a moment.  
 12 MR. HARDIN: I know. I know.  
 13 PRESIDING OFFICER: Under 408, I sustain  
 14 the objection.  
 15 MR. HARDIN: Pardon me, Your Honor?  
 16 PRESIDING OFFICER: I said we looked at  
 17 408, we sustain the objection. I believe that was your  
 18 objection.  
 19 MR. BUZBEE: That was my objection.  
 20 PRESIDING OFFICER: Rule 408.  
 21 MR. HARDIN: Yes, sir. These were not,  
 22 though, for the liability of the claim. I believe that  
 23 is what we are speaking about as far as 408. These --  
 24 these statements show what he himself -- they offered  
 25 him. If you look at --

1 MR. BUZBEE: Your Honor, I am going to  
 2 object just to relating what the documents say and renew  
 3 the objection that's already been ruled upon.  
 4 PRESIDING OFFICER: I sustained it.  
 5 Move forward.  
 6 Q. (BY MR. HARDIN) Well, did you have conditions  
 7 for not -- for not agreeing?  
 8 MR. BUZBEE: Objection. Same objection.  
 9 MR. HARDIN: He has a right to tell what  
 10 his objection as far as settling --  
 11 (Simultaneous crosstalk)  
 12 PRESIDING OFFICER: Hold on. Hold on.  
 13 MR. HARDIN: Here's my problem.  
 14 PRESIDING OFFICER: You're talking over  
 15 each other. I can't hear and they can't hear.  
 16 MR. HARDIN: All right.  
 17 PRESIDING OFFICER: So what was your  
 18 response to his objection?  
 19 MR. HARDIN: I asked him for what was his  
 20 response to their offer. This is an outward offer.  
 21 This is not a mediation offer. None of this has to do  
 22 with mediation now. They settled their mediation, and  
 23 now the lawsuit is still pending. He rejected it. They  
 24 came to him with a proposed --  
 25 MR. BUZBEE: Your Honor, again, he's

1 speaking --  
 2 PRESIDING OFFICER: Hold on. Hold on.  
 3 Hold on. Hold on, Mr. Buzbee. Hold on.  
 4 MR. HARDIN: This is the problem with  
 5 eating up the time, Your Honor. This is a really  
 6 serious objection.  
 7 PRESIDING OFFICER: I'll give you -- give  
 8 them two minutes back here, okay.  
 9 So your objection is, Mr. Buzbee?  
 10 MR. BUZBEE: Rule 408, textbook. This is  
 11 improper, not admissible.  
 12 MR. HARDIN: He just used up a minute and  
 13 a half on an objection that has no validity.  
 14 PRESIDING OFFICER: You need to restate  
 15 your question.  
 16 MR. HARDIN: Sure.  
 17 Q. (BY MR. HARDIN) What -- were you making  
 18 demands on them for whether you would ever agree to  
 19 consider settlement?  
 20 MR. BUZBEE: Same objection.  
 21 Q. (BY MR. HARDIN) Don't tell me --  
 22 A. I told --  
 23 Q. No, no, no, no, no.  
 24 PRESIDING OFFICER: Overruled.  
 25 Q. (BY MR. HARDIN) All right. Now, the answer

1 first would be yes or no. And then depending on that  
 2 answer, I'll ask you the next question.  
 3 A. Could you please ask the question again?  
 4 Q. Sure. Did you make demands on them that would  
 5 have to be fulfilled before you would ever settle?  
 6 A. I did.  
 7 MR. BUZBEE: Same objection, Your Honor.  
 8 That's Rule 408.  
 9 MR. HARDIN: Your Honor, this is what he  
 10 said, what his conditions were. I will -- I can even  
 11 ask it.  
 12 Q. (BY MR. HARDIN) What were your conditions  
 13 that you demanded before you ever would settle?  
 14 MR. BUZBEE: Your Honor, Rule 408.  
 15 PRESIDING OFFICER: Mr. Buzbee, we agreed  
 16 with you --  
 17 MR. BUZBEE: Thank you.  
 18 PRESIDING OFFICER: -- on the first two  
 19 objections on 408. Not on this one.  
 20 Overruled.  
 21 Go ahead.  
 22 MR. HARDIN: Thank you.  
 23 THE WITNESS: Is the question what were  
 24 my conditions to settle?  
 25 Q. (BY MR. HARDIN) Yes. What were your

1 conditions before you would agree to settle?  
 2 A. I told --  
 3 MR. BUZBEE: Hearsay.  
 4 A. -- the office of the attorney general that I  
 5 would settle --  
 6 MR. HARDIN: Hold on. Hold on,  
 7 everybody. Let him speak, please.  
 8 PRESIDING OFFICER: Sustained on that  
 9 one.  
 10 Go ahead and rephrase.  
 11 I sustained that objection. Rephrase.  
 12 Q. (BY MR. HARDIN) I wanted to know what your  
 13 conditions were, not what you told them. Okay?  
 14 A. Fine.  
 15 Q. That's the -- hold on. That's the basis of  
 16 the objection.  
 17 What were your conditions before you  
 18 would ever agree to consider settling?  
 19 A. I had three.  
 20 Q. What were they?  
 21 A. Ken Paxton apologize for calling us rogue  
 22 employees and admit that we did what we thought was  
 23 right, was the first one.  
 24 Q. That's number one.  
 25 A. The second one was the Third Court of Appeals

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1 had ruled in our favor that the whistleblower law  
 2 applies, and I wanted him to agree not to move to  
 3 dismiss that.  
 4 Q. In other words, you had a winning opinion on  
 5 an intermediate court level, and you wanted an agreement  
 6 that they wouldn't challenge that agreement. That  
 7 ruling?  
 8 A. I did, because I wanted future Texas public  
 9 servants to know that the whistleblower law applies in  
 10 this state.  
 11 Q. All right. And what was your third demand?  
 12 A. That Attorney General Ken Paxton remove a  
 13 disparaging statement where he called us rogue  
 14 employees. It was on the OAG website.  
 15 Q. In response to that, instead of those  
 16 conditions, were you offered more money if you wanted  
 17 that instead?  
 18 MR. BUZBEE: Objection. Rule 408, Your  
 19 Honor.  
 20 PRESIDING OFFICER: I'll sustain that  
 21 objection.  
 22 Q. (BY MR. HARDIN) Were you offered more money?  
 23 A. Yes.  
 24 MR. BUZBEE: Objection, Your Honor.  
 25 THE WITNESS: Well, I was offered --

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1 MR. HARDIN: Wait a minute. Wait a  
 2 minute. He's got an objection on the table.  
 3 MR. BUZBEE: Objection.  
 4 MR. HARDIN: Hold on.  
 5 PRESIDING OFFICER: Sustained.  
 6 Q. (BY MR. HARDIN) Well, did -- ultimately, were  
 7 you willing to consider yourself, your own state of  
 8 mind, were you willing to consider more money instead of  
 9 those three objections --  
 10 A. I was --  
 11 Q. -- the three objectives that you had?  
 12 A. I was not.  
 13 Q. All right. And was that communicated to the  
 14 other side?  
 15 A. It was.  
 16 Q. Now, ultimately, does Exhibit 470 set out this  
 17 ultimate settlement that was pending that is being  
 18 considered by the House? Is that actually a document  
 19 that has been presented to the House of Representatives?  
 20 A. It is.  
 21 Q. Or is it the settlement that is actually under  
 22 consideration that the House, instead of paying right  
 23 away, launched an investigation of?  
 24 A. It is.  
 25 Q. Is that a public document?

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1 A. It is.  
 2 MR. HARDIN: Again, Your Honor, in all  
 3 due respect, we offer Exhibit 470, please.  
 4 MR. BUZBEE: Objection.  
 5 PRESIDING OFFICER: Objection to 470?  
 6 MR. BUZBEE: Yes, Your Honor. It's -- as  
 7 you can see, it's a mediated agreement proposed which  
 8 falls under a privilege, as the Court knows. Moreover,  
 9 it's hearsay.  
 10 MR. HARDIN: Your Honor, that -- excuse  
 11 me. Go ahead. I'm sorry.  
 12 What I was going to say is, is it -- that  
 13 is tacked onto the settlement that occurred with the  
 14 others. It was not produced by mediation. He never  
 15 attended a mediation. He never engaged in the mediation  
 16 process.  
 17 What they did was they just simply put  
 18 the final agreement on there once he agreed not to  
 19 object, and they add on those three conditions that he  
 20 required in order to represent the whole final  
 21 settlement that affected everyone.  
 22 PRESIDING OFFICER: Hold on.  
 23 Mr. Hardin, is this a public document?  
 24 MR. HARDIN: Yes, sir.  
 25 I say that. Make sure I'm not

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1 overstating that.  
 2 PRESIDING OFFICER: Yeah. Make sure  
 3 you're not overstating that.  
 4 MR. HARDIN: I'm getting yes, it's being  
 5 pulled off the Internet, is it not?  
 6 It's on the Internet. I would point out,  
 7 too, I think 4(b) -- 408(2)(b) points out that the Court  
 8 can admit one either way, on your own -- on your own if  
 9 you think it affects some type of issue in the case.  
 10 I can assure you that Mr. Buzbee will be  
 11 talking about having sued and being settled on cross.  
 12 That would be something that would come under that.  
 13 PRESIDING OFFICER: Overrule the  
 14 objection.  
 15 MR. HARDIN: All right.  
 16 Q. (BY MR. HARDIN) Now --  
 17 PRESIDING OFFICER: The Exhibits 470 --  
 18 MR. HARDIN: Thank you, Your Honor.  
 19 PRESIDING OFFICER: -- and 469 are  
 20 admitted into evidence.  
 21 (HBOM Exhibits 469 & 470 admitted)  
 22 Q. (BY MR. HARDIN) All right. Now, just to be  
 23 sure the record is clear, you never participated in a  
 24 mediated settlement agreement, did you?  
 25 A. I did not.

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1 Q. All right. Now, I want you -- if we scroll  
 2 down and look at the bottom of this, scroll to it.  
 3 Number 2 says what?  
 4 A. OAG will permanently remove this press release  
 5 from its website.  
 6 Q. And that press release was what? Is that the  
 7 one in which you -- what -- what was that press release?  
 8 A. This was the press release where Attorney  
 9 General Ken Paxton called me and my colleagues rogue  
 10 employees.  
 11 Q. Number 3.  
 12 A. Would you like me to read it?  
 13 Q. Read it.  
 14 A. A recital in the settlement agreement will  
 15 state whereas Attorney General Ken Paxton accepts that  
 16 plaintiffs acted in a manner that they thought was right  
 17 and apologizes for referring to them as, quote, rogue  
 18 employees, end quote.  
 19 Q. And then number 4, would you read that?  
 20 A. The parties will not ask that the Third Court  
 21 of Appeals opinion issued October 21, 2021, be  
 22 withdrawn.  
 23 Q. And that -- is that the settlement that is now  
 24 still pending before the House for approval?  
 25 A. It is.

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1 MR. HARDIN: You can take that down.  
 2 Q. (BY MR. HARDIN) Now, I want to --  
 3 PRESIDING OFFICER: Mr. Hardin, about how  
 4 long do you expect to go, Mr. Hardin?  
 5 MR. HARDIN: I'm sorry?  
 6 PRESIDING OFFICER: About how much longer  
 7 do you expect to go? They've been on -- the jurors have  
 8 been sitting for two hours.  
 9 MR. HARDIN: I'm hoping to do about  
 10 another 14 or 15 minutes.  
 11 PRESIDING OFFICER: Members, I think you  
 12 can make it for another 14 minutes. Okay. I see nods  
 13 from the jurors. Continue.  
 14 MR. HARDIN: Thank you, Your Honor.  
 15 Q. (BY MR. HARDIN) If I can now, I want to  
 16 move -- there was an attorney general report issued, was  
 17 it not, that sometime in '21, setting out the attorney  
 18 general's side of what happened here?  
 19 A. In August of 2021 the attorney general put out  
 20 a report.  
 21 MR. HARDIN: I believe Attorney General  
 22 127 is in evidence. I'm sure it is.  
 23 MR. BUZBEE: It is.  
 24 MR. HARDIN: But I just -- I want to be  
 25 certain.

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1 MR. BUZBEE: It is. I put it in  
 2 evidence.  
 3 MR. HARDIN: All right.  
 4 Q. (BY MR. HARDIN) Now, would you identify --  
 5 the front page -- if you've read this report, can you  
 6 just describe it for you -- in gentle descriptive  
 7 language, please. Would you?  
 8 A. This is the report that the Office of Attorney  
 9 General put out clearing itself of wrongdoing.  
 10 Q. All right. This is -- was represented as some  
 11 type of independent report, right?  
 12 A. Yes.  
 13 Q. And then you discovered, based on public  
 14 statements, it was actually prepared by Mr. Webster, the  
 15 first assistant?  
 16 A. That's correct.  
 17 Q. Okay. In this report, have I asked you just  
 18 to take several -- three or four examples of things that  
 19 you disagree with? Have I asked you to do that?  
 20 A. Yes.  
 21 Q. All right. What I -- what I wanted to ask you  
 22 is, in this report, how would you describe your reaction  
 23 to it as accuracy as the terms of what happened in these  
 24 matters involving Nate Paul?  
 25 A. I would call this report a whitewash full of

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1 lies --  
 2 Q. All right.  
 3 A. -- and omissions.  
 4 Q. Now, if I may, let's just go over to page 5  
 5 and do this real quickly. If I asked you to pick four  
 6 or five samples, can you just do that for me. And would  
 7 you look on page 5 and see as to the first claim.  
 8 What's -- what is untrue about that  
 9 claim? Do you see where I'm at?  
 10 A. It says, On two prior occasions involving  
 11 Nate Paul's interests, the open records division sided  
 12 with the government agency against disclosing to  
 13 Nate Paul.  
 14 That is not true. There was an open  
 15 records decision that took no opinion as to the release  
 16 of the documents.  
 17 Q. What about the second claim?  
 18 A. If you start with the sentence, Most relevant  
 19 here --  
 20 MR. BUZBEE: Your Honor, I'm sorry to  
 21 interrupt. This witness -- this witness was not  
 22 involved in the open records decision. He was not  
 23 involved in the Mitte intervention, at least certainly  
 24 not directly involved.  
 25 And for him to go through, and without

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1 predecessors and in line with his required duties and  
 2 legal obligations as Attorney General of Texas, most  
 3 relevant here, the position taken by the AG in this  
 4 litigation was adverse to Nate Paul and in support of a  
 5 higher settlement amount to be paid by Nate Paul to the  
 6 Mitte Foundation, as opposed to the prospect of  
 7 continued and costly litigation that would  
 8 disproportionately benefit the charity's court-appointed  
 9 receiver and its lawyer.  
 10 Is that a truthful statement?  
 11 A. It is not a truthful statement.  
 12 Q. And did you actually have an occasion to be  
 13 asked by the attorney general to review the Mitte file  
 14 at one time?  
 15 A. I did.  
 16 Q. All right. The third claim, this informal  
 17 guidance letter regarding foreclosure sales written by  
 18 Bangert was made in response to request for disaster  
 19 counsel advice from Texas Senator Bryan Hughes during  
 20 the height of the pandemic and not for the benefit of  
 21 Nate Paul.  
 22 Is that a true or untrue statement?  
 23 MR. BUZBEE: Objection. Personal  
 24 knowledge, Your Honor.  
 25 PRESIDING OFFICER: Object -- I mean,

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1 taking away counsel's time, and go line by line of a  
 2 report about things that he wasn't involved in, that  
 3 would not be proper. So maybe with respect to the  
 4 second claim, maybe he has some personal knowledge, but  
 5 everything else, he has none.  
 6 MR. HARDIN: I -- that may be one of the  
 7 more imaginative objections I've heard throughout this  
 8 entire trial.  
 9 MR. BUZBEE: I feel -- I feel --  
 10 MR. HARDIN: What I would point -- excuse  
 11 me.  
 12 What I would point out is I -- if I -- if  
 13 I want to go through -- he did have contact with  
 14 Mr. Mitte. Why I just went by it, because they've heard  
 15 a million things about the Mitte case. But all he's  
 16 been asked is are they true or untrue. He's got that  
 17 wonderful art of screaming cross-examination. He can  
 18 use every bit of it he wants, okay.  
 19 But this issue here is simply does he  
 20 believe that is an untrue statement. He can challenge  
 21 him as to what his basis is on cross.  
 22 PRESIDING OFFICER: Overruled.  
 23 MR. HARDIN: Thank you.  
 24 Q. (BY MR. HARDIN) On this number 2 here, where  
 25 it says, AG Paxton's involvement is consistent with his

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1 overruled. I'm sorry.  
 2 MR. HARDIN: Thank you.  
 3 Q. (BY MR. HARDIN) Is that a true or untrue  
 4 statement?  
 5 A. It is an untrue statement. The foreclosure  
 6 opinion was for Nate Paul's benefit.  
 7 Q. Matter of fact, the foreclosure opinion that  
 8 said that foreclosures could not be conducted at that  
 9 time because of the limit on people in the COVID  
 10 situation, was that actually even totally inconsistent  
 11 with what the attorney general had just done recently?  
 12 A. It was entirely -- this opinion was entirely  
 13 inconsistent from prior opinions that our office put  
 14 out. This was a time --  
 15 Q. Hold on.  
 16 A. I'm sorry.  
 17 Q. Are you familiar with a particular event some  
 18 weeks right before the opinion of August 1st or 2nd  
 19 concerning foreclosures?  
 20 A. One month before this opinion came out  
 21 Attorney General Ken Paxton held a fundraiser in Dallas  
 22 outdoors, and a month later issued an opinion saying  
 23 that foreclosure sales could not continue outdoors.  
 24 Q. Can we go to page 6, please.  
 25 Look at the top. Cammack legally --

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1 Cammack -- Cammack legally and properly exercised  
 2 authority delegated to him by both AG Paxton and the  
 3 TCDAO. Cammack was designated as outside counsel for  
 4 OAG by AG Paxton, and he was also knowingly appointed as  
 5 a special prosecutor by the Travis County DA's Office.  
 6 Is that a true or untrue statement?  
 7 A. It is false.  
 8 Q. All right. Would you tell the jury whether  
 9 these -- these that you've labeled untrue statements  
 10 that we've just gone through for just a couple of  
 11 minutes, whether they are typical of this report or  
 12 unique to this -- to this report?  
 13 A. I'm not sure I understand the question.  
 14 Q. Are there other misstatements in this report?  
 15 A. There are many other misstatements in the  
 16 report. These are just a few samples of the  
 17 misstatements in this report.  
 18 Q. All right.  
 19 MR. HARDIN: Your Honor, I've got to get  
 20 a couple of things together. Can I renege and we take a  
 21 break now? I will be through shortly after you return.  
 22 PRESIDING OFFICER: Yes. Before we  
 23 break, could both parties come up for a second.  
 24 (At the bench, off the record)  
 25 PRESIDING OFFICER: Members of the Jury,

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1 I have to conduct a hearing outside the presence of the  
 2 jury. So you're on a break until further notice. And  
 3 we'll call you back. I don't think it will take very  
 4 long, but don't go far.  
 5 (Recess from 3:46 p.m. to 4:22 p.m.)  
 6 (Chambers hearing from 4:22 p.m. to  
 7 4:40 p.m. in separate volume)  
 8 (Recess from 4:40 p.m. to 4:52 p.m.)  
 9 PRESIDING OFFICER: Bailiff can bring the  
 10 witness back in.  
 11 Members, for the record, the House Board  
 12 of Managers called Laura Olson. She is present but has  
 13 been deemed unavailable to testify. As soon as we get  
 14 the witness in, we can continue.  
 15 SENATOR: We couldn't hear.  
 16 PRESIDING OFFICER: I said the House  
 17 Board of Managers called Laura Olson. She is present  
 18 but not -- but has been deemed unavailable to testify.  
 19 SENATOR: What does that mean?  
 20 SENATOR: Can we have a statement? The  
 21 Court doesn't understand what that means?  
 22 PRESIDING OFFICER: A statement has been  
 23 made by the Court. It says what it means. Both sides  
 24 have agreed to that statement. both statements (sic)  
 25 have agreed to that statement.

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1 (Witness entered Senate chamber)  
 2 PRESIDING OFFICER: I did not mean to be  
 3 short with you, Senator. I am just -- I'm not  
 4 amplifying the orders we give. It's stating what both  
 5 sides agreed to in writing.  
 6 Mr. Hardin, you can continue.  
 7 MR. HARDIN: Thank you, Your Honor.  
 8 Stacey --  
 9 Q. (BY MR. HARDIN) Well, first of all, very  
 10 quickly, let me ask you: Were you familiar with the  
 11 House situation in terms of the attorney general and the  
 12 fact that they were having construction and they had to  
 13 move out for a while and so on?  
 14 A. I was --  
 15 Q. The microphone --  
 16 A. I'm not sure it's on.  
 17 Q. There you go.  
 18 A. Yes, sir, I was.  
 19 Q. All right. And you've testified earlier that  
 20 the attorney general's office was right next to you. In  
 21 addition to that, would -- would you regularly get  
 22 reports from and -- and follow information from  
 23 Mr. Wicker?  
 24 A. Yes. The scheduler and the executive  
 25 assistant, Mr. Wicker, both reported directly to me.

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1 Q. And do they give documents to you as to what  
 2 they're doing or anything like that?  
 3 A. They did, and we met weekly.  
 4 Q. All right. And so from your own personal  
 5 knowledge, do you know when the attorney general moved  
 6 back into his house?  
 7 A. I do.  
 8 Q. When was that?  
 9 A. Sometime around mid-July, around the 18th or  
 10 19th of July.  
 11 Q. All right. Now, were you also aware of the  
 12 name of who was -- the company that was doing the -- the  
 13 work on it?  
 14 A. Recently I became aware of that company's  
 15 name.  
 16 Q. Well, at some time, did you actually do some  
 17 research into that person on your own after you were  
 18 terminated?  
 19 A. I did.  
 20 Q. And at the end of the day, the names -- you,  
 21 of course, know Mr. Nate Paul. Were you familiar with  
 22 the name Kevin Wood?  
 23 A. Yes.  
 24 Q. And were you -- the name of a -- a person who  
 25 went by a name of Raj Kukar (sic)?

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1 A. Yes.  
 2 Q. And have you reviewed certain materials  
 3 concerning those people's names?  
 4 A. I have.  
 5 MR. HARDIN: I'm going to ask you if you  
 6 would, Stacey, this -- this exhibit is already in, Your  
 7 Honor. I think the -- the defense put in Exhibit 134.  
 8 It's already in. And they put it en masse. And that  
 9 production included the pictures. I believe this -- it  
 10 was the production by Mr. Wood.  
 11 PRESIDING OFFICER: Yes.  
 12 MR. HARDIN: Okay.  
 13 Could you put up Exhibit Wood --  
 14 Bates-stamped 16 -- Exhibit 134.050. Could you put it  
 15 up with the Bates stamp 6211, please, Stacey.  
 16 Q. (BY MR. HARDIN) Now, I'm going to publish it  
 17 for you and ask you a couple of questions.  
 18 First of all, the -- Kevin Wood, were you  
 19 familiar with the fact that he was the main worker or in  
 20 charge of the work that was going on at the house?  
 21 A. Yes.  
 22 MR. BUZBEE: I want to object, Your  
 23 Honor. He said he learned this later. He had no  
 24 personal knowledge at the time this happened.  
 25 PRESIDING OFFICER: Sustained.

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1 Q. (BY MR. HARDIN) This particular document that  
 2 the -- the defense put into evidence says, Nate, worked  
 3 yesterday 7:00 a.m. to 10:00 p.m. Got home and fell  
 4 asleep. Going right now to start guys on K job.  
 5 Mr. Kujar's (sic) last name begins with a  
 6 K, does it not?  
 7 A. Raj Kumar.  
 8 Q. Kumar.  
 9 And Mr. Kumar's company is what?  
 10 A. Cupertino Builders.  
 11 Q. All right. Then guys at Ben White Concrete  
 12 asked for help. After I check on the 3M guys, I can get  
 13 e-mail more detailed schedule. Does your house look  
 14 okay for Father's Day tomorrow or does it need cut?  
 15 And this particular e-mail produced by  
 16 Mr. Wood was sent to whom?  
 17 A. To Nate Paul.  
 18 Q. Now, it lists a series of things here. Would  
 19 you read those off of things that are to be done?  
 20 A. Sat, subfloor. Sunday, subfloor.  
 21 Q. Slow down. Go ahead.  
 22 A. Monday, restore old floor. Tuesday, new  
 23 floor. Wednesday, new floor, landscape front, and fix  
 24 irrigation. Thursday, new floor, new fans, and  
 25 fixtures, finish landscape. Friday, finish new floor,

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1 finish electrical. Saturday, seal all floors up.  
 2 Sunday, clean up.  
 3 Q. Can you imagine any reason that the man doing  
 4 the work on the attorney general's house would need to  
 5 be informing Nate Paul of the schedule and the work  
 6 being done?  
 7 A. I cannot.  
 8 MR. BUZBEE: I'm sorry, Your Honor. He's  
 9 assuming that this has anything to do with Ken Paxton's  
 10 home. This is not the witness for this. I object.  
 11 MR. HARDIN: This -- these -- these  
 12 documents -- these are actually taken -- let me make  
 13 sure I don't falsely accuse you. Hold on.  
 14 Q. (BY MR. HARDIN) Is he seriously contending --  
 15 we'll take some time out. I don't want to.  
 16 This is an exhibit he produced -- he  
 17 produced. He used photos in this -- this deal. He  
 18 wanted photos of the house.  
 19 My question is I don't want to falsely  
 20 accuse Mr. Buzbee, but is he seriously as an officer of  
 21 the Court contending there's any question as to whether  
 22 or not the -- the documents in Exhibit 134 have to do  
 23 with Mr. Paxton's house?  
 24 MR. BUZBEE: Your Honor, I'll -- I'll  
 25 respond to that. And yes, he has accused me of a lot of

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1 things throughout this trial, but I'm not too concerned  
 2 about it.  
 3 You can see from the e-mail itself a fair  
 4 reading is this man is working on multiple different  
 5 jobs, and this witness has no ability to tell us what  
 6 these things and whose job that is. This guy was also  
 7 apparently a landscaper and was doing different jobs,  
 8 and we don't know -- we know that some of the pictures  
 9 obviously are of the kitchen in the Paxton home, but we  
 10 don't know, and this is not the witness to be asking  
 11 about the renovations because he doesn't know anything  
 12 about the renovations.  
 13 MR. HARDIN: My -- my question was, is he  
 14 contending seriously -- he hasn't answered it yet --  
 15 that this -- these documents do not have anything to do  
 16 with Mr. Paxton's house? If so, we'll try to prove that  
 17 up later. I don't believe he said that.  
 18 MR. BUZBEE: I didn't come here to answer  
 19 his questions, Your Honor.  
 20 PRESIDING OFFICER: I was going to say --  
 21 MR. BUZBEE: Thank you.  
 22 PRESIDING OFFICER: -- it's not his --  
 23 you're not asking him questions. He made an objection.  
 24 He explained it. You made an objection.  
 25 MR. HARDIN: Thank you.

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1 PRESIDING OFFICER: I'm going to sustain  
2 the objection.  
3 MR. HARDIN: Is the Court ruling -- all  
4 right. Thank you.  
5 If I can now, Stacey, would you put up  
6 exhibit with the Bates stamp 6212. The last exhibit was  
7 620.  
8 This one is dated -- actually -- I -- I  
9 thought 622 was the next exhibit. These would be 6212.  
10 6215 is what I really mean to have up now, Stacey. I'm  
11 sorry.  
12 Q. (BY MR. HARDIN) The date of this one, please,  
13 sir?  
14 A. July 4th, 2020.  
15 Q. And this one is from Mr. Nate Paul to  
16 Mr. Kevin Wood, is it not?  
17 A. It is.  
18 Q. Nate Paul tells Kevin Wood what?  
19 A. Great. Can you send me pics?  
20 Q. Kevin Wood responds what to him?  
21 A. Guys, just finished applying second coat of  
22 sealer.  
23 MR. HARDIN: Stacey, I'm sure that I was  
24 wrong. My mistake. But I wanted to see if 76 -- 6211  
25 and 6212. If you will tell me which you put up first,

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1 and I'll put up the other one now. I don't know whether  
2 I gave you the wrong number.  
3 Pardon me?  
4 MS. MANELA: This is 6212.  
5 MR. HARDIN: All right. Is that what you  
6 put up first?  
7 All right. Thank you.  
8 Then 6212, please.  
9 Q. (BY MR. HARDIN) This is on the 22nd of June.  
10 And to Mr. Kevin Wood, he's responding on top of an  
11 e-mail from -- we just read, the one on June 20th. Do  
12 you see that?  
13 A. I do.  
14 Q. And this is Kevin Wood to whom?  
15 A. Raj, Nate's guy, Raj Kumar.  
16 Q. All right. Raj Kumar is the president and CEO  
17 of the company that built -- did the renovations,  
18 correct?  
19 A. Correct.  
20 Q. And then below that, this is Kevin to -- he's  
21 forwarding Kevin to Nate Paul. So, essentially, what's  
22 happened with this -- with this e-mail? How does it  
23 begin? Kevin Wood forwarding the e-mail? You tell me.  
24 A. The initial e-mail is Kevin Wood to Nate Paul  
25 on June 20th. And then it's forwarded from Kevin Wood

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1 to Raj Kumar on June 22nd of 2020.  
2 Q. So we now have, have we not, or have we,  
3 communications between the man doing the actual  
4 on-the-site construction updating Nate Paul, and then  
5 the man on the site doing the construction communicating  
6 with the owner of the company that's doing the  
7 construction, correct?  
8 A. We do, that's correct.  
9 Q. And so in these messages back and forth, if  
10 they are, in fact, communicating about Mr. -- the  
11 lieutenant -- excuse me -- the --  
12 PRESIDING OFFICER: No problem, Senator.  
13 No problem, Senator.  
14 MR. HARDIN: I'll put general, if I have  
15 to.  
16 Q. (BY MR. HARDIN) The attorney general. The  
17 people doing the work on the attorney general's house  
18 are all communicating among themselves, are they not?  
19 A. That's correct.  
20 Q. And they're communicating about the attorney  
21 general's house, are they not?  
22 A. That's correct.  
23 MR. HARDIN: Now, I want to look at, if  
24 we can, 6216, please.  
25 Actually -- actually do 6215, Stacey,

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1 please.  
2 Q. (BY MR. HARDIN) Now, this one is dated -- the  
3 other two were the 20th of June and the 24th of June.  
4 And this one is dated July the 4th, is it not?  
5 A. That's correct.  
6 Q. And it's from whom to whom?  
7 A. From Kevin Wood to Nate Paul.  
8 Q. And -- and Nate Paul says what to Mr. Kevin  
9 Wood?  
10 A. Great. Can you send me pics?  
11 Q. And he's saying that in response to Kevin Wood  
12 telling him what on Saturday, July 4th?  
13 A. Guys, just finished applying second coat of  
14 sealer.  
15 MR. HARDIN: Stacey, 6216, please.  
16 On July the 4th, in response to an e-mail  
17 asking from -- from Mr. -- from Mr. Paul -- can you put  
18 together, please, Stacey, a side-by-side, 6216 and 6215.  
19 Q. (BY MR. HARDIN) So on July the 4th, on the  
20 left, the one we just went over, Nate Paul asked  
21 Kevin Wood to send him pictures of the work they're  
22 doing, correct?  
23 A. Correct.  
24 Q. And then if you go over to the right,  
25 Kevin Wood does what on the same day, on July the 4th?

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1 A. He sends him the photos.  
 2 Q. He says, does he not -- does he not -- at this  
 3 time Kevin Wood includes Nate Paul and Raj Kumar on --  
 4 both of them on multiple pictures of the house, correct?  
 5 A. Correct.  
 6 Q. Do you have any idea why those three would be  
 7 communicating like that if Nate Paul had nothing to do  
 8 with the attorney general's house?  
 9 MR. BUZBEE: Objection. Speculation.  
 10 PRESIDING OFFICER: Sustained.  
 11 Q. (BY MR. HARDIN) Now, after you were  
 12 terminated, did you start doing some of your -- and, of  
 13 course, y'all had a lawsuit starting when?  
 14 A. November of 2020.  
 15 Q. Okay. Did you yourself start looking to see  
 16 if you could find information that would help your  
 17 lawyers, and your lawyers for information, and so on?  
 18 Did you come into -- discover a receiver's report that  
 19 had to do with Nate Paul's businesses?  
 20 A. I did.  
 21 Q. And did you, in fact, yourself obtain that  
 22 report and give it to us?  
 23 A. I did.  
 24 Q. I'm going to show you what has been -- and ask  
 25 that Stella give to the Court and the other side.

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1 MR. HARDIN: This is a new exhibit, Your  
 2 Honor.  
 3 Q. (BY MR. HARDIN) Now, without talking about  
 4 the -- the internal parts of it, what did you discover?  
 5 How did you discover this receiver's report and where  
 6 was it filed?  
 7 MR. BUZBEE: Your Honor, I'm sorry to  
 8 interrupt. This, first time disclosed.  
 9 Number two, he's already admitted that he  
 10 didn't have any personal knowledge of this. He just  
 11 went and found it. He's not here as some kind of an  
 12 investigator. He's supposed to be telling us what his  
 13 personal knowledge is of things that occurred at the  
 14 AG's office. What they just handed us looks like to be  
 15 file stamped October 31st of 2022.  
 16 MR. HARDIN: Your Honor -- excuse me.  
 17 Are you finished?  
 18 MR. BUZBEE: He was out of the office  
 19 long before that.  
 20 MR. HARDIN: All right. Your Honor, if I  
 21 may respond.  
 22 PRESIDING OFFICER: Yes, you may respond.  
 23 MR. HARDIN: This is a receiver's report  
 24 filed in litigation in Harris County in the 165th  
 25 Judicial District Court. And what we have and what you

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1 have is a certified report, a certified public document.  
 2 It's filed and now certified that it is a public record.  
 3 And it comes in under 8038 -- (a)(3).  
 4 MR. BUZBEE: Your Honor, first, it has to  
 5 be --  
 6 MR. HARDIN: It's relevant. Let me --  
 7 MR. BUZBEE: I thought you were finished.  
 8 Go ahead.  
 9 MR. HARDIN: Excuse me. Let me -- let me  
 10 finish, please.  
 11 Public records and it has factual  
 12 findings from a legally authorized investigation. And  
 13 the relevance of it is it deals with the extended cross  
 14 that Mr. Buzbee went through about the house and whether  
 15 or not it was legitimate and all of that. And that --  
 16 and that is addressed, not the -- not the -- the house,  
 17 but the investigation. It was clearly -- I respectfully  
 18 suggest it's admissible as a certified public document.  
 19 PRESIDING OFFICER: All right.  
 20 Mr. Buzbee.  
 21 MR. BUZBEE: Excuse me.  
 22 PRESIDING OFFICER: Can I answer?  
 23 Mr. Hardin, forgive me. I did not  
 24 understand what you said just now.  
 25 MR. HARDIN: Oh, okay. That would not be

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1 the first.  
 2 PRESIDING OFFICER: Could you give me one  
 3 more try?  
 4 MR. HARDIN: Sure. And that won't be the  
 5 first.  
 6 This is a certified public document. It  
 7 is admissible without a sponsoring witness. If it is  
 8 relevant to the issue -- the matter that we're seeking  
 9 to introduce it in, then it comes in under 803(c)  
 10 without a sponsoring witness because it is certified as  
 11 a public document. It comes in under the public  
 12 documents exception to the hearsay rule.  
 13 And in this particular case, the reason  
 14 it is relevant, I will refer the Court, perhaps will  
 15 help you if you look on page -- if you use the -- and so  
 16 that you can yourself look, if you look at page 84,  
 17 Bates-stamped Brickman down below, 84, Brickman 85 in  
 18 particular. And it has to do with Mr. Nate Paul -- go  
 19 ahead.  
 20 PRESIDING OFFICER: Mr. Hardin, I  
 21 don't -- I don't see an 803(c). What am I missing?  
 22 MR. HARDIN: Okay. I'm sorry, she's  
 23 right.  
 24 What Jenny -- Ms. Brevorka is showing me  
 25 is you don't have the Brickman Bates stamp. That's how

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1 we got it. So we then went and got a certified copy.  
 2 And so what you would be looking at is page 47 of the  
 3 report.  
 4 PRESIDING OFFICER: What I was asking the  
 5 question of why it could come in, 803(c), I don't see an  
 6 803(c).  
 7 MR. HARDIN: More particularly if I  
 8 could --  
 9 PRESIDING OFFICER: Excuse me. I don't  
 10 see an 803(c), unless I'm missing it. I see 803(1)  
 11 through (24).  
 12 MR. HARDIN: If we can, if you look at  
 13 page 72 --  
 14 PRESIDING OFFICER: I'm asking the first  
 15 question. I don't see an 803(c). I may not be looking  
 16 at the right --  
 17 MR. HARDIN: I guess you're right. If  
 18 you're looking at the Rule --  
 19 PRESIDING OFFICER: Yes, sir. I am.  
 20 MR. HARDIN: Okay. If you're looking at  
 21 the Rule, it's 8038(c). I've got a lot of help, and  
 22 obviously I need it.  
 23 We got 8038(a)(2) -- thank you, Dick --  
 24 and 8038(a)(3). If you look at those, I would represent  
 25 would make it very much --

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1 PRESIDING OFFICER: You made me dangerous  
 2 here and made me start looking at these numbers, and  
 3 there's not an 803(c).  
 4 MR. HARDIN: Yeah. There is 808.  
 5 PRESIDING OFFICER: It's 808(c). Okay.  
 6 Now that I have the right number, I'm  
 7 going to overrule the objection. Thank you.  
 8 MR. BUZBEE: Your Honor, may I?  
 9 MR. HARDIN: Thank you very much.  
 10 MR. BUZBEE: Your Honor, my objection was  
 11 not hearsay. I mean, he's giving you a hearsay  
 12 exception, but I want the Court to note that this is a  
 13 report from a receiver appointed by the Court, his  
 14 opinion. It uses the word "opinion" multiple times in  
 15 the document, and it was done two years after the events  
 16 in question in this case. It has no relevance to this  
 17 case.  
 18 It's an opinion of somebody, Seth  
 19 Kretzer, out of Houston, who, if he had some opinion  
 20 that the Court found relevant, then he should come here  
 21 and be cross-examined. We can't cross-examine a report  
 22 from somebody who's not in court.  
 23 So, Your Honor, there's three or four  
 24 different reasons why something like this should not be  
 25 admitted, first of which is that it's years after the

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1 events in question.  
 2 Two, it's written by a lawyer who has  
 3 been appointed to be receiver, and he -- it's filled  
 4 with his opinions about this and opinions about that,  
 5 which I guess would be some sort of expert-type opinion,  
 6 although we haven't qualified him as such. There's a  
 7 lot of reasons why this is improper.  
 8 And the last one, I think maybe the one  
 9 you might find most important, they put this on their  
 10 exhibit list yesterday, and I just got a copy of it  
 11 right now.  
 12 So how am I supposed to, 100 pages of  
 13 opinion by a receiver out of Houston, do anything with  
 14 this? This is completely improper under various -- for  
 15 various reasons.  
 16 MR. HARDIN: Your Honor, that's always  
 17 true of any publicly admitted document that comes in  
 18 without a speaker. That -- right now that doesn't have  
 19 a prepared cause -- he's free to subpoena any of these  
 20 witnesses. This talks about the very three people that  
 21 we were talking about and the arrangement that they  
 22 have.  
 23 MR. BUZBEE: They put it on the list  
 24 yesterday.  
 25 MR. HARDIN: I -- I tried to --

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1 PRESIDING OFFICER: Okay, gentlemen,  
 2 stop. Let me -- I'm going to relook at this.  
 3 MR. HARDIN: Okay.  
 4 PRESIDING OFFICER: I based my ruling on  
 5 your exception.  
 6 MR. HARDIN: Thank you, Your Honor.  
 7 PRESIDING OFFICER: But he's brought some  
 8 other points.  
 9 MR. HARDIN: Thank you.  
 10 Q. (BY MR. HARDIN) Now, if I can --  
 11 PRESIDING OFFICER: I said, wait. Wait.  
 12 You can stop the clock for a moment.  
 13 MR. HARDIN: Thank you very much.  
 14 Your Honor, may I -- just information, I  
 15 was just informed, this actually -- this exhibit,  
 16 without being certified, was on our original witness  
 17 list. They have had the exhibit list. They have had  
 18 this exhibit notice for about a month and a half.  
 19 Pardon me, Your Honor. This may not  
 20 address what you're talking about. I just want it to be  
 21 clear on the record. Our original notice to them of  
 22 this exhibit was Exhibit 129 in the middle of August.  
 23 MR. BUZBEE: Did -- did you change the  
 24 number on the exhibit?  
 25 MR. HARDIN: We did not -- you know, we

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1 did because the new one was certified. That one wasn't  
 2 certified, but it was this document.  
 3 We -- we listed this exhibit. They've --  
 4 that's what they've had since mid-August. And all we  
 5 did was introduce before you a certified copy of the  
 6 exhibit that we had previously done. I can -- I can  
 7 tender it to the Court, if the Court wants to -- to look  
 8 at it. Yeah. Okay.  
 9 PRESIDING OFFICER: On further review  
 10 with my legal team, it appears, looking at the document,  
 11 it contains double hearsay. So I'm reversing my ruling  
 12 and sustaining the objection.  
 13 Continue.  
 14 MR. HARDIN: Finally, Your Honor, we  
 15 move -- we move to introduce the grand jury subpoenas as  
 16 Exhibit 172. This is very bulky. These were the  
 17 subpoenas, the grand jury subpoenas that had been  
 18 mentioned throughout the case.  
 19 I'll tender it to Mr. Buzbee, and because  
 20 of the -- we just have one copy for you.  
 21 PRESIDING OFFICER: Did you resume the  
 22 clock?  
 23 THE TIMEKEEPER: I did, yes.  
 24 MR. HARDIN: Your Honor, these are --  
 25 just for the record, these are offered, all of the

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1 Exhibits 172 through 185, then 187 through 209, and 218  
 2 and 220.  
 3 MR. BUZBEE: No objection.  
 4 PRESIDING OFFICER: You may continue.  
 5 Let me admit these.  
 6 MR. HARDIN: May I have just a moment to  
 7 see if that's --  
 8 PRESIDING OFFICER: Admit 172, 173, 174,  
 9 175, 176, 177, 178, 179, 180, 181-- 82, 83 -- 183, I'm  
 10 sorry, 184, 185, 187, 188, 189, 190, 191, 192, 193, 194,  
 11 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205,  
 12 206, 207, 208, 209, 218, 220 into evidence.  
 13 (HBOM Exhibits 172-185, 187-209, 218 &  
 14 220 admitted)  
 15 MR. HARDIN: Thank you. Thank you very  
 16 much.  
 17 PRESIDING OFFICER: Yes, sir.  
 18 MR. HARDIN: One final question. Would  
 19 it be possible for -- for us to find out what sections  
 20 the Court considers double hearsay in case of that  
 21 report, later we could come back with bracketed -- not  
 22 to argue with you about the ruling of double hearsay,  
 23 but to maybe admit stuff that was not?  
 24 PRESIDING OFFICER: With all due respect,  
 25 we really did spend a lot of time on that, stopped the

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1 clock. And on the advice of -- of four very wise people  
 2 up here to help me with that issue, I'm going to stay  
 3 with my ruling.  
 4 MR. HARDIN: I appreciate it, Your Honor.  
 5 If I have just a second --  
 6 PRESIDING OFFICER: Yes.  
 7 MR. HARDIN: If I could stop the clock to  
 8 confer, because I think we may be through. I just want  
 9 to make sure.  
 10 PRESIDING OFFICER: Sure.  
 11 MR. HARDIN: Your Honor, at this time the  
 12 House Managers rest.  
 13 (House Board of Managers rest)  
 14 MR. BUZBEE: He just rested without a  
 15 cross-examine. I can recall the witness, though. I'm  
 16 fine with that. We'll recall this man.  
 17 We will accept the rest, and that's how  
 18 it works.  
 19 MR. HARDIN: He's certainly right. I  
 20 mean, I want to concede he's absolutely right. I  
 21 apologize. I think he's entitled to his day in court.  
 22 Thank you.  
 23 PRESIDING OFFICER: So he's giving you  
 24 your cross-examination, if I'm understanding,  
 25 Mr. Hardin?

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1 MR. HARDIN: Certainly.  
 2 MR. BUZBEE: Your Honor, we have some  
 3 motion practice we would like to take up with the Court  
 4 today.  
 5 PRESIDING OFFICER: All right.  
 6 MR. HARDIN: All right. Is he waiving  
 7 cross or --  
 8 MR. BUZBEE: I said I would recall this  
 9 witness in our case in chief, if there is a case in  
 10 chief needed from us. I would like to do some motion  
 11 practice today.  
 12 MR. HARDIN: Here's the problem: I  
 13 messed up and shouldn't have rested until he finished  
 14 his cross.  
 15 MR. BUZBEE: And yet you did.  
 16 MR. HARDIN: Excuse me.  
 17 Having this witness come back doesn't  
 18 make sense. It would seem to me the appropriate thing  
 19 for him to do is to cross this witness, and then if we  
 20 had an opportunity and took one on redirect. But it  
 21 usually should be when both of us have finished with  
 22 this witness and then we rest.  
 23 But the Court is having to put up with a  
 24 screw up by me. I apologize. But I would very  
 25 respectfully like for him to go and do his cross.

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1 MR. BUZBEE: I don't have to do a cross.  
 2 He rested. I will recall this witness.  
 3 PRESIDING OFFICER: Mr. Hardin --  
 4 MR. HARDIN: He is waiving his cross for  
 5 this stage, if I understand. If that's the case,  
 6 there's no problem.  
 7 MR. BUZBEE: You rested, sir.  
 8 MR. HARDIN: Yes.  
 9 MR. BUZBEE: And I accept that.  
 10 PRESIDING OFFICER: Yes. You rested.  
 11 MR. HARDIN: That's fine. And if he  
 12 wants to put on his case now or he wants to argue a  
 13 motion, what's the Court's preference?  
 14 PRESIDING OFFICER: Well, it's now up to  
 15 him. You've rested. It's up to him to either recall  
 16 the witness or to make a motion or -- it's now his call.  
 17 MR. HARDIN: All right. May I ask what  
 18 about this witness? He's caught in the box.  
 19 MR. BUZBEE: He's asking for what?  
 20 PRESIDING OFFICER: He's asking about  
 21 this witness. Can he step down at this point?  
 22 MR. BUZBEE: Subject to recall, yes, sir.  
 23 PRESIDING OFFICER: Okay. You can step  
 24 down subject to recall.  
 25 MR. BUZBEE: Your Honor, we've seen, Your

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1 Honor, the House's --  
 2 PRESIDING OFFICER: Let's wait until the  
 3 witness is out of the courtroom.  
 4 (Witness left the Senate chamber.)  
 5 PRESIDING OFFICER: Mr. Buzbee.  
 6 MR. BUZBEE: Yes, Your Honor.  
 7 As I understand from my colleagues, a  
 8 motion for directed verdict must be filed and in  
 9 writing. We have done that. We filed a motion for  
 10 directed verdict on each of the articles, and I think  
 11 we've also grouped some of the articles. I think those  
 12 are dispositive.  
 13 I would ask that the Court consider  
 14 those. I understand that the Senate would have to vote  
 15 on those. And I just want to inform the Court that  
 16 those motions have, in fact, been filed. And I don't  
 17 think you probably are interested in a bunch of oral  
 18 arguments so I'll stop it there.  
 19 PRESIDING OFFICER: So pursuant to the  
 20 rules adopted 25 to 3 by the senators, a motion for  
 21 directed verdict as a dispositive motion must be  
 22 submitted to the members of the Court for a vote, as you  
 23 stated. A motion for directed verdict is a challenge of  
 24 the sufficiency of the evidence. Therefore, these  
 25 motions will go to the senators.

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1 Under the rules, it takes a majority of  
 2 the members present, that is 16 voting members who are  
 3 eligible to serve as jurors, to grant a motion. If the  
 4 motion fails to get a majority vote, the motion will be  
 5 denied.  
 6 MR. BUZBEE: Thank you, Your Honor. And  
 7 I'll sit down in here.  
 8 PRESIDING OFFICER: Do we have the  
 9 motions? They need to be presented up to the Court.  
 10 MR. HARDIN: Excuse me, Your Honor. It  
 11 has to be submitted in writing, does it not?  
 12 MR. BUZBEE: It was submitted in writing.  
 13 I think you --  
 14 PRESIDING OFFICER: In writing. We have  
 15 to receive it in writing.  
 16 MS. O'NEILL: Your Honor, we have a  
 17 cross-motion that we will be filing, that is being filed  
 18 as we speak. We would like to take that up at the bench  
 19 if we could.  
 20 PRESIDING OFFICER: So when would you  
 21 like to take that up?  
 22 MS. O'NEILL: Now would be fine, if we  
 23 could take it up, please.  
 24 PRESIDING OFFICER: So --  
 25 MR. BUZBEE: We need to get the Court a

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1 paper copy, but just if -- we have, in fact, filed it  
 2 electronically with the Court.  
 3 PRESIDING OFFICER: Yeah. I need a paper  
 4 copy, as we did earlier with the other motion that was  
 5 filed.  
 6 MR. BUZBEE: Very well. We'll get on  
 7 that right now.  
 8 PRESIDING OFFICER: Sounds like you have  
 9 multiple ones. Thank you.  
 10 (At the bench, off the record)  
 11 PRESIDING OFFICER: Well, we're going to  
 12 stand at ease and -- for the jurors to meet. Okay. The  
 13 eligible jurors to meet.  
 14 (Recess from 5:37 p.m. to 6:09 p.m.)  
 15 (At the bench, off the record)  
 16 PRESIDING OFFICER: Members, after  
 17 consultation with the jurors and both parties, both  
 18 motions have been withdrawn, and the defense will now  
 19 call their first witness.  
 20 MR. STONE: Mr. President?  
 21 PRESIDING OFFICER: Yes.  
 22 MR. STONE: Mr. President, the attorney  
 23 general calls Professor Michael Gerhardt.  
 24 PRESIDING OFFICER: Bailiff, bring in  
 25 Professor Michael Gerhardt.

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1 MR. MUIR: Mr. President, before we  
 2 proceed may we approach?  
 3 PRESIDING OFFICER: Yes, you may.  
 4 (At the bench, off the record)  
 5 PRESIDING OFFICER: members, since we're  
 6 having an elongated discussion up here, we're going to  
 7 adjourn for the day. Begin at 9:00 o'clock tomorrow  
 8 morning. Okay. See you at 9:00 o'clock tomorrow  
 9 morning. Okay.  
 10 (Proceedings adjourned at 6:36 p.m.)  
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1 CERTIFICATE  
 2  
 3 STATE OF TEXAS )  
 4 COUNTY OF TRAVIS )  
 5 I, MARY ORALIA BERRY, Certified Shorthand  
 6 Reporter in and for the State of Texas, Registered  
 7 Diplomate Reporter, Certified Realtime Reporter, and  
 8 Certified Realtime Captioner, do hereby certify that the  
 9 above-mentioned matter occurred as hereinbefore set out.  
 10 I further certify that I am neither  
 11 counsel for, related to, nor employed by any of the  
 12 parties or attorneys in the action in which this  
 13 proceeding was taken, and further that I am not  
 14 financially or otherwise interested in the outcome of  
 15 the action.  
 16 Certified to by me this 13th day of  
 17 September, 2023.  
 18  
 19  
 20  
 21 /s/ Mary Oralia Berry  
 22 Mary Oralia Berry, Texas CSR #2963  
 23 Texas Certified Shorthand Reporter  
 24 CSR No. 2963 - Expires 10/31/24  
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1 THE SENATE OF THE STATE OF TEXAS  
 2 SITTING AS A HIGH COURT OF IMPEACHMENT  
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 4 THE MATTER OF Steno  
 5 WARREN KENNETH  
 6 PAXTON, JR.  
 7  
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 11  
 12 TRIAL  
 13 VOLUME 8 - AM SESSION  
 14 SEPTEMBER 14, 2023  
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 23 Stenographically Reported by  
 24 Mary Oralia Berry, CSR, RDR, CRR, CBC  
 25 A P P E A R A N C E S

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VOLUME 8 -- AM SESSION  
SENATE IMPEACHMENT TRIAL

SEPTEMBER 14, 2023 PAGE VOL.

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PROCEEDINGS  
THURSDAY, SEPTEMBER 14, 2023  
(9:05 a.m.)

THE BAILIFF: All rise. The Court of Impeachment of the Texas Senate is now in session. The Honorable Lieutenant Governor and President of the Senate Dan Patrick now presiding.

PRESIDING OFFICER: Good morning, everyone. Please bring in the jury.

I see the bag pipes are gone but the crickets are still here.

(Senators entered the Senate chamber)

PRESIDING OFFICER: Senator Hughes, I believe you're doing the prayer this morning.

SENATOR HUGHES: Let's go to the Lord in prayer.

Heavenly Father, when we consider who you are, the one who has always existed before time, way back into eternity who always was, and always will be; when we consider that you made everything we see, things we cannot see, us, every molecule, every particle of each of us, just because of who you are, we owe you everything. We owe you our lives.

And, Father, when we consider, on top of that, all that you've done for us, the gifts that you

lavish upon us, that you heap upon us, our very lives, and especially those of us in this country, in this state, the special blessings we enjoy of liberty and opportunity and justice, unknown in the history of the world, uniquely, uniquely given to us here, from your hand, we know we each have a responsibility in preserving those things as stewards, even one of us, whatever our role.

So, Father, we thank you. Thank you for who you are, for what you have done. We confess our failure to acknowledge you as we ought to look to you to humble ourselves before you. And we just thank you for loving us. The ultimate expression of your love for us, that Jesus Christ, God's son, God himself, would humble himself and come to this earth and take on human form and live that beautiful life, and then pay the penalty for all of our sins on the cross, and then raise from the dead on the third day. We thank you for Him.

Your Word says that since You gave Him for us, there is nothing you'll hold back. So, Father, we ask you for wisdom that you promise to give. We ask you to be honored in these proceedings today by everyone here, whatever their role. Thank you for loving us so much.

In Jesus' name we pray. Amen.

THE JURY: Amen.

PRESIDING OFFICER: Thank you, Senator. You may be seated.

Members, can we have a little quiet in the courtroom?

Can I have both parties come forward?  
(At the bench, off the record)

PRESIDING OFFICER: Is the defense ready to call their first witness?

MS. COLLINS: We are, Your Honor.

PRESIDING OFFICER: And who would that be?

MS. COLLINS: Justin Gordon.

PRESIDING OFFICER: Bailiff will bring in Justin Gordon.

Counselor, state your name for the record.

MS. COLLINS: Of course. Allison Collins.

PRESIDING OFFICER: I always give you the time check.

Members, House, you have two hours, 34 minutes and 39 seconds remaining.

Respondent, eight hours, 38 minutes and no seconds remaining.

1 (Witness entered the Senate chamber)  
 2 PRESIDING OFFICER: Were you here on  
 3 Day 1 to be sworn in?  
 4 THE WITNESS: Yes, sir.  
 5 PRESIDING OFFICER: I thought so. Please  
 6 have a seat.  
 7 JUSTIN GORDON,  
 8 having been first duly sworn, testified as follows:  
 9 DIRECT EXAMINATION  
 10 BY MS. COLLINS:  
 11 Q. Good morning, Mr.Gordon. How are you today?  
 12 A. Good morning. I'm good. Thank you.  
 13 Q. Could you please turn on your microphone? And  
 14 go ahead and adjust it pretty close. The acoustics in  
 15 here can be a little difficult.  
 16 A. Is that okay?  
 17 Q. Yes. That's much better.  
 18 Could you please state your name for the  
 19 Court?  
 20 A. My name is Justin Gordon.  
 21 Q. And where are you currently employed?  
 22 A. I'm employed in the open records division of  
 23 the Texas Attorney General's Office.  
 24 Q. And what is your position there?  
 25 A. I'm the open records divisions chief.

1 Q. How long have you been the chief of the open  
 2 records division?  
 3 A. I began in 2015, at the beginning of  
 4 General Paxton's term.  
 5 PRESIDING OFFICER: Excuse me. I think  
 6 you're going to have to speak louder and a little  
 7 closer.  
 8 A. Okay. I began in 2015. In January of 2015.  
 9 Q. (BY MS. COLLINS) What does the open records  
 10 division do?  
 11 A. Our division handles a number of  
 12 responsibilities regarding the Texas Public Information  
 13 Act. That includes enforcement and review of public  
 14 information decision requests. We also provide training  
 15 for governmental bodies on the Public Information Act.  
 16 Q. Okay. I'm going to ask you just to slow down  
 17 a little bit while you're talking, okay, to help the  
 18 court reporter out.  
 19 Can you tell us how many public  
 20 information ruling requests your division handles a  
 21 year?  
 22 A. Last year we did over 40,000. In the previous  
 23 fiscal year, we did just under 40,000.  
 24 Q. And does your division maintain a record for  
 25 each ruling request?

1 A. Yes. We maintain both, an internal record of  
 2 our ruling requests; we also post all of our letter  
 3 rulings on our website after they are issued.  
 4 Q. Do you recall a request for ruling from the  
 5 Texas State Securities Board in the fall of 2019 for  
 6 some records related to Nate Paul?  
 7 A. Yes.  
 8 Q. Do you recall if any records were released as  
 9 a result of that ruling request?  
 10 A. I do not believe any records were released in  
 11 response to that ruling request.  
 12 Q. Do you recall if there was a request for  
 13 reconsideration of that ruling?  
 14 A. Yes, there was.  
 15 Q. How frequently does the open records division  
 16 receive requests for reconsideration or complaints about  
 17 a ruling?  
 18 A. That's very common. I don't have an exact  
 19 number to provide you, but that's something that we see  
 20 certainly on a monthly basis, if not weekly.  
 21 Q. Were you also involved in deciding a request  
 22 for ruling from DPS, The Department of Public Safety, in  
 23 the spring of 2020, which we're going to call "the big  
 24 request" for ease of reference? Do you recall that one?  
 25 A. Yes, I do.

1 Q. Was that also related to Nate Paul, if you  
 2 recall?  
 3 A. It was.  
 4 Q. At some point as one of your duties as part of  
 5 your employment, did you make a summary of that file?  
 6 A. I did.  
 7 MS. COLLINS: Your Honor, if I may  
 8 approach the witness?  
 9 PRESIDING OFFICER: Yes, you may.  
 10 MS. COLLINS: I'm going to approach with  
 11 what is marked as AG --  
 12 PRESIDING OFFICER: Hold on one second.  
 13 Yes, Senator Whitmire.  
 14 SENATOR WHITMIRE: I can't hear the  
 15 entire --  
 16 PRESIDING OFFICER: Allison, you're going  
 17 to have to speak louder as well.  
 18 MS. COLLINS: Even louder, okay.  
 19 PRESIDING OFFICER: That will do it.  
 20 MS. COLLINS: I'm going to approach with  
 21 what has been marked at AG 205, and it has been  
 22 pre-admitted.  
 23 PRESIDING OFFICER: Members, do you need  
 24 for -- for us to review with the court reporter what has  
 25 already been said? You're okay? Everyone's okay?

1 SENATOR WEST: I do.  
 2 PRESIDING OFFICER: You do?  
 3 SENATOR WEST: Yes.  
 4 PRESIDING OFFICER: Okay. So let's go  
 5 back to where you began the question on DPS.  
 6 Senator West?  
 7 SENATOR WEST: Securities.  
 8 PRESIDING OFFICER: Securities.  
 9 MS. COLLINS: No problem.  
 10 Q. (BY MS. COLLINS) Do you recall receiving a  
 11 request for ruling from the Texas State Securities Board  
 12 in fall of 2019 for some records related to Nate Paul?  
 13 A. Yes.  
 14 Q. Do you recall if any records were released as  
 15 a result of ORD's ruling?  
 16 A. No, I do not believe any records were released  
 17 in that ruling.  
 18 Q. Do you recall if there was a request for  
 19 reconsideration of that ruling?  
 20 A. Yes, there was a request for reconsideration.  
 21 Q. How frequently does ORD receive requests for  
 22 reconsideration or complaints about a ruling?  
 23 A. That's very frequent. I don't have an exact  
 24 number to provide to you, but it's something that we  
 25 see, if not on a -- on a weekly basis, then certainly

1 monthly, many -- several times a month we receive  
 2 reconsiderations.  
 3 Q. Do you also recall being involved with a  
 4 request from DPS in the spring of 2020 related to  
 5 Nate Paul?  
 6 A. Yes.  
 7 Q. Now, we've been calling that "the big request"  
 8 to help distinguish them. Will you understand what I'm  
 9 saying if I call it "the big request"?  
 10 A. Yes.  
 11 Q. Thank you.  
 12 And at one point, as part of your  
 13 employment, did you create a summary of this file?  
 14 A. Yes.  
 15 MS. COLLINS: Your Honor, I now am going  
 16 to approach the witness with what has already been  
 17 admitted as AG 205.  
 18 PRESIDING OFFICER: Okay.  
 19 Q. (BY MS. COLLINS) Mr. Gordon, do you recognize  
 20 this document?  
 21 A. I do.  
 22 Q. Is it a fair and accurate depiction of the  
 23 summary that you created for this file?  
 24 A. Yes. It is the summary I provided for the  
 25 file.

1 Q. Well, let's talk about it. Let's walk through  
 2 it together. Okay?  
 3 A. Okay.  
 4 Q. First, how would you describe this particular  
 5 request, the big request?  
 6 A. It started off as what I would have  
 7 characterized as a relatively routine request from The  
 8 Department of Public Safety. The Department of Public  
 9 Safety routinely briefs our office on law enforcement  
 10 matters. They, again, very commonly submit rulings to  
 11 our office.  
 12 However, as the ruling was being -- was  
 13 being reviewed, it took a turn procedurally. And then  
 14 there was a number of procedural irregularities that  
 15 occurred with the file that made it -- that made it  
 16 unique.  
 17 MS. COLLINS: And, Erick, if you could  
 18 please pull up AG Exhibit 205, and highlight the first  
 19 paragraph please.  
 20 Q. (BY MS. COLLINS) And Justin -- and,  
 21 Mr. Gordon, I think it's consistent with what you just  
 22 said, that there were procedural issues that made this  
 23 file unique; is that correct?  
 24 A. That's correct.  
 25 Q. Okay. And when was the request received by

1 your office?  
 2 A. On March 13th.  
 3 Q. Okay. And at this point this is when you're  
 4 talking about it was very routine?  
 5 A. Correct.  
 6 Q. Do you recall what exception DPS was  
 7 asserting?  
 8 A. They sought to withhold the information under  
 9 the law enforcement exception. That's Government Code  
 10 Section 552.108.  
 11 Q. Is that -- there are generally two types of  
 12 exceptions under the PIA; is that right?  
 13 A. That's correct. There are two -- we  
 14 characterize them as two separate types of exceptions.  
 15 There's a -- an exception for confidentiality provisions  
 16 that we would also call "mandatory exceptions." And  
 17 there's a type of exception that is just a normal  
 18 exception disclosure that we would call a permissive  
 19 exception to disclosure.  
 20 Q. And which type is the law enforcement  
 21 exception?  
 22 A. Section 552.108 is a permissive exception.  
 23 The governmental body has the option to raise it or not  
 24 to raise it.  
 25 Q. What happens if they do not raise it?

1 A. Nothing happens if they do not raise it. We  
 2 won't -- we won't address it if they don't -- if they do  
 3 not raise it.  
 4 Q. So if they don't raise it and you don't  
 5 address it, what's the end result as it relates to the  
 6 request? Are those records released or are they  
 7 withheld under the law enforcement exception?  
 8 A. Oh, they would be released. They would not be  
 9 withheld under the law enforcement exception.  
 10 Q. So let's talk about some of the procedural  
 11 irregularities in this file.  
 12 MS. COLLINS: I'm now on the second  
 13 paragraph, Erick, if you could blow that up for the  
 14 senators.  
 15 Q. (BY MS. COLLINS) Where did this file first  
 16 start to take a turn towards the unique?  
 17 A. Where you have -- where you have it  
 18 highlighted, I described that --  
 19 PRESIDING OFFICER: Excuse me one second.  
 20 I'm very sorry. I'm very understanding with eight  
 21 grandchildren and a lot of little ones, but we really  
 22 can't have a distraction.  
 23 I'm sorry. You might have to step out.  
 24 I really apologize, but I don't want to distract the  
 25 jurors. I'm very sorry for that.

1 MS. COLLINS: May we continue? Thank  
 2 you.  
 3 Q. (BY MS. COLLINS) You -- I believe you were  
 4 about to point out to us where the procedural issues  
 5 started to rise in this file.  
 6 A. Sure. So we have -- we have a statutory  
 7 45-day deadline by which we have to issue all of our  
 8 rulings. That's from the Government Code. And as we  
 9 were approaching that deadline, the -- the DPS submitted  
 10 a -- a follow-up -- a follow-up correspondence to our  
 11 office explaining that the requested information may  
 12 implicate the interest of the -- of the FBI. And at  
 13 that time they also submitted additional records.  
 14 So in the initial submission, they only  
 15 submitted a representative sample, which they are  
 16 permitted to do. In fact, the PIA requires them to do  
 17 that if the records are voluminous. And they had done  
 18 that in the initial submission.  
 19 However, when they submitted the  
 20 subsequent submission, they submitted additional  
 21 documents, not the same representative sample that they  
 22 had submitted earlier. And the new documents were  
 23 substantially different than the documents that had been  
 24 originally submitted and were of a different character,  
 25 so they have --

1 Q. I'm going to stop you. I think that's a great  
 2 spot. And just to summarize, so essentially the  
 3 original representative sample that DPS sent in did not  
 4 match with the sample that they later sent to your  
 5 office in May of 2020; is that right?  
 6 A. That's correct.  
 7 Q. And they sent that second sample at the time  
 8 that they were notifying the FBI that they might have an  
 9 interest in the file in the information being sought by  
 10 the request?  
 11 A. That's correct.  
 12 Q. Is that considered a procedural violation  
 13 under the Public Information Act?  
 14 A. Yes. Governmental bodies are required to  
 15 submit all of the records that they want a ruling on or  
 16 in a -- or a proper representative sample by the 15th  
 17 business day after receiving the request, which had  
 18 been, you know, substantially before this time period.  
 19 Q. So the sample was also late; is that correct?  
 20 A. That's right. That's correct.  
 21 Q. What is the consequence for a procedural  
 22 violation of this nature?  
 23 A. Under the Public Information Act, failure to  
 24 comply with the procedural requirements and requesting  
 25 decision from our office results in a presumption that

1 the information is released unless the exception that  
 2 they're raising constitutes a compelling exception. And  
 3 our office has concluded that Section 552.108 does not  
 4 constitute a compelling reason.  
 5 That's a fancy way of saying that they  
 6 waive that exception and they would -- they would waive  
 7 it for the information that they had the procedural  
 8 violation on.  
 9 Q. And that would be all of the information that  
 10 they provided as the second sample in May of 2020?  
 11 A. Correct. Anything in that representative  
 12 sample, the second set of documents that -- that was not  
 13 in the first set.  
 14 Q. And is it your understanding that that second  
 15 set of documents had also been provided to the FBI?  
 16 A. Oh, I -- I'm not sure if they provided that  
 17 second set of documents to the FBI. I -- I don't  
 18 remember that.  
 19 Q. You-all -- so this late -- was the notice to  
 20 the FBI also late?  
 21 A. Yes. Governmental-wise there are procedural  
 22 requirements, and there are also due process  
 23 requirements in the Public Information Act. And -- and  
 24 because of those deadlines, there are -- there are  
 25 certain notice requirements. So the only notice

1 requirements in the act that applies to third parties is  
 2 in Section 552.305.  
 3 That section requires governmental bodies  
 4 to notify third parties if their privacy or proprietary  
 5 interests are at issue. And that notice is supposed to  
 6 come within 10 days of receiving the requests.  
 7 Otherwise, there's -- there's also the due process  
 8 element of that notice needs to be made in time for  
 9 those -- for those comments to be received by our office  
 10 before -- you know, in time for us to be aware of them  
 11 and also in time for the requestor to receive notice.  
 12 Q. And in this instance was the notice given  
 13 close in time to your statutory deadline to issue a  
 14 ruling?  
 15 A. Yes. We received it just a couple of -- a  
 16 couple of weeks before our -- our 10-day deadline -- or  
 17 our 45-day deadline.  
 18 Q. The second sample of documents -- the second  
 19 set of documents that you were provided by DPS, how were  
 20 those provided to you? Hard copies? On a CD? Do you  
 21 recall?  
 22 A. I don't recall if they were a CD or if they  
 23 were -- if they were a hard copy.  
 24 Q. Okay. So you sent this -- the notice went out  
 25 to the FBI and you received a copy of it. What happens

1 next?  
 2 A. So at that point we were kind of up against it  
 3 with respect to the timelines. You've got the -- you've  
 4 got the highlights here with respect to the -- you know,  
 5 to kind of what was going on in this file. We had also  
 6 been notified by the requestor in this file that -- that  
 7 he had filed a lawsuit against DPS in this case, which  
 8 added a whole nother layer of -- of complexity to it.  
 9 Because the late notice, because the  
 10 notice was received so close up against our 45-day  
 11 deadline, we didn't feel like the -- the third party who  
 12 was notified, FBI, would have had -- would have had time  
 13 to submit comments to our office in time. And so we --  
 14 while we were waiting for those comments so that we  
 15 could receive them and review them from the FBI, we --  
 16 we took a 10-day extension on it and then gave ourselves  
 17 a 10-day extension, which is permitted under the PIA.  
 18 Q. All right. I'm going to ask you just to slow  
 19 down a little bit, okay. You're doing great.  
 20 So you get -- you extend it for 10 more  
 21 days. Does the FBI eventually provide your office with  
 22 comments?  
 23 A. Yes.  
 24 Q. And do you know if the FBI also provided the  
 25 requestor with a copy of those comments?

1 A. The -- at the time when we identified the  
 2 documents -- we actually only found the comments because  
 3 the requestor let us know that he had received comments,  
 4 and so then we went and -- and tracked them down. This  
 5 is at the beginning of COVID, so our mail -- our mail  
 6 intake was kind of -- was kind of thrown off. So when  
 7 the requestor notified that we had received comments, we  
 8 went and tracked those down.  
 9 To add another procedural, you know,  
 10 complication to it, at that time the requestor notified  
 11 us that his copy -- copy of the comments had been  
 12 completely redacted. Our copy did not have any  
 13 redactions on it. It just had a reference that -- at  
 14 the end that the version that had been provided to the  
 15 requestor was redacted.  
 16 MS. COLLINS: And, Your Honor, if I may  
 17 approach with what has been marked as House Managers' 46  
 18 but has not been admitted into evidence yet.  
 19 PRESIDING OFFICER: You may approach the  
 20 witness.  
 21 Q. (BY MS. COLLINS) Mr. Gordon, do you recognize  
 22 the -- the document that I placed in front of you?  
 23 A. I do.  
 24 Q. What is it?  
 25 A. This appears to be a copy of our internal

1 ruling file pertaining to the -- the DPS file that we  
 2 have been discussing.  
 3 Q. And does it appear to be a complete and  
 4 accurate copy of the file?  
 5 A. I'm sorry. I'm just double-checking.  
 6 Q. Take your time.  
 7 A. Yes, it does.  
 8 Q. I appreciate your thoroughness.  
 9 MS. COLLINS: At this time we move to  
 10 admit House Managers' 46.  
 11 PRESIDING OFFICER: Any objection?  
 12 MS. GRAHAM: Mr. President, no objection  
 13 to the admission. However, in this document, it  
 14 contains a copy of the unredacted FBI brief, which not  
 15 only contains personal identifying information, but a  
 16 number of sensitive information of the types of  
 17 operations plans, and other sensitive law enforcement  
 18 information, which Nate Paul had been trying to get for  
 19 a while.  
 20 If it comes in, we just ask that it be  
 21 redacted because that information has not been publicly  
 22 made available.  
 23 MS. COLLINS: And, Your Honor, we'll get  
 24 to that on the next request. But I will represent to  
 25 this Court that that is not the case. As has been

1 discussed by other witnesses, this brief was, in fact,  
2 released publicly.  
3 PRESIDING OFFICER: So they did not  
4 object, and I'll let her go along with her line of  
5 questioning, and we'll get back to that issue, but thank  
6 you for bringing it up.  
7 Go ahead.  
8 MS. COLLINS: Thank you.  
9 Erick, if you could pull up, towards the  
10 back of that Exhibit 46, the Bates number at the bottom  
11 is 8803 --  
12 MS. GRAHAM: Mr. President, I do have  
13 to -- I'm sorry, before this is shown to the jury, there  
14 is personal identifying information --  
15 MS. COLLINS: And --  
16 MS. GRAHAM: May I finish?  
17 PRESIDING OFFICER: Stop. Stop talking  
18 over each other.  
19 MS. GRAHAM: -- that has not been  
20 released publicly. It may have been released to  
21 Nate Paul at General Paxton's direction.  
22 However, it has not been made public to  
23 the world at large. There's very sensitive law  
24 enforcement operation plans, details about search  
25 warrants, how investigations are done, and also specific

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1 names of individuals that are identified and involved.  
2 PRESIDING OFFICER: Come on up to the  
3 bench. Please come up to the bench.  
4 (At the bench, off the record)  
5 PRESIDING OFFICER: A little quiet,  
6 please.  
7 (At the bench, off the record)  
8 PRESIDING OFFICER: Members, take your  
9 seats.  
10 So we're going to proceed slowly,  
11 carefully.  
12 You may proceed.  
13 MS. COLLINS: Thank you.  
14 Q. (BY MS. COLLINS) Mr. Gordon, as a preliminary  
15 matter, if a document is released after a ruling request  
16 or a ruling decision, would that be released to a  
17 subsequent requestor for that same information?  
18 MS. GRAHAM: Objection. Calls for  
19 speculation.  
20 PRESIDING OFFICER: Overruled.  
21 A. Yes. There's a specific section that directly  
22 addresses that. Section 552.007 of the Government Code  
23 prohibits the governmental bodies from selectively  
24 releasing information and provides that different  
25 information has been released to one requestor that it

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1 would be released to a subsequent requestor, unless  
2 there's a special right of access that applied to the  
3 initial requestor.  
4 SENATOR: Can the witness slow down?  
5 THE WITNESS: I'm sorry.  
6 PRESIDING OFFICER: All right.  
7 Mr. Gordon -- Mr. Gordon, repeat your answer. Slow  
8 down.  
9 THE WITNESS: Yes, sir.  
10 A. Yes. There is a specific section of the  
11 Public Information Act that addresses that. It is  
12 Section 552.007. It provides that if information is  
13 released to one requestor, then it would be released to  
14 a subsequent requestor. It prohibits the selective  
15 release of information to one requestor and not to  
16 another. So if information has been released by a  
17 governmental body, then it would be released to  
18 subsequent requestors, unless there's a special right of  
19 access that only applied to the initial requestor.  
20 For example, if I asked for my driver's  
21 license number and receive it, you wouldn't release my  
22 driver's license number to the next person because I  
23 have a right of access to that.  
24 Q. (BY MS. COLLINS) Thank you for that  
25 explanation.

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1 MS. COLLINS: Erick, could you please  
2 pull up within House Managers' 46 at Bates 8803, which  
3 is page 77 within that PDF.  
4 Q. (BY MS. COLLINS) Mr. Gordon, can you see that  
5 on your screen?  
6 A. Yes, I can.  
7 Q. Does this appear to be a fair and accurate  
8 picture of the redacted brief the FBI provided to  
9 Mr. Larsen?  
10 A. That's correct.  
11 MS. COLLINS: And, Erick, if you could  
12 scroll to the next page, so to 78, and go down.  
13 Q. (BY MS. COLLINS) Is this showing an entirely  
14 redacted page?  
15 A. Yes.  
16 Q. And does that continue through the majority of  
17 this brief?  
18 A. Yes.  
19 Q. Is this unusual?  
20 A. Yes.  
21 Q. Can you explain why?  
22 A. Under the Government Code, if a third party  
23 submits comments to our office objecting to the release  
24 of information, they're required to notify the requestor  
25 and provide the requestor with a copy of those comments.

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1 They are permitted to redact the comments, but only to  
 2 the extent that it -- it reveals the information that is  
 3 requested.  
 4 In this case, they've redacted the  
 5 entirety of the brief including all of the substantive  
 6 arguments.  
 7 Q. And why does that -- why is that -- why does  
 8 that matter?  
 9 A. That matters because the requestor was not put  
 10 on notice about what arguments the governmental body was  
 11 making and it would have been unable to respond to them  
 12 to our office in order to refute any statements that  
 13 were made or directly address the -- the statements that  
 14 were provided by the briefing third party.  
 15 Q. Is this another procedural violation of the  
 16 PIA?  
 17 A. Yes.  
 18 Q. So, so far we've talked about at least three  
 19 procedural violations or irregularities with this file?  
 20 A. Yes.  
 21 MS. GRAHAM: Objection. Leading.  
 22 PRESIDING OFFICER: Restate the question.  
 23 Sustained.  
 24 Q. (BY MS. COLLINS) Can you estimate for us how  
 25 many procedural irregularities we have discussed related

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1 to this file so far?  
 2 A. There was the failure to submit the  
 3 representative sample or -- they -- they submitted the  
 4 documents late.  
 5 Q. Uh-huh.  
 6 A. The representative sample that they submitted  
 7 the second time was not -- indicated that the first  
 8 representative sample was not actually representative.  
 9 They did not notify the third party in a timely fashion.  
 10 And then when the third party briefed us, they  
 11 substantially redacted their briefing to us -- or I'm  
 12 sorry, they substantially redacted the copy of the  
 13 briefing that was provided to the requestor.  
 14 Q. Are you able to tell us how frequently you  
 15 work on a file that has four different procedural  
 16 irregularities?  
 17 A. We see a lot of procedural irregularities.  
 18 These are pretty unique, though, in the way that they --  
 19 in the way that they came in. Ordinarily what we see  
 20 are missed deadlines. So it would be pretty rare that  
 21 we see four completely different procedural violations  
 22 like this.  
 23 Q. And, again, what can be the consequence of a  
 24 procedural irregularity of the nature you've been  
 25 discussing?

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1 A. If a governmental body fails to comply with  
 2 the procedural requirements of the act, then they would  
 3 waive their discretionary exceptions.  
 4 Q. Meaning that any documents that fell within a  
 5 discretionary exception would be released?  
 6 MS. GRAHAM: Objection. Leading.  
 7 PRESIDING OFFICER: Sustained.  
 8 Rephrase your question.  
 9 Q. (BY MS. COLLINS) All right. So what's the  
 10 consequence of that, of the permissive exceptions being  
 11 waived?  
 12 A. If a permissive exception is waived, then we  
 13 would not apply it or review in it the context of those  
 14 documents. And if that's the only exception that's  
 15 addressed, then those documents would be -- would be  
 16 released.  
 17 Q. And in this particular file, the DPS file in  
 18 front of you, was the only exception raised the law  
 19 enforcement exception?  
 20 A. That's correct.  
 21 Q. And it is a permissive exception?  
 22 A. That's correct. They did not raise any  
 23 confidentiality provision. They only raised the law  
 24 enforcement exception.  
 25 Q. Do you recall meeting with the attorney

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1 general about this file?  
 2 A. Yes.  
 3 Q. And I don't want you to go into what anyone  
 4 said at that meeting, okay, but could you please tell us  
 5 what topics were discussed?  
 6 A. We discussed this topic, this DPS file.  
 7 Q. Did you discuss options for how to proceed?  
 8 A. Yes.  
 9 Q. And what were those options?  
 10 A. The primary options were to release the  
 11 information, to conclude that there had been a  
 12 procedural violation and a failure to establish that the  
 13 information was excepted from disclosure. And then the  
 14 second exception, which was the primary option, was the  
 15 closed letter that we ended up issuing.  
 16 Q. Did you agree with the -- with issuing the  
 17 closed letter?  
 18 A. Yes.  
 19 Q. Why?  
 20 A. It was correct. The -- the procedural  
 21 background of the -- of the request put the requestor at  
 22 a significant disadvantage and allowing the -- I guess  
 23 the procedural actions that were taken would have really  
 24 been a detriment to that requestor. There was already a  
 25 pending lawsuit and courts will give our letter rulings

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1 great weight. And rubber stamping the actions in this  
 2 procedural context would have, or could have -- I don't  
 3 know what the Court would have done with our ruling --  
 4 but it could have tilted the scale in favor of a -- of a  
 5 governmental body who had failed to comply with the  
 6 procedural requirements.

7 Q. And I want to make sure I understood your  
 8 testimony a moment ago. You considered releasing all of  
 9 the information. What do you call that within ORD?

10 A. Pouring out.

11 Q. And would that have been supportable under the  
 12 law, in your opinion?

13 A. It would have been pushing it. I -- I agree  
 14 with the -- with the closed -- with the closed letter.  
 15 I feel like releasing it all would have been -- would  
 16 have been pushing it.

17 Q. To your knowledge, had ORD issued closed  
 18 letters of this nature in the past?

19 A. Yes.

20 MS. COLLINS: Erick, I'm going to ask you  
 21 to pull up the closed letter, which is within House  
 22 Managers' 46 at page 2.  
 23 And please take it off the screen before  
 24 finding the new page and placing it there.

25 MS. GRAHAM: Counsel, what was the Bates

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1 number that you directed him to, please?

2 MS. COLLINS: It's page -- it's page 2 of  
 3 the PDF, which is in front of you.

4 MS. GRAHAM: OAG 8728?

5 MS. COLLINS: I don't have it in front of  
 6 me, but it's the closed letter.

7 Q. (BY MS. COLLINS) Mr. Gordon, does this appear  
 8 to be a complete and accurate copy of the closed letter?

9 A. Yes, it does.

10 Q. And in that letter you reference a prior ORD  
 11 decision, right?

12 A. That's correct.

13 Q. Why? Why did you reference that prior ORD  
 14 decision?

15 A. Well, there was -- there were a lot of  
 16 reasons. The -- the primary reason is that what this  
 17 open records decision specifies is that if a lawsuit is  
 18 filed after a ruling request is made -- I'm sorry. Let  
 19 me take it back and maybe simplify it.

20 Under the Public Information Act a  
 21 requestor can sue a governmental body if they believe  
 22 they're improperly withholding documents. What this  
 23 open records decision provides is that if a requestor  
 24 files a lawsuit after a governmental body has issued --  
 25 or has requested a decision from our office, then our

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1 office should still go on and issue a ruling.

2 Prior to this decision, we routinely  
 3 closed files and did not issue determinations where the  
 4 issue that was -- that would come before us in the  
 5 decision was in court. So we would demurrer and -- and  
 6 close that letter and let the Court decide.

7 Q. And in your opinion, how did this DPS file  
 8 differ from -- the closed letter that you issued in this  
 9 case, how did that differ or was distinguished from the  
 10 ORD decision?

11 A. It was all of the procedural irregularities,  
 12 especially the redacted FBI brief. That was the -- the  
 13 primary issue that prevented us from -- from ruling in  
 14 accordance with due process. It was the -- it was the  
 15 heavily redacted FBI brief.

16 Q. And why did that cause you so much heartburn?

17 A. Again, our rulings are given weight -- or  
 18 great weight, quote/unquote, by the Courts. And in the  
 19 face of that -- of those procedural irregularities,  
 20 giving a rubber stamp of approval to them could have  
 21 tilted the scales in that -- in that court, even despite  
 22 the procedures being handled incorrectly.

23 Q. Could it also set bad precedent?

24 MS. GRAHAM: Objection. Leading.

25 MS. COLLINS: I'm asking his opinion,

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1 Your Honor. It's not -- it's a yes or no. He can say  
 2 what he would like.

3 PRESIDING OFFICER: Overruled.

4 A. I'm sorry. I didn't understand -- I didn't  
 5 hear the question.

6 Q. (BY MS. COLLINS) Sure. Could it also set bad  
 7 precedent in PIA requests coming into your office?

8 MS. GRAHAM: Objection -- objection, Your  
 9 Honor. The relevance of the -- this personal witness'  
 10 opinion is not relevant to any issue in this proceeding.  
 11 And what he considers a good or bad precedent is purely  
 12 subjective and not at issue in this case.

13 MS. COLLINS: He's --

14 PRESIDING OFFICER: Overruled.

15 MS. COLLINS: Thank you.

16 Q. (BY MS. COLLINS) You can answer the question.

17 A. I wouldn't characterize it as a -- as a  
 18 precedent. So many of our rulings are fact specific.  
 19 What I do think it could have resulted in, because DPS  
 20 and FBI routinely brief our office, it could have,  
 21 again, been seen as condoning that type of heavy  
 22 redaction, which then could have led to that -- that  
 23 type of action being taken in future requests and for  
 24 future requestors. So I wouldn't have characterized it  
 25 as a precedent.

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1 But it could have indicated that, you  
2 know, we thought that was okay. And then they would --  
3 because they do it routinely, I mean, they request  
4 decisions from us routinely, they could have seen that  
5 as a, Oh well, now we've got the stamp of approval to do  
6 this and now we're -- we'll keep doing it.

7 Q. And now while all of this is going on, were  
8 you made aware of a request from Mr. Larsen for a copy  
9 of the FBI brief?

10 A. Yes.

11 Q. How were you made aware of that?

12 A. That came in as a Public Information Act  
13 request. The Public Information Act request was  
14 forwarded to my division for -- for handling. And when  
15 I say "handling," I mean, we collected the documents.  
16 So we collected the unredacted brief in processing that  
17 Public Information Act request, and we provided it to  
18 our public information office.

19 Q. As to the DPS ruling itself, did that closed  
20 letter result in the release of any documents?

21 A. It did not.

22 Q. Okay. So this request from Mr. Larsen comes  
23 in for a copy of the brief. Do you know what happened  
24 after that was received?

25 A. I know what happened after the fact. Because

1 it involved open records decision documents, our  
2 division does not rule on decision requests for our own  
3 documents, so it was handled by another division. But  
4 through the process of this whole -- this whole  
5 circumstance, I -- I did become aware of what issued or  
6 what happened with that -- with that public information  
7 request.

8 Q. And your division maintains those files, even  
9 if it doesn't necessarily make the decision on the  
10 request, correct?

11 A. That's correct. They were -- because the FBI  
12 submitted the brief to our office, we were the ones who  
13 maintained that as part of our work file.

14 Q. Have you reviewed the ORD file for the FBI  
15 brief request before?

16 A. So just to clarify, our office -- or my  
17 subdivision does not have a -- a file on that public  
18 information request. We have the file that's here  
19 before me as this PDF. And, yes, I have reviewed that.  
20 But I have not seen the -- I have not seen the opinions  
21 file or the public information office file involving  
22 that -- that ruling request for that brief.

23 Q. Now, in the file in front of you, there is a  
24 copy of the unredacted FBI brief, correct?

25 A. That's correct.

1 Q. Would you take a look at it, please.

2 A. Okay. I'm looking at page --

3 Q. And what I want you to look for, you know,  
4 you -- you're the chief of ORD. I want you to set aside  
5 law enforcement exception for a moment. I want you to  
6 look at that brief and let me know if you think there  
7 are any mandatory exceptions to public disclosure that  
8 are flagged within that brief.

9 A. Not to nitpick, but there is a -- Mr. Larsen's  
10 e-mail address is at the end of the brief. But the --  
11 he was -- he was the requestor. So, no, but other than  
12 that, I don't see any -- any confidential information on  
13 the face of the document.

14 Q. Thank you.

15 And just one more thing on -- forgive me.

16 MS. COLLINS: Your Honor, if I might --  
17 may approach with what has been marked as AG 34.

18 PRESIDING OFFICER: You may.

19 Q. (BY MS. COLLINS) Mr. Gordon, do you recognize  
20 the document I placed in front of you?

21 A. I do.

22 Q. And what is it?

23 A. This would appear to be the internal file for  
24 the opinions ruling requests that we've been discussing  
25 that was Mr. Larsen's request for the unredacted FBI

1 brief.

2 Q. Does OAG receive requests for copies of PIA  
3 briefing on other occasions?

4 A. Yes.

5 Q. Does that occur with -- can you tell us with  
6 any sort of frequency how often you receive that type of  
7 request for briefing?

8 A. If I had to guess, I would say it would be  
9 once a month, probably less than once a month, at the --  
10 yeah, at the -- not -- it's not very common. It's not a  
11 weekly occurrence.

12 Q. And were you familiar with Joe Larsen?

13 A. Yes.

14 Q. How?

15 A. I've worked with Joe Larsen for a long time.  
16 He is a well-known open government lawyer. He's also  
17 involved with the Freedom Information Foundation, which  
18 our office has partnered with in the past to perform  
19 trainings. He's routinely sought after to provide  
20 his -- to provide input on Public Information Act  
21 requests. I've also observed a number of cases that  
22 he's handled because he -- he ends up handling -- often  
23 handling, you know, important Public Information Act  
24 cases. So I -- I've known Mr. Larsen for a long time.

25 Q. Was -- based on your knowledge of Mr. Larsen

1 and working with him, was it surprising or unusual for  
 2 him to submit a request for a copy of that redacted  
 3 brief?  
 4 A. No, I wasn't surprised at all that Mr. Larsen  
 5 would ask for that.  
 6 Q. And you started to walk us through what OAG  
 7 does when it receives a request for documents that OAG  
 8 itself holds. I just want to make sure that's clear for  
 9 the jurors, okay. So let's walk through it.  
 10 So what's the first step OAG would do  
 11 when it receives a request for records that it itself  
 12 holds?  
 13 A. The -- that would be received and handled by  
 14 the attorney general's public information office --  
 15 MS. GRAHAM: Objection, Your Honor. I  
 16 apologize to the witness, but at this point it's clear  
 17 from the witness' own testimony that once this request  
 18 that's about to be discussed was made, it went to a  
 19 different division, not his, that he does not oversee.  
 20 And he's previously testified that he was not involved.  
 21 So any information that he has about  
 22 specifically how it was handled or by whom would be  
 23 hearsay or speculation.  
 24 MS. COLLINS: Your Honor, right now I'm  
 25 asking him to walk through the general process of how

1 this is handled, which is something that as the chief of  
 2 ORD he is intimately familiar with.  
 3 PRESIDING OFFICER: The witness can  
 4 answer.  
 5 Overruled.  
 6 A. When a request comes into our public  
 7 information office, the public information officer will  
 8 identify the divisions that they believe maintain  
 9 documents and they will notify those divisions. Those  
 10 divisions then collect the information. Generally we  
 11 collect the information unless there's some issue with  
 12 the request, like we don't understand it or it would  
 13 require a cost estimate. Those divisions, my division  
 14 in that case, will -- will respond back that we maintain  
 15 documents, and then we'll follow that up by providing  
 16 those documents.  
 17 If a decision is required, then the  
 18 public information officer will prepare that decision  
 19 and they will send it to our division. As soon as we  
 20 receive that, we -- as soon as we see that we've  
 21 received a -- a request from the attorney general's  
 22 office, it gets segregated out. And at this time it  
 23 would have been forwarded to the opinions division.  
 24 Q. (BY MS. COLLINS) So ORD is not deciding  
 25 decisions on documents held by ORD; is that right?

1 A. That's correct.  
 2 MS. GRAHAM: Objection. Leading.  
 3 PRESIDING OFFICER: Sustained.  
 4 You can reask the question.  
 5 MS. COLLINS: I think the point has been  
 6 made, Your Honor.  
 7 I'm going to move to admit AG 34. It is  
 8 an internal business record of OAG. It was actually  
 9 given to us pursuant to a business affidavit that has  
 10 been on record for more than 14 days.  
 11 MS. GRAHAM: And, Your Honor --  
 12 PRESIDING OFFICER: Any objection?  
 13 MS. GRAHAM: -- as we discussed at the  
 14 bench, the issue is not the business records affidavit.  
 15 It is protecting the sensitive information of law  
 16 enforcement, how they conduct their investigations, and  
 17 specifically the individuals involved. A -- an exact  
 18 identical copy of the same brief we just talked to you  
 19 about at the bench is also contained in this document.  
 20 And so I have no objections, as long as  
 21 she's willing to protect law enforcement and the  
 22 integrity of the investigations and redact that  
 23 sensitive information. With those redactions, no  
 24 objection.  
 25 MS. COLLINS: And, Your Honor, the chief

1 of ORD has now looked at this brief and told you that  
 2 there were no mandatory exceptions and no confidential  
 3 information within that brief. He's also testified that  
 4 once a brief is given to one -- once documents are given  
 5 to one requestor, they are given to any subsequent  
 6 requestor. They are considered public.  
 7 And so I do believe that he is, one, more  
 8 than very highly qualified to speak to this file and  
 9 that there are no confidentiality concerns raised within  
 10 it based on this witness' testimony.  
 11 MS. GRAHAM: Brief response, Your Honor?  
 12 PRESIDING OFFICER: Yes.  
 13 MS. GRAHAM: Everything my -- my  
 14 colleague said misses the point. All I'm trying to do  
 15 is make sure that the sensitive law enforcement  
 16 information, which is in front of you, the identities of  
 17 the individuals involved in the investigation, how they  
 18 conducted the investigation, their sensitive operations  
 19 plans, the -- their sealed search warrant affidavits,  
 20 and the details contained within, how they communicate  
 21 with each other, who was on those communications, and  
 22 when they were sent, all of that information, I just  
 23 would ask, would be redacted. Otherwise --  
 24 MS. COLLINS: And, Your Honor, very  
 25 quickly --

1 PRESIDING OFFICER: Hold on. Stop, stop,  
2 stop, stop, stop. Don't talk over each other. Court  
3 reporters have a tough job as it is.  
4 Come up for a moment again.  
5 (At the bench, off the record)  
6 PRESIDING OFFICER: Members, we will take  
7 a break in a little bit, just a little bit.  
8 Everybody be seated, please.  
9 So as we have been going through this  
10 testimony, slowly continue.  
11 Q. (BY MS. COLLINS) Mr. Gordon, the file placed  
12 in front of you marked as AG 34, is there any search  
13 warrant inside this file?  
14 A. There is no search warrant inside this file.  
15 Q. Are there any e-mails between the FBI and DPS  
16 inside this file?  
17 A. There are no e-mails between the FBI and DPS  
18 in this file.  
19 Q. Did you notice any victim information inside  
20 this file?  
21 A. I did not.  
22 Q. And if the redacted FBI brief had been  
23 released to one requestor, it would be released to other  
24 requestors?  
25 A. That's correct.

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1 Q. And you've had a chance to look at this file  
2 now, correct?  
3 A. Yes.  
4 Q. And at the back of it, you'll see that --  
5 well, let's -- let's walk through it.  
6 So I think you've testified that based on  
7 this file before you, does it appear that OAG sent a  
8 notice to the FBI about this request for their redacted  
9 version of a brief?  
10 A. Yes, it does.  
11 Q. Did the FBI respond?  
12 A. Yes, they did.  
13 Q. And I want you to take a close look at their  
14 response brief, and specifically the last page under the  
15 signature line. It's the last page of the file.  
16 Are you there?  
17 A. Yes, that's page 6 of the draft.  
18 PRESIDING OFFICER: The witness needs to  
19 stay close to the mic and speak up.  
20 Q. (BY MS. COLLINS) Does it indicate that the  
21 version sent to Mr. Larsen was redacted?  
22 MS. GRAHAM: Objection, Your Honor.  
23 Counsel is mischaracterizing the evidence and honestly  
24 misleading the witness. The document --  
25 PRESIDING OFFICER: Overruled.

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1 Q. (BY MS. COLLINS) You may answer the question.  
2 A. On this brief, it does not say "redacted"  
3 after the cc list to Mr. Larsen.  
4 Q. And this brief was filed by a Mr. McPhillips  
5 from the FBI; is that right?  
6 A. That's correct.  
7 Q. And from the front of this brief, was it  
8 filed -- and it's actually marked as received by open  
9 records on or about June 18th, 2020? Do you see that?  
10 A. Yes.  
11 Q. And then I want you to look immediately in  
12 front of this brief is the -- is a copy of the redacted  
13 brief at issue. Do you see that?  
14 A. I'm sorry. Would you repeat the question?  
15 I'm --  
16 Q. Yeah. If you go -- keep flipping forward in  
17 the file, the next thing you see is a copy of the  
18 blacked-out brief that the FBI had filed first.  
19 A. Oh, I believe that's -- I don't see in this --  
20 Q. The Bates at the bottom of the page I would  
21 like to direct you to is 49982.  
22 A. 49982? Oh, yes, okay. That's the last page  
23 of the redacted version?  
24 Q. It's the last page of the brief that the FBI  
25 filed in May of 2020, right?

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1 A. That's correct. I'm sorry. I was looking for  
2 the version that was actually redacted. There is no  
3 redacted version.  
4 Q. I apologize. There is no redacted version  
5 here.  
6 And when you look under the signature --  
7 first, who signed this brief from May 2020 for the FBI?  
8 A. Matthew Phillips (sic).  
9 Q. So the same Mr. --  
10 A. McPhillips.  
11 Q. -- McPhillips?  
12 A. Yes.  
13 Q. And underneath his signature line, what does  
14 it indicate next to Mr. Larsen's signature -- I mean,  
15 next to Mr. Larsen's name on the copy list?  
16 A. Next to Mr. Larsen's name on the copy list it  
17 says it was redacted.  
18 Q. So the first brief was sent to Mr. Larsen,  
19 redacted. Is that what that represents to you?  
20 A. Yes.  
21 Q. And so the second brief, the June 2020 one,  
22 based on what you -- the documents before you, was that  
23 redacted when it was sent to Mr. Larsen?  
24 A. It does not indicate that it was redacted.  
25 Q. Does that indicate to you that the FBI

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1 provided a copy of this brief directly to Mr. Larsen?  
 2 MS. GRAHAM: Objection. Leading.  
 3 PRESIDING OFFICER: Sustained.  
 4 Rephrase your question.  
 5 Q. (BY MS. COLLINS) What does that indicate to  
 6 you?  
 7 A. That indicates that they provided this -- the  
 8 same copy of this brief that they provided to DPS not --  
 9 unredacted.  
 10 Q. And I want you to take a look at this  
 11 June 2020 brief and tell me how it compares to the  
 12 May 2020 brief.  
 13 A. They look -- they look very similar. There's  
 14 some -- there is some different language certainly at  
 15 the beginning, but they look -- they look very similar.  
 16 Q. Other than the first paragraph, they are very  
 17 similar?  
 18 A. Yes, that's correct.  
 19 Q. So based on the documents in this file, does  
 20 it appear that Mr. Larsen provided -- I mean, that the  
 21 FBI provided this information itself to Mr. Larsen?  
 22 A. Yes.  
 23 Q. And the very front of this file is the  
 24 decision issued in this case. It starts with Bates  
 25 49954. Do you see that?

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1 A. I do.  
 2 Q. And you just looked at the FBI's June 2020  
 3 brief addressing whether or not that blacked-out brief  
 4 should be released to the public, right? You just  
 5 looked at it?  
 6 A. I did.  
 7 Q. Did it anywhere in there argue that their  
 8 redacted brief should be withheld from public  
 9 disclosure?  
 10 A. No. It looked like the arguments applied to  
 11 the documents that were issued in the underlying DPS  
 12 file.  
 13 Q. And so when that happens, when the comments  
 14 don't address the information being sought, what in your  
 15 experience in ORD happens in a file like that?  
 16 A. In that case we would not apply the exception  
 17 to the -- to the documents that are submitted. We  
 18 ordinarily -- because this opinion was done by opinions,  
 19 they used slightly different language than us. But  
 20 we've got boilerplate for that type of circumstance;  
 21 either that the entity that submitted the arguments is  
 22 arguing against the release of information that was not  
 23 submitted to our office, or that the arguments that they  
 24 have submitted don't apply to the -- to the information  
 25 that is -- that is at issue.

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1 Because we have a presumption of  
 2 openness, there has to be an exception to disclosure in  
 3 order to withhold the information. And if it's a  
 4 discretionary exception, it wouldn't be applied to  
 5 information that they don't seek to withhold. If it's a  
 6 discretionary exception, they have to seek to withhold  
 7 it in order for the exception to be applied to it.  
 8 Q. And the FBI -- so the FBI just didn't address  
 9 their -- their redacted brief at all based on this file;  
 10 is that right?  
 11 A. That's right.  
 12 Q. Which would result in what ultimately for the  
 13 requestor?  
 14 A. That would result in the information -- that  
 15 would result in the arguments that are raised not being  
 16 addressed to the information for which there -- there  
 17 are no arguments. And if there are no other arguments,  
 18 then the information would be released.  
 19 Q. Okay. So I want to make sure we all  
 20 understand what your testimony has been here today. So  
 21 we have the first request to TSSB in the fall of 2019.  
 22 Was any information disclosed to  
 23 Nate Paul as a result of OAG's ruling?  
 24 A. No.  
 25 Q. Then we move on to the big request to DPS in

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1 the spring of 2020. Was any information released to  
 2 Nate Paul as a result of that ruling?  
 3 A. No.  
 4 Q. And then we get to this third request. And  
 5 what we see is that the FBI provided a copy of the brief  
 6 directly to the requestor itself; is that right?  
 7 A. That's right.  
 8 MS. GRAHAM: Objection. Leading.  
 9 PRESIDING OFFICER: Overruled.  
 10 Repeat the question and answer.  
 11 Q. (BY MS. COLLINS) We get to this FBI request  
 12 for the -- for their blacked-out brief. And what we see  
 13 is that the FBI directly gives a copy of the brief to  
 14 the requestor --  
 15 MS. GRAHAM: Objection.  
 16 Q. (BY MS. COLLINS) To Nate Paul; is that  
 17 correct?  
 18 MS. GRAHAM: Objection, Your Honor. It  
 19 should be made clear for the record that we're talking  
 20 about two different briefs, one in May and one in June.  
 21 And the one in June, yes, there's no dispute: The FBI  
 22 provided that to Nate Paul's counsel. That is not the  
 23 one that contains the sensitive information that we have  
 24 been discussing.  
 25 PRESIDING OFFICER: Clarify.

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1 MS. COLLINS: Of course.  
 2 PRESIDING OFFICER: I sustained the  
 3 objection. Clarify.  
 4 Q. (BY MS. COLLINS) So the -- what we're seeing  
 5 from this file is that the FBI provided a copy of its  
 6 June 2020 brief directly to Mr. Larsen; is that right?  
 7 A. Yes, that's correct.  
 8 Q. And you've also testified that that June 2020  
 9 brief is very similar to the May 2020 redacted brief,  
 10 right?  
 11 A. Yes, that is correct.  
 12 Q. And that ultimately because the FBI did not  
 13 address why their redacted brief should be -- should not  
 14 be released to the public, it was released?  
 15 MS. GRAHAM: Objection. Leading.  
 16 PRESIDING OFFICER: Sustained.  
 17 Rephrase your question.  
 18 Q. (BY MS. COLLINS) What was the ultimate  
 19 outcome of the opinion on this FBI request related to  
 20 its redacted brief?  
 21 A. The opinion concluded that the unredacted  
 22 brief could be released to the requestor.  
 23 Q. And you've reviewed that brief?  
 24 A. Yes.  
 25 Q. And you did not see any mandatory exceptions

1 within that brief that would require OAG to -- to apply  
 2 its own redactions before release?  
 3 A. That's correct.  
 4 MS. GRAHAM: Objection. Leading.  
 5 PRESIDING OFFICER: Overruled.  
 6 A. That's correct.  
 7 Q. (BY MS. COLLINS) And after -- after this  
 8 ruling in August of 2020 on the FBI brief, do you recall  
 9 one way or another if Joe Larsen, on behalf of  
 10 Nate Paul, continued to seek information from public  
 11 safety agencies through public information requests?  
 12 A. Yes, he did.  
 13 Q. And how do you know that?  
 14 A. He continued -- well, he had a -- he continued  
 15 to pursue complaints against the Texas State Securities  
 16 Board all the way through September of that year,  
 17 seeking to obtain documents that TSSB was withholding  
 18 from him in the context of Public Information Act  
 19 requests. So then that -- so that continued, you know,  
 20 throughout the summer and into the fall.  
 21 Q. And after ORD rules on a request, what does  
 22 ORD do with the documents that the governmental agency  
 23 provided to you to make your ruling?  
 24 A. We send the documents back to the governmental  
 25 body.

1 Q. You don't keep a copy?  
 2 A. No.  
 3 MS. COLLINS: Those are all my questions  
 4 for this time. Thank you.  
 5 PRESIDING OFFICER: Thank you,  
 6 Ms. Collins.  
 7 MS. GRAHAM: Cross-examination, Your  
 8 Honor.  
 9 PRESIDING OFFICER: Yes.  
 10 MS. COLLINS: I'm so sorry. One thing,  
 11 we are moving for admission of HM 46 and AG 34, based on  
 12 this witness's testimony.  
 13 MS. GRAHAM: Your Honor, same objection.  
 14 All we're trying to do is protect the sensitive law  
 15 enforcement operations, who was involved, when e-mails  
 16 were sent, what the subject of those e-mails were, what  
 17 the FBI's operations plans were, how they work with the  
 18 State Securities Board, the FBI, the DPS. If that  
 19 information is redacted --  
 20 PRESIDING OFFICER: Okay. Hold on.  
 21 MS. GRAHAM: -- no objection.  
 22 PRESIDING OFFICER: Hold on. We've  
 23 discussed this at length. He testified there was  
 24 nothing confidential. The FBI could be here. They  
 25 could be called.

1 MS. GRAHAM: Yes. Yes, Your Honor -- or  
 2 Mr. President. Yes, that's correct.  
 3 PRESIDING OFFICER: Either one. It  
 4 doesn't matter.  
 5 MS. GRAHAM: Okay. Yes, sir.  
 6 PRESIDING OFFICER: But they're not here.  
 7 MS. GRAHAM: They're not. However, I  
 8 would like to, for the record, remind the Court that it  
 9 was Mr. Bangert's testimony opposite to Mr. Gordon's --  
 10 MS. COLLINS: Your Honor, I'm going to  
 11 insist that she not state testimony of another witness  
 12 in front of this witness.  
 13 PRESIDING OFFICER: Okay. Both of you  
 14 just stop for a moment. Okay.  
 15 MS. COLLINS: Your Honor, if I could -- I  
 16 just want to make sure that there's no misunderstanding  
 17 or misstatement here.  
 18 PRESIDING OFFICER: Hold on. Hold on.  
 19 Jurors, please, take your seats again.  
 20 MS. COLLINS: I just want to make sure  
 21 that there's no misunderstanding here.  
 22 You have a complete copy of those files  
 23 in front of you, and you can see for yourself that there  
 24 are no copies of search warrants. There are no copies  
 25 of the actual e-mails within those files which appear to

1 be the documents that counsel is concerned about. And I  
 2 just want to make sure that's clear for the record that  
 3 those documents are not in those files.  
 4 PRESIDING OFFICER: And -- and we have  
 5 reviewed them while -- while up here going through this  
 6 testimony.  
 7 Is it your representation as an officer  
 8 of the Court that this document has already been --  
 9 already been released to the public?  
 10 MS. COLLINS: Yes.  
 11 PRESIDING OFFICER: Both documents?  
 12 MS. COLLINS: Yes.  
 13 PRESIDING OFFICER: And that was the  
 14 testimony?  
 15 MS. COLLINS: It was.  
 16 PRESIDING OFFICER: I have to overrule  
 17 your objection. I will admit into evidence AG 34 and  
 18 OAG Exhibit 46.  
 19 MS. COLLINS: That should be HM 46 and  
 20 AG 34, Your Honor.  
 21 (Exhibits HBOM 46 and AG 34 admitted)  
 22 PRESIDING OFFICER: Oh, I'm sorry. HM  
 23 46, yes.  
 24 MS. COLLINS: Thank you, Your Honor.  
 25 Those are my questions for now.

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1 PRESIDING OFFICER: Your witness.  
 2 CROSS-EXAMINATION  
 3 BY MS. GRAHAM:  
 4 Q. Good afternoon -- morning, Mr. Gordon.  
 5 PRESIDING OFFICER: Please state your  
 6 name for the record -- for the --  
 7 MS. GRAHAM: Leah Graham.  
 8 Q. (BY MS. GRAHAM) You talked about this  
 9 decision being fact specific. Do you recall the  
 10 testimony?  
 11 A. Yes.  
 12 Q. So let's talk facts. The requestor in this  
 13 case was Nate Paul's lawyer, correct?  
 14 MS. COLLINS: Objection. Speculation.  
 15 MS. GRAHAM: I believe that same  
 16 testimony was elicited on direct that --  
 17 PRESIDING OFFICER: Overruled.  
 18 Go ahead.  
 19 Q. (BY MS. GRAHAM) Correct?  
 20 A. We did not know that at the time. It's become  
 21 apparent that that is the case now, but we did not know  
 22 that at the time.  
 23 Q. And your original opinion, as it relates to  
 24 the request for the full release of the DPS file, was  
 25 that it should not be released and that the law -- law

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1 enforcement exception applied, true?  
 2 A. That's the -- that's the big DPS file that  
 3 we're referring to?  
 4 Q. Yes, sir.  
 5 A. The original draft on that, I believe, did  
 6 have -- did just address it under the law enforcement  
 7 exception.  
 8 Q. And that was your opinion that it should not  
 9 be disclosed under the law enforcement exception,  
 10 correct?  
 11 A. No, that was not my opinion. That was just  
 12 the first draft that was on the -- on the ruling.  
 13 Q. Who drafted the first draft?  
 14 A. I'm not sure if that was the drafter on the  
 15 ruling or if that was me. It -- I don't remember.  
 16 Q. You had direct conversations with Ken Paxton  
 17 about this specific request for a full copy of the DPS  
 18 file, true?  
 19 A. Yes.  
 20 Q. He made it clear to you that he wanted to find  
 21 a way to release the documents that Nate Paul's attorney  
 22 was requesting, true?  
 23 MS. COLLINS: Objection, Your Honor.  
 24 That's improper testimony through -- through this  
 25 counsel. Assuming facts that have not been addressed

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1 with this witness.  
 2 MS. GRAHAM: Your Honor, this testimony  
 3 has already been elicited.  
 4 PRESIDING OFFICER: Overruled.  
 5 Q. (BY MS. GRAHAM) True?  
 6 A. No.  
 7 Q. Mr. Paxton did not summon you to his office to  
 8 talk about this file?  
 9 A. Yes, he did.  
 10 Q. He did not put pressure on you to either not  
 11 release -- to either not rule against the requestor or  
 12 to release the information?  
 13 A. No, I would not -- I would not classify it  
 14 as -- as "pressure." The decision that we made was  
 15 not --  
 16 Q. Sir, I appreciate that. I'm not asking you  
 17 what the decision was made. I was asking about your  
 18 conversation with Mr. Paxton.  
 19 He had one of two things that he wanted  
 20 to occur: Either release the information or, at a  
 21 minimum, figure out a way not to rule against the  
 22 requestor, true?  
 23 MS. COLLINS: Same objection, Your Honor.  
 24 Assuming facts not before this witness.  
 25 PRESIDING OFFICER: Sustained.

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1 Q. (BY MS. GRAHAM) In your conversation with  
 2 Ken Paxton about this particular DPS file, can you  
 3 recall any other time when Mr. Paxton directly came to  
 4 you and got involved on a DPS open records request?  
 5 A. No.  
 6 Q. Ultimately you did exactly what Mr. Paxton  
 7 wanted, correct? You did not rule against the  
 8 requestor, Nate Paul's attorney, true?  
 9 MS. COLLINS: Again, objection, Your  
 10 Honor. Assuming facts not before this -- this witness.  
 11 PRESIDING OFFICER: Overruled.  
 12 Q. (BY MS. GRAHAM) True?  
 13 A. I'm sorry, could you repeat the question?  
 14 Q. Yes, sir.  
 15 Ultimately, the opinion was not to rule  
 16 against the requestor, which was exactly what Ken Paxton  
 17 was pressuring you to do, correct?  
 18 MS. COLLINS: Again, Your Honor, I'm  
 19 going to object. She's now mischaracterizing this  
 20 witness' testimony. He said he was not pressured.  
 21 PRESIDING OFFICER: Sustained.  
 22 Q. (BY MS. GRAHAM) By not ruling you were not  
 23 ruling against the requestor? By making a no decision,  
 24 that's not ruling against the requestor, true?  
 25 A. That's correct. We didn't rule against either

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1 party, the requestor or the governmental bodies at  
 2 issue.  
 3 Q. Now, earlier you said that the OAG decision  
 4 not ruling against Nate Paul's attorney, quote, tilted  
 5 the scale in terms of how a Court would ultimately  
 6 decide whether or not to rule on the disclosure of that  
 7 information. True?  
 8 A. No. If I said that, I may I have misspoken.  
 9 It did -- we did not want to tilt the scale. We didn't  
 10 want to put -- we didn't want to tip the scale either  
 11 way. We wanted to maintain the status quo and allow the  
 12 Court to review it completely de novo without our  
 13 opinion, which is do great weight tilting the scale  
 14 based on the procedural requirements.  
 15 Q. Withholding the information would have been  
 16 detrimental to the requestor. That's what you said on  
 17 direct. Do you remember that?  
 18 A. I'm sorry. Could you repeat the question?  
 19 Q. You said, Withholding the requested  
 20 information would have been detrimental to the  
 21 requestor. Do you recall that testimony?  
 22 MS. COLLINS: I'm going to object, Your  
 23 Honor. I don't recall him -- that testimony either. So  
 24 mischaracterization of his testimony.  
 25 MS. GRAHAM: And I'm happy to put her on

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1 the stand. I'm asking the witness if he recalls his --  
 2 PRESIDING OFFICER: We can --  
 3 MS. GRAHAM: -- testimony.  
 4 PRESIDING OFFICER: We can check with the  
 5 court reporter.  
 6 MS. GRAHAM: I have a quote: It would  
 7 have been detrimental to the requestor.  
 8 PRESIDING OFFICER: Okay. I'm going to  
 9 overrule.  
 10 You can answer yes or no.  
 11 A. Yes. It would have concluded that the  
 12 information could be withheld.  
 13 Q. (BY MS. GRAHAM) Now, on June 8th, after the  
 14 opinion came out, Johnna Ward -- do you know who that  
 15 is?  
 16 A. Johnna Ward?  
 17 Q. Yes, sir.  
 18 A. Yes.  
 19 Q. Okay. On June 8th, she was asking if you  
 20 still had the file in your possession. Do you recall  
 21 that?  
 22 A. Yes.  
 23 Q. And -- and the file she's referring to was the  
 24 entire DPS file, correct?  
 25 A. Yes.

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1 Q. And within that file is -- one part of it  
 2 would have been the probable cause affidavit that  
 3 Nate Paul was looking for, correct?  
 4 A. No. I -- I believe that that -- if I'm not  
 5 mistaken, I think that that was after the ruling had  
 6 been issued.  
 7 Q. It is, sir. That's not my question.  
 8 Included within the DPS file would have  
 9 been the probable cause affidavit that Nate Paul was  
 10 looking for, true?  
 11 A. No.  
 12 Q. The probable cause affidavit would not have  
 13 been within the DPS file?  
 14 A. Not after we issued a ruling. We would have  
 15 sent the documents back to -- to DPS.  
 16 Q. But by June 8th, after the decision was  
 17 released, do you recall Johnna Ward e-mailing you and  
 18 specifically asking you if you still had it -- it was  
 19 still checked out to you and asking when you were going  
 20 to return it? Do you recall that?  
 21 A. Yes.  
 22 Q. We talked a lot about precedent and what --  
 23 and what should be publicly disclosed. You would agree  
 24 with me that a search warrant is treated substantially  
 25 differently than a probable cause affidavit, or search

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1 warrant affidavit, in terms of whether or not that  
 2 should be released to the public, correct?  
 3 A. There are different exceptions that can apply  
 4 to those, but I would not characterize anything as what  
 5 can or should be released to the public. It needs to  
 6 have an exception that applies to it.  
 7 But both can be released to the public.  
 8 A search warrant affidavit is more likely to have an  
 9 exception that applies. They're not automatically  
 10 confidential.  
 11 Q. Correct.  
 12 MS. GRAHAM: No further questions, Your  
 13 Honor.  
 14 PRESIDING OFFICER: Redirect?  
 15 MS. COLLINS: Very briefly.  
 16 REDIRECT EXAMINATION  
 17 BY MS. COLLINS:  
 18 Q. In any of these requests, could either party  
 19 have filed a lawsuit challenging the outcome?  
 20 A. Yes.  
 21 Q. Did anyone file a lawsuit of -- for the  
 22 outcome of the FBI brief ruling request?  
 23 A. No.  
 24 MS. COLLINS: That's all I have, Your  
 25 Honor.

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1 PRESIDING OFFICER: And just so the Court  
 2 knows, because it has been unusual, either side can ask  
 3 questions from the podium or their tables, in case  
 4 anyone is asking.  
 5 Can the witness --  
 6 MS. GRAHAM: Requires no redirect, Your  
 7 Honor.  
 8 PRESIDING OFFICER: Pardon?  
 9 MS. GRAHAM: Witness requires no  
 10 redirect -- recross.  
 11 PRESIDING OFFICER: Can the witness be  
 12 excused?  
 13 MS. COLLINS: Yes, Your Honor.  
 14 Thank you, Mr. Gordon.  
 15 THE WITNESS: Am I released,  
 16 Mr. President?  
 17 PRESIDING OFFICER: I'm checking with the  
 18 House.  
 19 Yes, you can be released. Thank you.  
 20 Defense will call their next -- no, we're  
 21 going to take a break. I'm sorry. We'll call your next  
 22 witness after our break.  
 23 How about five minutes after 10:00, a  
 24 20-minute break? 11:00. I'm sorry, we're past the  
 25 10:00 hour. Five minutes after 11:00.

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1 (Recess: 10:43 a.m. to 11:12 a.m.)  
 2 PRESIDING OFFICER: Please call the next  
 3 witness. Who will that be?  
 4 MR. HILTON: Thank you, Your Honor.  
 5 Chris Hilton for the attorney general.  
 6 The next witness is Austin Kinghorn.  
 7 PRESIDING OFFICER: Bailiff, please bring  
 8 in Mr. Kinghorn.  
 9 MR. HILTON: And, Your Honor, I'd just  
 10 like to -- while Mr. Kinghorn is coming in, I just want  
 11 to clarify for the record, for the jury, and for the  
 12 public, at the end of the day yesterday we had called  
 13 Professor Michael Gerhardt, who was intended to be one  
 14 of our expert witnesses. Last night the Court ruled  
 15 that the expert testimony we were going to provide would  
 16 not be heard. And so to the extent there was confusion,  
 17 I just wanted to make the jurors aware and the public  
 18 aware that that was the Court's ruling and that's why  
 19 those witnesses aren't here.  
 20 PRESIDING OFFICER: And the Court ruling  
 21 was based on objection from the House, under Rule such  
 22 and such.  
 23 MR. HILTON: Yes.  
 24 PRESIDING OFFICER: And we took about an  
 25 hour to deliberate and look at all the questions.

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1 MR. HILTON: That -- that's right. I  
 2 apologize for --  
 3 PRESIDING OFFICER: And we ruled --  
 4 MR. HILTON: Yeah.  
 5 PRESIDING OFFICER: And we ruled in favor  
 6 of the House on that.  
 7 MR. HILTON: I just wanted the public to  
 8 be aware. That's right.  
 9 PRESIDING OFFICER: And you were very  
 10 kind to pull them from your witness list.  
 11 (Witness entered the Senate chamber)  
 12 PRESIDING OFFICER: Mr. Kinghorn, I  
 13 believe I already swore you in in the group.  
 14 THE WITNESS: Yes, sir.  
 15 PRESIDING OFFICER: You may be seated.  
 16 Speak loudly and closely to the mic. Thank you.  
 17 AUSTIN KINGHORN,  
 18 having been first duly sworn, testified as follows:  
 19 DIRECT EXAMINATION  
 20 BY MR. HILTON:  
 21 Q. Austin, good morning. Thank you for being  
 22 here. We both need to speak slowly and loudly into the  
 23 microphone, I am told.  
 24 You've testified in this chamber before,  
 25 before the Senate, correct?

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1 A. Yes, I have.  
 2 PRESIDING OFFICER: Turn the mic on.  
 3 A. Yes, I have.  
 4 Q. (BY MR. HILTON) So you know the acoustics in  
 5 here can get a little bit weird, especially for our  
 6 folks in the back.  
 7 A. That's correct.  
 8 Q. So please just introduce yourself to the jury  
 9 and tell us about your career.  
 10 A. My name is Austin Kinghorn. I'm the associate  
 11 deputy attorney general for legal counsel at the Office  
 12 of the Attorney General.  
 13 Would you like me to go back a bit?  
 14 Q. Yeah, sure. Why don't -- if you could,  
 15 please, just start with law school, walk us through what  
 16 you've done up to the present day.  
 17 A. So I graduated from Baylor Law School in 2010.  
 18 After that I did a clerkship on the Fourteenth Court of  
 19 Appeals for then-Justice Jeff Brown. I did a stint in  
 20 commercial litigation.  
 21 PRESIDING OFFICER: Stay close to the  
 22 mic.  
 23 THE WITNESS: Yes, sir.  
 24 A. I did a stint in commercial litigation. After  
 25 that, primarily doing insurance defense. After that, I

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1 went to work for the AG's office in the civil Medicaid  
 2 fraud division.  
 3 When Justice Brown was elevated to the  
 4 Texas Supreme Court, I went to work for him again as a  
 5 staff attorney. And I worked at the court for about six  
 6 and a half years in that capacity for Justices Brown and  
 7 later Justice Jane Bland, and then came back to the AG's  
 8 office in the general counsel division. From there I  
 9 was promoted to general counsel, and then most recently  
 10 to the title that I hold now.  
 11 Q. (BY MR. HILTON) Thank you, sir. And tell us  
 12 a little bit about your work for the attorney general  
 13 and your -- your current roles both as general counsel,  
 14 opinions committee, and your current title.  
 15 A. Right. So as the associate deputy for legal  
 16 counsel, I'm over two divisions. It's a general counsel  
 17 division and the opinion committee. In that role, I am  
 18 both the division chief of general counsel and general  
 19 counsel for the agency and also chair of the opinion  
 20 committee.  
 21 Q. How many employees do you oversee?  
 22 A. Nineteen.  
 23 Q. Okay. And are you proud of your time at the  
 24 attorney general's office?  
 25 A. I am very proud.

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1 Q. I think this is a bit of a silly question but  
 2 it's come up a lot. Are you a RINO?  
 3 Do you know what a RINO is?  
 4 A. Yes, I do. I've been called a lot of  
 5 four-letter words. That's not one of them.  
 6 Q. What are your politics? Are you conservative?  
 7 A. Yes, I am.  
 8 Q. Again, I think it's a silly question, but it's  
 9 being asked. On a scale of 1 to 10, how conservative do  
 10 you think you are?  
 11 A. Eleven.  
 12 Q. Fair enough.  
 13 What I would like to do today with you is  
 14 go through these Articles of Impeachment, see if there's  
 15 any perspective you can provide as to each. And I  
 16 appreciate you being here, helping explain the work of  
 17 the agency for the jury.  
 18 So let's start with Article I, which  
 19 relates to the Mitte Foundation and the intervention  
 20 into that lawsuit.  
 21 Were you directly involved in that  
 22 lawsuit or that intervention in any way?  
 23 A. I was not.  
 24 Q. Okay. But are you familiar with EAMs?  
 25 A. Yes, I am.

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1 Q. Unfortunately, we've talked a lot about EAMs  
 2 during this trial. What's your understanding -- what is  
 3 an EAM to you?  
 4 A. The executive approval memorandum is a  
 5 document that the agency relies on to seek and obtain  
 6 executive approval of various agency actions or  
 7 engagements.  
 8 Q. And do you receive EAMs as part of your work?  
 9 A. I do.  
 10 Q. Okay.  
 11 A. I probably see -- receive one or more a day.  
 12 Q. What do you do if you have concerns about an  
 13 EAM?  
 14 A. If I have concerns about an EAM, you know,  
 15 typically the -- the practice is going to be to reach  
 16 out to who circulated the EAM, and, you know, engage  
 17 with that person directly, try to flesh out the issues.  
 18 You know, sometimes it's -- it's simply a matter of  
 19 correcting something in an EAM and recirculating it. So  
 20 the first step is always just get in touch with the  
 21 folks who are asking for the executive action and  
 22 connect and make sure you have an understanding of what  
 23 is going on.  
 24 Q. If you get an EAM that you're concerned about  
 25 or you're proposed a course of action that you don't

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1 agree with, do you just go ahead and sign the EAM  
2 anyway?  
3 A. No, I do not.  
4 Q. Okay. So what does signing the EAM signify?  
5 A. That would signify that you have reviewed the  
6 EAM, you reviewed the legal authority in it, the  
7 explanation of the rationale for the actions being  
8 sought, and that you approve of that action being taken.  
9 Q. So if someone at the attorney general's office  
10 signs an EAM, does that mean they've approved that  
11 action?  
12 A. That's correct.  
13 Q. What about -- let me ask you this: Does the  
14 attorney general have to have an EAM that's fully  
15 approved by his subordinates before he takes an action?  
16 A. No, he does not.  
17 Q. Why not?  
18 A. The attorney general's authority and the first  
19 assistant's authority flow directly from the Texas  
20 Constitution and from statutes, specifically Government  
21 Code Chapter 402. The EAM process exists to vet certain  
22 proposals, but it is ultimately not binding on the  
23 person or persons who actually possess the  
24 constitutional executive power to act as attorney  
25 general or on behalf of the Office of the Attorney

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1 General.  
2 Q. So just to make that clear, the attorney  
3 general has the legal authority to act without an EAM  
4 approved by his subordinates?  
5 A. Absolutely.  
6 Q. Okay. Does that include the authority to sign  
7 a contract?  
8 A. Yes, it would.  
9 Q. Okay. Let's look at an example of an EAM.  
10 MR. HILTON: Can we pull up House  
11 Exhibit 62, please, Mr. Arroyo.  
12 Your Honor, I believe this has already  
13 been admitted into evidence. And I'm going to try and  
14 go electronic today. So we'll see if it works.  
15 And, Mr. Arroyo, if you can just zoom in  
16 on the signatures at the top of this EAM and maybe  
17 capture the subject line as well.  
18 Q. (BY MR. HILTON) Have you -- have you seen  
19 this EAM before, Mr. Kinghorn?  
20 A. Yes, I have.  
21 Q. Okay. And -- and which EAM is this?  
22 A. This is a EAM requesting approval to intervene  
23 in the Mitte Foundation litigation.  
24 Q. You weren't a signatory on this EAM, correct?  
25 A. No, I was not.

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1 Q. Okay. But let's look at the first signatory.  
2 That's -- that's Mary Henderson. Who is that?  
3 A. Mary Henderson at the time was in our  
4 financial litigation division as a -- and she had a  
5 senior attorney role in that division.  
6 Q. And what does her signatures on this EAM  
7 indicate?  
8 A. That would indicate that she has approved of  
9 the -- the action described in this EAM, and it -- it  
10 looks like she's the one who actually circulated this  
11 EAM.  
12 Q. Well, why do you say she's the one who  
13 circulated it?  
14 A. It -- it says from Mary Henderson. And also  
15 she's the first signatory. So typically the first  
16 signatory on the document, the lowest signatory, would  
17 be the person who actually routed the document for  
18 approval.  
19 Q. So does this indicate that Mary Henderson and  
20 Cat Day actually authored this EAM? Is that what this  
21 says to you?  
22 A. That's likely the case, yes.  
23 Q. Do you know whether the attorney general ever  
24 spoke with Mary Henderson or Cat Day about this EAM?  
25 A. I do not know.

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1 Q. Okay. Who is next on the signature line? Who  
2 is Josh Godbey?  
3 A. Josh Godbey at the time was the division chief  
4 for the financial litigation division.  
5 Q. And what does his signature here indicate?  
6 A. That would also indicate approval of the  
7 action that the EAM is seeking.  
8 Q. And who's next up the chain on this EAM?  
9 A. That's Darren McCarty.  
10 Q. What was his role at this time?  
11 A. At the time he was the deputy attorney general  
12 for civil litigation. So you -- you would see his name  
13 a lot on EAMs like this involving requested courses of  
14 action in active litigation.  
15 Q. And, again, I want to be clear about what his  
16 signature means here. When he's DocuSigned this EAM,  
17 what does that indicate to you as general counsel of the  
18 agency?  
19 A. That indicates approval of the action that is  
20 sought by the EAM.  
21 Q. And the same question with Mr. Mateer. What  
22 was his role and what does his signature here indicate  
23 to you?  
24 A. Jeff Mateer was the First Assistant Attorney  
25 General at the time. And his signature would indicate

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1 approval of the action the EAM seeks.  
 2 Q. And would it be your expectation that all of  
 3 these people who signed this EAM have read it?  
 4 A. It would. I mean, that is certainly the  
 5 point.  
 6 Q. That's what you normally do within OAG, right?  
 7 A. Correct.  
 8 Q. And would it be your expectation that they  
 9 understood the memorandum before they signed it?  
 10 A. I would not sign an EAM that I did not  
 11 fully --  
 12 MS. EPLEY: Objection, Your Honor. The  
 13 question calls for speculation.  
 14 MR. HILTON: I'll move on.  
 15 Thank you, Mr. Arroyo.  
 16 PRESIDING OFFICER: Sustained.  
 17 Q. (BY MR. HILTON) All right. Let's move on  
 18 to -- to talking about Article II. That's about the  
 19 foreclosure guidance letter. It's been called a lot of  
 20 things in this courtroom. That's what I'm going to call  
 21 it.  
 22 Do you understand what I'm referring to?  
 23 Are you familiar with that letter?  
 24 A. I do understand it, and I am familiar with it.  
 25 Q. Okay. Did you work on that guidance letter

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1 personally?  
 2 A. In a very limited capacity. Early on I  
 3 performed some very perfunctory research on it. I -- I  
 4 never participated in the drafting of the letter itself.  
 5 Q. Okay. Who asked you to do that, that  
 6 research?  
 7 A. Ryan Vassar.  
 8 Q. And did you -- did you form a conclusion as to  
 9 what was the ultimate outcome in your limited role?  
 10 A. As memory serves, I -- I didn't form any firm  
 11 conclusions at the time. I -- I performed a couple of  
 12 hours, maybe three hours, of research. And -- and  
 13 really just had enough time to kind of come up with some  
 14 general parameters of what the issues were.  
 15 And Mr. Vassar and I had a phone  
 16 conversation about what we had found so far in our  
 17 respective research. And he took it from there. And I  
 18 never had another conversation with anyone else about  
 19 the letter moving forward.  
 20 Q. Did you see the letter once it was ultimately  
 21 issued?  
 22 A. Only when it was issued, yeah, when it went up  
 23 on the website.  
 24 Q. Right. So typically you weren't involved in  
 25 the drafting process, so you don't know how they got

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1 from A to Z on that?  
 2 A. That's right.  
 3 Q. Okay. But you saw the final letter?  
 4 A. I did.  
 5 Q. Did you agree with the analysis of that  
 6 conclusion in that letter?  
 7 A. I do.  
 8 MS. EPLEY: Objection, Your Honor.  
 9 Relevance.  
 10 PRESIDING OFFICER: Overruled.  
 11 Q. (BY MR. HILTON) And just -- sitting there --  
 12 as you sit there today, can you briefly explain what  
 13 that letter does in your view? Well, rather -- let me  
 14 rephrase.  
 15 How -- can you explain the conclusion of  
 16 the letter?  
 17 A. The -- the legal conclusion?  
 18 Q. Yes.  
 19 A. The legal conclusion essentially was that  
 20 under the circumstances of COVID at the time with  
 21 10-person restrictions on in-person gatherings, that  
 22 there was a possibility that -- that a public sale, as  
 23 defined by statute, that that necessary element to  
 24 proceed on the foreclosure wouldn't be satisfied if you  
 25 didn't have a situation where anyone who wanted to be a

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1 bidder on a property that was under foreclosure would  
 2 have an opportunity to bid on it and, thus, get the  
 3 best, most fair value for the property.  
 4 Q. Well, let me make sure I understand each piece  
 5 of that. So -- so you mentioned the public sale issue.  
 6 That's a requirement out of statute?  
 7 Did -- did I understand you?  
 8 A. That's right.  
 9 Q. Okay. And you mentioned a bidder being  
 10 excluded. Why would that be the case?  
 11 A. I'm sorry, could you repeat that?  
 12 Q. I -- I thought you mentioned the 10-person  
 13 requirement might result in a bidder not be able to  
 14 participate in a foreclosure sale. Why would that be  
 15 the case?  
 16 A. Correct. So normally these sales are open to  
 17 the public. Anyone who wants to go bid on a property  
 18 can. And that, of course, has the effect of -- of  
 19 increasing the price typically. And the COVID  
 20 restrictions at the time -- the governor's executive  
 21 orders only permitted 10 people to gather at once in  
 22 what was considering -- I think the nomenclature was at  
 23 the time a public gathering.  
 24 Q. I want to make sure I understand what you're  
 25 saying. If there were bidders that were excluded, that

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1 could drive the price down of the sale?  
 2 A. Yeah. That's certainly a possibility.  
 3 Q. Okay. Did -- in your view, does that letter  
 4 shut down foreclosure sales in the state of Texas?  
 5 A. I -- I don't have an opinion on whether it did  
 6 or didn't. I do know it was nonbinding and informal  
 7 legal guidance.  
 8 Q. Did you work on any other COVID-related  
 9 opinions or guidance documents?  
 10 A. I worked on a great number of them. You know,  
 11 during my first several months at the agency starting in  
 12 June of 2020, COVID-related work was the vast majority  
 13 of what I was doing.  
 14 Q. And if you could just briefly, for a minute  
 15 here, explain to the jury, explain to the public, you  
 16 know, we're trying to explain the work of the Office of  
 17 the Attorney General today. So explain what it was like  
 18 to be working on these issues during COVID.  
 19 A. It was intense. It was a demanding time, as  
 20 I'm sure it was for a lot of people in this room. We  
 21 were on the cutting edge of a lot of novel legal issues.  
 22 A lot of folks were looking to the AG's office for  
 23 guidance and direction on how to respond, how to  
 24 navigate the challenges that were coming forward,  
 25 especially as it -- as it pertained to the governor's

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1 executive orders, which were coming out.  
 2 We were -- we were often looked to for  
 3 guidance how to comply with those, what they meant  
 4 construing them. And we fielded those requests from --  
 5 from all corners.  
 6 Q. Was it unusual during that time to have  
 7 expedited requests or to be working on short deadlines?  
 8 A. That is never unusual at the OAG, under any  
 9 circumstances.  
 10 Q. Particularly so during COVID?  
 11 A. Sure. Particularly so.  
 12 Q. Let's talk --  
 13 A. Anyone who came to us with a problem needed an  
 14 answer and wanted an answer, at least quickly.  
 15 Q. Understood.  
 16 Let's talk about opinions and guidance  
 17 documents from the attorney general's office more --  
 18 more broadly. What kinds of guidance can the attorney  
 19 general issue?  
 20 A. Well, there's a range of options. A lot of  
 21 folks in this room are probably familiar with our formal  
 22 legal opinions. Under Chapter 402 of the Government  
 23 Code, an authorized statutory requestor may request a  
 24 formal legal opinion from the OAG. And that opinion,  
 25 while not binding, is a source of persuasive legal

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1 authority that Courts typically will look to and  
 2 consider when resolving a case. But we have other tools  
 3 in our belt beyond that.  
 4 Additionally, under Chapter --  
 5 Q. Before I go -- I just wanted to clarify one  
 6 thing. You mentioned that a lot of the folks in this  
 7 room might be familiar with that formal legal opinion.  
 8 Why would that be the case? Why would  
 9 these senators and some of these House members be  
 10 familiar with that?  
 11 A. Chairs of legislative committees, senators and  
 12 House members are authorized requestors under the  
 13 statute.  
 14 Q. Okay. Does the attorney general's office work  
 15 frequently with those authorized requestors regarding  
 16 their requests for opinions?  
 17 A. We -- we frequently work with members of the  
 18 Legislature on a host of issues, and -- and try to be as  
 19 solicitous as possible in -- in being helpful and giving  
 20 the first legal guidance we can.  
 21 Q. And I'm sorry to interrupt you. So that was  
 22 the formal legal opinion process.  
 23 A. Yes, sir.  
 24 Q. We're moving on to the next category, so I  
 25 apologize for interrupting.

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1 A. Sure. So under Chapter 418 of the Government  
 2 Code, which is the Texas Disaster Act, the AG's office  
 3 has additional authority to provide legal counsel to  
 4 local political subdivisions during a declared disaster.  
 5 Authorized requestors include mayors, county judges,  
 6 county commissioners, emergency management directors.  
 7 Beyond that, the office has historically  
 8 operated with the understanding that we have broad legal  
 9 authority with the attorney general as the chief legal  
 10 officer of the state to issue informal guidance of  
 11 public note, of public interest that would have a wide  
 12 applicability to the public at large, especially in  
 13 disaster situations where there's a need to get good  
 14 information out to the public on pressing issues.  
 15 And that -- that authority I think flows  
 16 directly from the attorney general's constitutional and  
 17 statutory authority as the attorney general, as the  
 18 chief legal officer of the state.  
 19 Q. Other than the foreclosure guidance letter,  
 20 can you recall any examples of other COVID-related  
 21 guidance that was issued that also fell in that -- that  
 22 third category you described?  
 23 A. We -- we put several guidance documents out on  
 24 issues that a lot of folks are facing. Churches,  
 25 private religious schools. I know that we did some

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1 opinions on -- on access to vacation homes -- not  
 2 opinions, letters -- on access to vacation homes in  
 3 other states, whether -- where golf courses fell in  
 4 terms of the governor's order for -- for shutdown  
 5 purposes.  
 6 So there were a lot of topics that we put  
 7 something out there short of a formal opinion that was  
 8 designed to provide generally applicable informal legal  
 9 guidance to the public at large.  
 10 Q. So it's fair to say -- is it fair to say that  
 11 the foreclosure letter was not unique in that regard?  
 12 It was not the only informal guidance that was put out?  
 13 A. That's correct.  
 14 MR. HILTON: Let's look at a couple of  
 15 other examples of guidance from this time.  
 16 Mr. Arroyo, if you could pull up House  
 17 Exhibit 105.  
 18 And I believe this has already been  
 19 admitted, Your Honor.  
 20 Q. (BY MR. HILTON) Are you familiar with this  
 21 document, Mr. Kinghorn?  
 22 A. Yes, I am.  
 23 Q. And just very briefly, what is this -- this  
 24 document?  
 25 MS. EPLEY: Objection, Mr. President.

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1 This document is not in evidence.  
 2 MR. HILTON: I apologize. I thought it  
 3 had been admitted. It's House Managers' Exhibit 105.  
 4 And I would offer it if it hasn't been admitted.  
 5 PRESIDING OFFICER: We thought it was  
 6 pre-admitted, Ms. Epley.  
 7 MS. EPLEY: No, Mr. President. I don't  
 8 believe so. We don't object. It's our document to  
 9 begin with. I just wanted to make sure the record was  
 10 clear.  
 11 MR. HILTON: I apologize. I -- I tried  
 12 to get this smoothed out with counsel before we started,  
 13 but, yes, I offer it, if it hasn't already been  
 14 admitted.  
 15 PRESIDING OFFICER: It will now be  
 16 admitted into evidence. That's exhibit -- what's the  
 17 number, 105?  
 18 MR. HILTON: House Exhibit 105, Your  
 19 Honor.  
 20 PRESIDING OFFICER: All right. Admitted  
 21 into evidence.  
 22 (HBOM Exhibit 105 admitted)  
 23 Q. (BY MR. HILTON) Mr. Kinghorn, if you could,  
 24 please, just -- if -- to the extent that you can, please  
 25 just describe briefly what -- what this document is.

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1 A. This was a general guidance document that the  
 2 agency issued to house -- houses of worship during the  
 3 COVID pandemic.  
 4 Q. Is this a full-blown opinion under  
 5 Chapter 402?  
 6 A. It is not.  
 7 Q. And is this a disaster counsel letter under  
 8 Chapter 418?  
 9 A. No, this is not.  
 10 MR. HILTON: Mr. Arroyo, if you could  
 11 show us the bottom of the page. There's a date next to  
 12 the exhibit stamp.  
 13 Q. (BY MR. HILTON) And when was this letter  
 14 issued?  
 15 A. It says April 27 of -- of 2020.  
 16 Q. Do you think it was any way improper for the  
 17 agency to issue this guidance?  
 18 A. No, I do not. And, in fact, I think this  
 19 is -- this is the kind of guidance a lot of folks were  
 20 looking to the attorney general to provide.  
 21 Q. Let's look at another example --  
 22 MS. EPLEY: May I seek clarification? He  
 23 was confirming that the guidance in regards to the house  
 24 of worship example -- or excuse me, Exhibit 105 is not  
 25 something he takes issue with, correct, not the

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1 foreclosure letter itself?  
 2 MR. HILTON: Your Honor, she can  
 3 cross-examine the witness.  
 4 MS. EPLEY: No, I'm clarifying --  
 5 MR. HILTON: This is my examination and  
 6 she shouldn't be able to --  
 7 PRESIDING OFFICER: You can cross-examine  
 8 on that.  
 9 MS. EPLEY: Okay. Thank you.  
 10 MR. HILTON: Thank you, Your Honor.  
 11 Let's briefly look at House Exhibit 104  
 12 next. I also thought this one had been pre-admitted.  
 13 Maybe I'm wrong. To the extent that it wasn't, I'd  
 14 offer House Exhibit 104.  
 15 PRESIDING OFFICER: Thumbs up.  
 16 MR. HILTON: Great.  
 17 Q. (BY MR. HILTON) Mr. Kinghorn, have you seen  
 18 this letter?  
 19 Rather, are you familiar with this  
 20 letter?  
 21 A. Yes. Generally speaking, yes.  
 22 Q. Okay. This is a letter in response to  
 23 Chairman Frank?  
 24 A. Yes. This is the one about the golf courses,  
 25 okay. I had to read a little bit into it.

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1 Q. Okay. Great.  
 2 MR. HILTON: Let's look at the last page,  
 3 please, Mr. Arroyo.  
 4 If you can just zoom in on that text,  
 5 please.  
 6 Q. (BY MR. HILTON) So this letter, was this a --  
 7 a full-blown Chapter 402 opinion?  
 8 A. No, it was not.  
 9 Q. And how can you tell that?  
 10 A. It's got some language there caveating that it  
 11 is -- is not a formal opinion issued Section -- pursuant  
 12 to Section 402.042, which is our formal opinion statute.  
 13 Q. It says on the letter that it is not a formal  
 14 opinion under Chapter 402?  
 15 A. That's right.  
 16 Q. So if someone were to say that this was a  
 17 Chapter 402 opinion, they would be wrong. Do you agree?  
 18 A. I do.  
 19 Q. Are you aware that the foreclosure guidance  
 20 letter has substantially similar language in it?  
 21 A. Yes, I'm aware of that.  
 22 Q. Okay. And who was this letter signed by?  
 23 A. Ryan Vassar.  
 24 Q. So Ryan Vassar signed an informal guidance  
 25 letter?

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1 A. Yes.  
 2 Q. Does that indicate to you whether Mr. Vassar  
 3 thought he had the authority to sign that letter? Do  
 4 you think there was an issue with authority for issuing  
 5 this letter?  
 6 A. I -- I assumed that he operated under the  
 7 authority to -- to issue this letter on behalf of the  
 8 agency.  
 9 Q. Did you think a requestor was necessary for  
 10 the foreclosure letter?  
 11 A. No, I did not personally.  
 12 Q. Do you have any personal knowledge as to why  
 13 one was sought?  
 14 A. I do not.  
 15 Q. So you would have no reason to disagree with  
 16 me if I were to tell you that a requestor was demanded  
 17 because --  
 18 MS. EPLEY: Objection.  
 19 Q. (BY MR. HILTON) -- someone was trying to --  
 20 MS. EPLEY: Objection.  
 21 Q. (BY MR. HILTON) -- get out of doing work?  
 22 MS. EPLEY: Objection, Mr. President.  
 23 I'm sorry. Counselor is testifying to facts not known  
 24 to this witness.  
 25 I'm sorry, counselor is testifying to

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1 facts not known to this witness.  
 2 PRESIDING OFFICER: Sustained.  
 3 MR. HILTON: You can take that down,  
 4 Mr. Arroyo.  
 5 Q. (BY MR. HILTON) I think that's enough for  
 6 Article II. I think we're going to skip Articles III  
 7 and IV because I don't think you have any unique  
 8 responsibility with regard to the PIA; is that true?  
 9 A. I do not, that's right.  
 10 Q. And we've heard plenty about the PIA today.  
 11 But as an aside, does the attorney  
 12 general have the authority to access any case file or  
 13 file in the agency?  
 14 A. Yes, I believe he does. He's the attorney  
 15 general.  
 16 Q. Why -- why does that give him the right to  
 17 access any file he wants?  
 18 A. Well, I guess there's kind of an old saying in  
 19 the legal profession that his name is on the wall. It's  
 20 his agency, and -- and he's the duly-elected attorney  
 21 general. So it's his law firm. He -- he gets to see a  
 22 file if he wants to see it.  
 23 Q. So if someone were to say that the attorney  
 24 general improperly accessed a file, would that make  
 25 sense to you?

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1 A. That would not -- that would not compute to  
 2 me.  
 3 Q. Me neither.  
 4 MR. HILTON: Can you pull up Article IV  
 5 briefly, Mr. Arroyo.  
 6 Q. (BY MR. HILTON) Do you see the allegation  
 7 here where it says, Paxton improperly obtained access to  
 8 information held by his office?  
 9 Did I read that correctly?  
 10 A. Yes.  
 11 Q. Okay. Let's go to Article V now.  
 12 MR. HILTON: You can take that down,  
 13 Mr. Arroyo.  
 14 Q. (BY MR. HILTON) Are you familiar with the  
 15 contract with Brandon Cammack?  
 16 A. I am.  
 17 Q. Okay. Did you have any involvement with  
 18 hiring him?  
 19 A. I did not.  
 20 Q. Did you have any involvement with drafting the  
 21 contract or executing it or anything like that on the  
 22 front end?  
 23 A. I did not.  
 24 Q. Okay. When did your involvement with this  
 25 particular contract begin? When did your familiarity

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1 with it begin?  
 2 A. Sometime later after the contract had been  
 3 terminated, I believe Mr. Cammack reached out to our  
 4 office to inquire about payment on the contract for the  
 5 outstanding invoices.  
 6 Q. And when you say "reached out to our office,"  
 7 does that mean he reached out to you as general counsel,  
 8 someone in your division? Do you recall?  
 9 A. My best recollection is that it was a phone  
 10 call to the general counsel division. I think he was  
 11 looking for someone to talk to about it.  
 12 Q. Okay. Do you remember a date for that phone  
 13 call?  
 14 A. I don't.  
 15 Q. Was that before or after you had been promoted  
 16 to general counsel?  
 17 A. I believe it was after.  
 18 Q. Okay. And when were you promoted to general  
 19 counsel?  
 20 A. During the month of November of 2020.  
 21 Q. Okay. So sometime after your promotion in  
 22 November 2020, Mr. Cammack called to inquire about  
 23 payment on his contract; is that -- is that your  
 24 testimony? I just want to make sure I understand the  
 25 timeline.

1 A. That's right.  
 2 Q. Okay. You were made aware of this phone call.  
 3 What did you do with that information?  
 4 A. I conferred with Lesley French, our chief of  
 5 staff, on that, primarily because she had more awareness  
 6 of these -- these issues and what had been happening at  
 7 the time. As I said before, I had no involvement with  
 8 the contract. So she and I -- I recall discussing it --  
 9 MS. EPLEY: Objection, Mr. President.  
 10 The question calls for hearsay -- or he's about to get  
 11 into hearsay at this point.  
 12 MR. HILTON: And let me clarify. Please  
 13 don't --  
 14 PRESIDING OFFICER: Sustained.  
 15 MR. HILTON: Yeah. Thank you. Of  
 16 course, I agree.  
 17 Q. (BY MR. HILTON) Please don't relay the  
 18 contents of any conversation that you had with anyone  
 19 else. Don't tell me what anyone said.  
 20 Again, I'm just asking, you know, once  
 21 you became aware of this request for payment, what  
 22 happened next? You said you conferred with  
 23 Lesley French. Please pick up there.  
 24 A. My best recollection on this is that at some  
 25 point a call was made to Mr. Cammack.

1 MS. EPLEY: Objection. Anything he could  
 2 state after that is going to be hearsay.  
 3 MR. HILTON: We -- we don't know what  
 4 he's going to state next, so I don't think that's true.  
 5 PRESIDING OFFICER: Overruled.  
 6 MS. EPLEY: In that case anything next is  
 7 nonresponsive. May he ask another question?  
 8 PRESIDING OFFICER: You can break it down  
 9 into questions.  
 10 Q. (BY MR. HILTON) Did you reach out to  
 11 Mr. Cammack?  
 12 A. Yes.  
 13 Q. What was the purpose of reaching out to  
 14 Mr. Cammack?  
 15 A. To follow up on his inquiry.  
 16 Q. What did you want Mr. Cammack to know when you  
 17 followed up with him?  
 18 MS. EPLEY: Objection, Your Honor.  
 19 Hearsay.  
 20 MR. HILTON: I didn't ask for what he  
 21 said. I asked for what he wanted Mr. Cammack to know in  
 22 response to his inquiry.  
 23 PRESIDING OFFICER: Overruled.  
 24 A. The purpose of the call was to inform  
 25 Mr. Cammack of how he might proceed about processing his

1 invoices under the contract.  
 2 Q. (BY MR. HILTON) And what were Mr. Cammack's  
 3 options to get paid at that point?  
 4 A. There remained work within the scope of  
 5 services that had not been satisfied before we could  
 6 issue payment. Specifically the preparation of a report  
 7 of his findings hadn't been completed. So what I  
 8 relayed to him, and I believe this was over a voice  
 9 mail, was that we couldn't make payment on the contract  
 10 until the -- until that -- that commitment had been  
 11 made.  
 12 Q. If Mr. Cammack had sent you that memo that he  
 13 had contracted to -- to provide, what would you have  
 14 done?  
 15 A. Subject to any other clerical reason that --  
 16 that we might have to shore up, from my view it was a  
 17 payable invoice because it was a valid contract at the  
 18 time that the services were performed.  
 19 Q. Did you ever hear back from Mr. Cammack after  
 20 you advised him that if he sent you the memo he could  
 21 get paid?  
 22 A. I did not.  
 23 Q. Mr. Cammack never called you?  
 24 A. Not to my knowledge.  
 25 Q. And, again, when was this, to the best of your



1 recollection?

2 A. My best recollection is it -- it would have

3 been sometime in November or later.

4 Q. Let's go ahead and skip ahead to Article VII,

5 just briefly. Are you aware of the attorney general's

6 office internal report regarding the events underlying

7 this impeachment proceeding?

8 A. Yes.

9 Q. And broadly speaking, what is that report as

10 you understand it?

11 A. That report is the findings of a 10-month

12 investigation that was conducted internally at the

13 Office of the Attorney General concerning the

14 allegations that the whistleblowers raised.

15 Q. Did you ever review that report?

16 A. I did.

17 Q. How many times and what was the nature of your

18 review?

19 A. Two, no more than three times, I was provided

20 a copy and asked for general feedback on the document;

21 proposed edits, revisions, things along those lines.

22 Q. Were you ever directed by anyone to make sure

23 that the report was a sham?

24 A. No.

25 Q. Were you ever directed to make sure it

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1 included false or misleading statements?

2 A. Absolutely not.

3 Q. Are you aware of anyone else receiving such a

4 direction?

5 A. Absolutely not.

6 Q. What would you have done if you had identified

7 a false or misleading statement in that report when you

8 reviewed it?

9 A. If I had identified a false and -- or

10 misleading statement, I would have immediately raised

11 that issue to the folks who were working on the report

12 for consideration.

13 Q. When was that report published?

14 A. That was August 24th, I believe, of '21.

15 Q. And just to be clear, I'm -- I'm looking at

16 the text of Article VII here. The allegation is, Paxton

17 directed employees of his office to conduct a sham

18 investigation.

19 Are you aware of that occurring?

20 A. I'm not aware that that occurred.

21 Q. And you're one of the employees who, at least

22 to some degree, worked on the report?

23 A. That's right.

24 Q. The report was published in August 2021, you

25 said?

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1 A. That's right.

2 Q. And it's been on the attorney -- has it been

3 on the attorney general's office website continuously

4 since that time?

5 A. Yes, it has.

6 Q. So was that before or after November 8th,

7 2022, that this report was issued to the public?

8 A. After.

9 Can you repeat the question?

10 Q. I'm sorry?

11 A. Repeat the date.

12 Q. Was the report made public before or after the

13 attorney general's election on November 8th, 2022?

14 A. Oh, I'm sorry, before. Before. Before.

15 Q. It's been on the attorney general's office

16 website continuously since then?

17 A. That's right.

18 Q. Was there -- are you aware of whether there

19 was a reporting on the issuance of that report?

20 A. There's been extensive reporting on the issues

21 that were discussed in that report.

22 Q. When did that reporting begin, as far as

23 you're aware?

24 A. That reporting began pretty much immediately

25 when the whistleblowers reported General Paxton to law

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1 enforcement, and it's something we've been dealing with

2 ever since.

3 Q. And the OAG report also contains the details

4 of -- of those facts?

5 A. It does.

6 Q. And that's been public?

7 A. Yes.

8 Q. On the attorney general's website?

9 A. Yes.

10 MR. HILTON: You can take that down,

11 Mr. Arroyo.

12 Q. (BY MR. HILTON) Let's move on to discussing

13 Article VIII a little bit. Article VIII deals with the

14 settlement of the Brickman versus Office of Attorney

15 General litigation.

16 Are you generally aware of that

17 litigation and that settlement?

18 A. Yes, I am.

19 Q. As part of the agreed settlement terms in that

20 case, are there any contingencies that must be satisfied

21 before the settlement is fully effective?

22 A. Well, the biggest contingency would be funding

23 for the settlement itself. I think there may have been

24 some nonmonetary considerations as well, but I think

25 maybe the one you're asking about is -- is the

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1 contingency of -- of the Legislature funding, the  
2 requested amount.

3 Q. That is the one I'm asking about.

4 Why is that legislative appropriation of  
5 funding contingency necessary for this settlement?

6 A. Like other State agencies, the Office of the  
7 Attorney General is prohibited in the General  
8 Appropriations Act from settling a case for more than  
9 \$250,000, without seeking additional funds to do that.

10 Q. Does State law set out a process for seeking  
11 funding for such a settlement?

12 A. It does.

13 Q. Did the Office of the Attorney General follow  
14 that process?

15 A. Yes, we did.

16 Q. Do you know whether funding was appropriated?

17 A. It has not been appropriated to this -- to  
18 this date.

19 Q. Has the Office of the Attorney General paid  
20 out a single dime on this settlement?

21 A. It has not.

22 Q. As far as you're aware, has a single dime of  
23 taxpayer money been spent funding that settlement?

24 A. It has not.

25 Q. Who decides whether that will ever happen?

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1 A. At this point ultimately the Legislature will.

2 Q. The House and the Senate?

3 A. Correct.

4 Q. It's up to them whether to fund it?

5 A. That's right.

6 Q. The attorney general can't force them to do  
7 that, can he?

8 A. He can only ask.

9 MR. HILTON: Let's pull up Texas  
10 Government Code Section 554.010.

11 Your Honor, this is just a statute. I'm  
12 not offering it as an exhibit. It's going to be up on  
13 all of the screens.

14 Mr. Arroyo, if you can zoom in on that.

15 And I have paper copies for the witness  
16 and the Court and opposing counsel, if that will be  
17 helpful.

18 THE WITNESS: Yeah, this will work.

19 Q. (BY MR. HILTON) Are you familiar with this  
20 provision in the Whistleblower Act?

21 A. Yes, I am.

22 Q. Can you explain in English what the statute  
23 means?

24 A. So this is essentially a reporting  
25 requirement. It's -- it kind of -- there's two parts to

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1 this. When you -- when you pay out on a settlement or a  
2 judgment, a Whistleblower Act case, the agency is  
3 required to essentially put together a report on that  
4 case. And following that report, the state auditor's  
5 office may initiate an audit or an investigation of  
6 basically what -- what went into what happened with the  
7 Whistleblower Act complaint.

8 And if the SAO initiates that  
9 investigation, then they must follow up with a report to  
10 several entities on improvements that can be made,  
11 things that can be changed to prevent this from  
12 happening again.

13 Q. So let's -- let's break that down and let's go  
14 piece by piece.

15 If the settlement is consummated, the  
16 attorney general's office has to do what?

17 A. It has to put together a brief memorandum  
18 describing the facts and the disposition of the suit.  
19 And it has to provide that to the state auditor's  
20 office.

21 Q. Okay. The attorney general's office has to  
22 prepare a memorandum describing the lawsuit and send it  
23 to the state auditor's office. What happens after that?  
24 What does the state auditor's office do with it?

25 A. The state auditor's office will review the

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1 report, and not later than the 90th day of that report  
2 is submitted, the SAO has the option to investigate the  
3 governmental entity or conduct an audit --

4 Q. And let's just -- and let's just pause right  
5 there.

6 They have the option. Has the attorney  
7 general's office been contacted by the state auditor's  
8 office regarding this provision in connection with the  
9 Brickman versus OAG matter?

10 A. Yes.

11 Q. And what's your understanding of that contact  
12 from the state auditor's office regarding this statutory  
13 audit?

14 A. We were made aware of the existence of the  
15 statute, and -- and they just wanted to bring it to our  
16 attention in light of the settlement road that we were  
17 on to make sure that we were aware of this requirement.

18 Q. The audit is coming?

19 A. Yes, sir.

20 Q. And under the statutory audit, who would have  
21 received the state auditor's report?

22 A. The legislative budget board and the  
23 legislative audit committee, and the governing board of  
24 the chief executive officer of the entity involved.

25 Q. What would that report contain pursuant to the

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1 terms of the statute?  
 2 A. The SAO's report would include recommendation  
 3 on changes that would be necessary to create -- correct  
 4 the problems that gave rise to the whistleblower suit.  
 5 MR. HILTON: Mr. Arroyo, could you pull  
 6 up the text of Article VIII, please.  
 7 Q. (BY MR. HILTON) If I'm understanding your  
 8 testimony correctly, the OAG has been notified of the  
 9 statutory audit by the state auditor's office, and those  
 10 findings and recommendations will be given to the  
 11 Legislature under the terms of the statute, correct?  
 12 A. That's right.  
 13 Q. Are audits and cover-ups the same thing?  
 14 A. I'm sorry, could you repeat that?  
 15 Q. Is an audit the same thing as a cover-up?  
 16 A. Did you say "cover-up"?  
 17 Q. A cover-up.  
 18 A. No, it is not. It's kind of the opposite.  
 19 Q. If someone is trying to, oh, I don't know,  
 20 conceal their wrongful acts, should they subject  
 21 themselves to an audit, in your opinion, as general  
 22 counsel of the attorney general's office?  
 23 A. No.  
 24 Q. Do you know whether the state auditor's office  
 25 likes to conceal facts when it conducts an audit?

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1 A. I do not believe that is the way they are  
 2 wired.  
 3 Q. I don't believe so either.  
 4 And, of course, we talked earlier. Your  
 5 testimony is that the allegations underlying the facts  
 6 at issue in this impeachment have been reported since  
 7 they happened. That's your understanding?  
 8 A. Correct.  
 9 Q. You've seen reports in the media frequently  
 10 about going -- you know, goings on at the attorney  
 11 general's office?  
 12 A. That's right.  
 13 Q. Texas Tribune seems to have a story every  
 14 other day about the attorney general's office, don't  
 15 they?  
 16 A. There's a lot of coverage.  
 17 Q. Do you have any personal knowledge of  
 18 Ken Paxton ever forming or agreeing -- forming an  
 19 agreement with Nate Paul on accepting a bribe?  
 20 A. I have no personal knowledge of that.  
 21 Q. And do you have personal knowledge of anything  
 22 to do with Laura Olson?  
 23 A. I do not.  
 24 Q. Okay. Do you have any personal knowledge of  
 25 any vast criminal conspiracies involving misuse of OAG

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1 resources?  
 2 A. I have no such knowledge.  
 3 Q. If there were such a conspiracy, would you  
 4 still be working at the attorney general's office?  
 5 A. No, I would not. I accepted promotion in this  
 6 agency at a very critical time, and I assured myself and  
 7 assured my wife if there were ever anything that I saw  
 8 that were illegal or unethical, I would step away. And  
 9 I'm still here. I'm proud of the work we do. I'm proud  
 10 to serve General Paxton. I'm proud to be a part of this  
 11 agency.  
 12 MR. HILTON: Thank you, Austin.  
 13 Pass the witness.  
 14 PRESIDING OFFICER: Ms. Epley, your  
 15 witness.  
 16 MS. EPLEY: Thank you, Mr. President.  
 17 CROSS-EXAMINATION  
 18 BY MS. EPLEY:  
 19 Q. Hi, Mr. Kinghorn.  
 20 A. Good afternoon.  
 21 Q. Have you and I spoken before?  
 22 A. We are old friends now.  
 23 Q. That's right.  
 24 Is it fair to say that you have been my  
 25 contact to get documents from the Office of the Attorney

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1 General?  
 2 A. That's right.  
 3 Q. And that our first conversation went well, but  
 4 subsequent ones got a little chillier?  
 5 A. That's fair.  
 6 Q. Now, we played respectfully with one another,  
 7 right? No one was rude?  
 8 A. That's right.  
 9 Q. Okay. Is it also accurate, though, that right  
 10 after I would have private conversations with you, as an  
 11 officer of the Office of the Attorney General,  
 12 particular details of our conversation would show up in  
 13 Ken Paxton's filings?  
 14 MR. HILTON: Objection, Your Honor.  
 15 Relevance. Hearsay. Has nothing to do with these  
 16 proceedings.  
 17 PRESIDING OFFICER: Sustained.  
 18 MS. EPLEY: Mr. President, I don't know  
 19 that I've ever seen a lawyer open up a bigger door in  
 20 regards to the credibility and bias of a particular  
 21 witness, and I would ask for a little latitude.  
 22 MR. HILTON: Your Honor, this has nothing  
 23 to do with credibility and bias. She's asking about  
 24 litigation and discovery. That has nothing to do with  
 25 it.

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1 PRESIDING OFFICER: I sustained the  
2 question.  
3 Try your question a different way.  
4 Q. (BY MS. EPLEY) Did you receive pressure from  
5 Chris Hilton or Judd Stone to provide you information in  
6 regards to our conversations?  
7 A. Not at all. And I can answer your question  
8 more pointedly.  
9 Q. I am certain he will do that. So I don't want  
10 to be rude, but I want to make sure we move forward.  
11 Did you receive pressure in coming  
12 without a conversation?  
13 A. Not at all.  
14 Q. Did you receive directives in regards to what  
15 position you should take?  
16 A. No.  
17 Q. So the fact that you and I would have a  
18 conversation and it would show up in their filing the  
19 next day is completely and totally made up?  
20 MR. HILTON: Objection, Your Honor. This  
21 is totally improper. All parties, all witnesses, were  
22 free to speak to both sides. That was in the Senate  
23 rules that were adopted. And it is only fair that  
24 people producing discovery talk to both sides.  
25 They certainly talked to people we were

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1 talking to. We talked to people they were talking to.  
2 That's how the entire litigation of this impeachment has  
3 gone. This is completely improper. Nothing improper  
4 happened here. And she's not only attacking the  
5 witness' character but my character and my colleagues'  
6 character. This is completely improper.  
7 PRESIDING OFFICER: Sustained.  
8 Q. (BY MS. EPLEY) To clarify, then, maybe it was  
9 the subjective use of a word.  
10 As opposed to pressure, did you receive  
11 incoming communications that inquired about our  
12 conversations?  
13 MR. HILTON: Objection, Your Honor. Same  
14 objection. And this is hearsay.  
15 PRESIDING OFFICER: Sustained.  
16 MS. EPLEY: Okay.  
17 Q. (BY MS. EPLEY) You talked some about -- about  
18 Mitte; is that correct?  
19 A. About you?  
20 Q. About Mitte, I'm sorry. M-I-T-T-E.  
21 A. Mitte, yes.  
22 Q. Yes, sir.  
23 A. Yes.  
24 Q. You were not directly involved in that  
25 litigation?

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1 A. I was not.  
2 Q. So mostly what you offered for us was the use  
3 of the EAM or people's signatures to validate a contract  
4 or an action, correct?  
5 MR. HILTON: Objection, Your Honor.  
6 Mischaracterizes his testimony. His testimony speaks  
7 for itself.  
8 PRESIDING OFFICER: Sustained.  
9 Q. (BY MS. EPLEY) What is the purpose of the  
10 EAM?  
11 A. The purpose of an EAM is to solicit and obtain  
12 executive approval of an action that's being proposed to  
13 be taken -- or an engagement that's being proposed  
14 within the agency.  
15 Q. Thank you, Mr. Kinghorn.  
16 And when you personally sign an EAM, are  
17 you signing to say, I believe this is a good idea, we  
18 should proceed? Or are you signing to confer as general  
19 counsel there is legal authority?  
20 A. You're asking about me personally?  
21 Q. Yes, sir.  
22 A. In -- I would be signing generally as to legal  
23 authority.  
24 Q. Okay. So when Mr. Hilton asked you and you  
25 said you were giving approval, it means consistent with

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1 your job, that's an available option that we can  
2 justify, not this is my idea. I suggest we do it?  
3 MR. HILTON: Objection. Misstates  
4 testimony.  
5 MS. EPLEY: He can answer, Your Honor, if  
6 it's within his scope of knowledge.  
7 PRESIDING OFFICER: Overruled.  
8 MS. EPLEY: Thank you.  
9 THE WITNESS: I think that everyone's --  
10 depending on their role, their -- their reasons for  
11 going into their signature is a little different. For  
12 my role as general counsel, I'm primarily focused on  
13 whether the agency has legal authority to take the  
14 action proposed.  
15 Q. (BY MS. EPLEY) And to draw an analogy, then,  
16 Ryan Vassar, for example, signing Brandon Cammack's  
17 contract is approval, but it's a legal justified  
18 position, not that it's the right one?  
19 MR. HILTON: Objection, Your Honor.  
20 Assumes facts not in evidence with this witness.  
21 PRESIDING OFFICER: Sustained.  
22 Q. (BY MS. EPLEY) But your approval is about  
23 legal authority? Yes or no.  
24 A. Yes.  
25 Q. Okay. I'm going to turn your attention for a

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1 moment to the PIA. Are you aware of incoming public  
 2 information requests as to Ken Paxton's e-mail: Signal,  
 3 or Proton?  
 4 A. Typically, no. If -- if a PIA request you're  
 5 referring to is directed exclusively toward the attorney  
 6 general, that's probably not a request that would --  
 7 would come across my desk.  
 8 Q. I think I want to be more specific.  
 9 Are you personally aware of any PIA  
 10 requests ever for the text messages, Signal account or  
 11 Proton, of Ken Paxton?  
 12 MR. HILTON: Objection, Your Honor.  
 13 Relevance.  
 14 PRESIDING OFFICER: Overruled.  
 15 A. There's been a great number of PIA requests  
 16 concerning --  
 17 Q. (BY MS. EPLEY) Mr. --  
 18 A. -- the attorney general's personal  
 19 communication devices. I don't remember with  
 20 specificity as to the specific types of communication  
 21 you're referring to.  
 22 Q. So you're telling the Senate you do not know  
 23 if a PIA has ever been requested for his texts?  
 24 A. If you phrase it that way, then, yes, I am  
 25 aware that there have been PIA requests for his texts.

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1 Q. Are you aware of PIA requests for his Proton  
 2 e-mail?  
 3 A. I'm -- I'm not personally aware of them, or at  
 4 least do not recollect.  
 5 Q. Are you personally aware of PIA requests for  
 6 his Signal?  
 7 A. I'm not personally aware or don't recollect at  
 8 this point.  
 9 Q. Are you personally aware that he has those  
 10 accounts?  
 11 MR. HILTON: Again, objection, Your  
 12 Honor, to the relevance of this. It has nothing to do  
 13 with anything this witness has testified about. It has  
 14 nothing to do with anything in his personal knowledge,  
 15 and nothing to do with any of the Articles of  
 16 Impeachment.  
 17 PRESIDING OFFICER: Overruled.  
 18 A. I do not have any personal knowledge on the  
 19 use of a Signal account. In terms of -- as I have  
 20 reviewed the documents in terms of producing them to you  
 21 through subpoena requests, I have seen that there was a  
 22 Proton e-mail account that wasn't included, I believe.  
 23 Q. (BY MS. EPLEY) Are you familiar with the fact  
 24 that either the Proton or the Signal was set up by the  
 25 Office of the Attorney General IT staff?

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1 A. I'm not familiar with that.  
 2 Q. Do you think that you should be, if it's true?  
 3 A. Not necessarily.  
 4 Q. Okay. Are you aware of the fact either  
 5 through a PIA request or the subpoena authority of this  
 6 Senate we were not provided any documentation related to  
 7 Signal or to Proton e-mail for business conducted on  
 8 behalf of the State of Texas by Ken Paxton?  
 9 MR. HILTON: Objection, Your Honor.  
 10 Lacks foundation. Lacks personal knowledge. The  
 11 witness has testified that this is not within his scope  
 12 and that he doesn't know anything about it at least.  
 13 This is an argumentative question with no foundation.  
 14 PRESIDING OFFICER: Sustained.  
 15 Q. (BY MS. EPLEY) Did you personally respond to  
 16 our discovery requests?  
 17 A. Yes, I did.  
 18 Q. Did you personally have a conversation with me  
 19 about Proton e-mail?  
 20 MR. HILTON: Objection, Your Honor.  
 21 Hearsay.  
 22 MS. EPLEY: I -- I don't know what to say  
 23 to that, Your Honor. We're both here.  
 24 PRESIDING OFFICER: I'm going to  
 25 overrule.

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1 You can answer the question.  
 2 MS. EPLEY: Thank you.  
 3 A. Can you restate the question for me? I'm  
 4 sorry.  
 5 Q. (BY MS. EPLEY) Did you personally have a  
 6 conversation with me about Ken Paxton's Proton e-mail?  
 7 A. I do remember that conversation, yes.  
 8 Q. Do you remember telling me that you knew it  
 9 existed but couldn't provide me any of those documents?  
 10 A. I did not say that.  
 11 Q. You didn't tell me that you knew that there  
 12 was a Proton e-mail account, but you didn't know  
 13 anything about it?  
 14 MR. HILTON: Objection, Your Honor.  
 15 Asked and answered. She's attempting to impeach the  
 16 witness with a conversation that she thinks she  
 17 recollects. This is improper.  
 18 MS. EPLEY: I'm certain I recollect it,  
 19 if that helps.  
 20 PRESIDING OFFICER: Overruled. He did --  
 21 you did ask. He did answer. But overruled.  
 22 Q. (BY MS. EPLEY) Okay. So let's try this one  
 23 last time.  
 24 Will you tell the ladies and gentlemen of  
 25 the Senate if you provided us any Proton or Signal

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1 documentation for Ken Paxton?  
 2 A. Can you ask it just a little bit more slowly,  
 3 just the echo is --  
 4 Q. That's fair. I speak quickly.  
 5 Will you tell the ladies and gentlemen of  
 6 the Senate whether you did or did not provide us any  
 7 document in regards to Ken Paxton's Proton or Signal  
 8 account?  
 9 A. We did not provide any documents related to a  
 10 Proton or Signal account.  
 11 Q. At one point during the questioning, I think  
 12 what you had said was the Office of the Attorney General  
 13 is Ken Paxton's law firm. Did I get that right?  
 14 MR. HILTON: Objection. Misstates prior  
 15 testimony.  
 16 MS. EPLEY: It was in court today and a  
 17 moment ago on the subject of cross.  
 18 PRESIDING OFFICER: Overruled.  
 19 MS. EPLEY: Thank you.  
 20 A. It's -- it's -- I'm analogizing, but, yes, I  
 21 did say that.  
 22 Q. (BY MS. EPLEY) But, of course, that kind of  
 23 brings me to my next point.  
 24 As a prosecutor, your job is to zealously  
 25 advocate for the -- I mean, I'm sorry -- your job is to

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1 seek a true and fair -- I've forgotten my oath.  
 2 As a defense attorney, your job is to  
 3 zealously advocate. But as a civil attorney who works  
 4 on behalf of the Office of the Attorney General, what is  
 5 your oath? What are you supposed to do? What's the  
 6 most important part of being a lawyer for the State of  
 7 Texas?  
 8 MR. HILTON: Objection, Your Honor.  
 9 Compound question.  
 10 PRESIDING OFFICER: Overruled.  
 11 A. I would say the most important part of my job  
 12 as a public servant is to faithfully serve my principal  
 13 and the -- the people of Texas.  
 14 Q. (BY MS. EPLEY) Do you believe your principal  
 15 and the people of Texas to be different?  
 16 Who do you think your client is,  
 17 Mr. Kinghorn?  
 18 A. Who is my what?  
 19 Q. Who is your client?  
 20 A. My client?  
 21 Q. Yes.  
 22 A. Is the attorney general.  
 23 Q. Would you believe me if I told you that when  
 24 you work for the Office of the Attorney General, you  
 25 work under his authority and for him, but your client

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1 is, and only ever is, the State of Texas?  
 2 MR. HILTON: Objection, Your Honor.  
 3 Argumentative. Contains a legal conclusion.  
 4 PRESIDING OFFICER: Sustained.  
 5 Q. (BY MS. EPLEY) Do you believe me when I say  
 6 that, or do you agree with it now as you sit here?  
 7 MR. HILTON: Objection, Your Honor.  
 8 Same.  
 9 PRESIDING OFFICER: Yeah. Same question.  
 10 Sustained.  
 11 Q. (BY MS. EPLEY) You were asked questions about  
 12 Brandon Cammack, and you relayed a conversation in which  
 13 he called to find out about payment. Do you recall  
 14 that?  
 15 A. I do.  
 16 Q. And can you tell us what month and year that  
 17 was?  
 18 A. Not with any greater specificity than what I  
 19 indicated earlier.  
 20 Q. I didn't hear you, so would you tell me again.  
 21 A. Sure. I believe it was after I was promoted  
 22 general counsel, which would have been sometime during  
 23 the month of November, but it wasn't necessarily during  
 24 November. It -- it could have been December. I -- I  
 25 don't remember exactly when it happened.

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1 Q. Okay. So Ryan Vassar was part of bringing you  
 2 into the Office of the Attorney General; is that  
 3 correct?  
 4 A. He was.  
 5 Q. And Ryan Vassar was a friend of yours,  
 6 correct?  
 7 A. Yes.  
 8 Q. And is it fair to say that you liked and  
 9 respected Ryan Vassar?  
 10 A. Yes.  
 11 Q. And when he was summarily dismissed from the  
 12 Office of the Attorney General, you rose to his position  
 13 somewhere around November, correct?  
 14 MR. HILTON: Objection, Your Honor.  
 15 Argumentative and assumes facts not in evidence before  
 16 this witness.  
 17 Moreover, I don't know what this line of  
 18 questioning is intended to do other than improperly  
 19 bolster the character of some witness who is not here.  
 20 The door has not been open to that, so that aspect of  
 21 this questioning is also improper.  
 22 PRESIDING OFFICER: Overruled.  
 23 A. I'm sorry. Could you give me the question  
 24 again?  
 25 Q. (BY MS. EPLEY) Were you promoted after Ryan

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1 Vassar was fired?  
 2 A. Eventually.  
 3 Q. Yes or no?  
 4 A. Yes.  
 5 Q. Thank you. And it was after that, that you  
 6 had a conversation with Brandon Cammack. And  
 7 Brandon Cammack is asking your office about payment  
 8 because despite the fact that he's been employed since  
 9 September, he's never been paid; is that right?  
 10 A. That's right.  
 11 Q. And as of November, there was no contract in  
 12 place, right?  
 13 A. There was a valid contract --  
 14 Q. Then why was he never paid?  
 15 A. -- at one time.  
 16 By the time Mr. Cammack reached out, I  
 17 believe the contract had been closed at that time. I'm  
 18 just trying to be specific.  
 19 Q. So -- so what I'm asking you is, there's a  
 20 secret private contract signed only by Ken Paxton not  
 21 kept in the Office of the Attorney General at some point  
 22 in this storyline, correct?  
 23 MR. HILTON: Objection, Your Honor.  
 24 Argumentative. Assumes facts not in evidence before  
 25 this witness.

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1 PRESIDING OFFICER: Sustained.  
 2 MS. EPLEY: I don't know how else to do  
 3 that. The defense's entire position is that Ken Paxton  
 4 signed a contract with Brandon Cammack, correct?  
 5 MR. HILTON: Objection. This witness has  
 6 been subject to the Rule and doesn't necessarily -- you  
 7 know, doesn't speak for the defense. It's the same  
 8 question. It's argumentative. It's a sidebar. You  
 9 just sustained the objection.  
 10 MS. EPLEY: If -- if I may. He was  
 11 questioned at length in regards to the OAG report. Any  
 12 person who's read it once or skimmed through knows that  
 13 this is their position. It's not a violation of the  
 14 Rule. It's a question he opened.  
 15 MR. HILTON: Objection. Argumentative  
 16 and lacks foundation. She hasn't laid that he knows  
 17 anything about that aspect of the OAG report. And  
 18 she -- if she wants to ask that question, she can do it,  
 19 but she has to lay the foundation for it and do it  
 20 properly.  
 21 MS. EPLEY: I'm happy to do that.  
 22 PRESIDING OFFICER: Sustained.  
 23 Go ahead.  
 24 Q. (BY MS. EPLEY) Did you read the Office of the  
 25 Attorney General report?

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1 A. I have read it, yes.  
 2 Q. Okay. So on page 5, it reads, Position taken  
 3 by the attorney general in this litigation was adverse  
 4 to Nate Paul and in support of a higher settlement  
 5 amount to be paid by Nate Paul.  
 6 Do you recall that being their position?  
 7 MR. HILTON: Objection, Your Honor. If  
 8 she's reading from a document, I don't understand what  
 9 it is, and I don't have it.  
 10 MS. EPLEY: He's testified that he's read  
 11 the Office of the Attorney General report.  
 12 MR. HILTON: I didn't understand that.  
 13 MS. EPLEY: It's a question in regards to  
 14 its veracity. I intend to take him through a list of  
 15 false and misleading statements to get his position and  
 16 then challenge him with the testimony of the  
 17 whistleblowers as allowed by the rules.  
 18 PRESIDING OFFICER: Objection overruled.  
 19 Q. (BY MS. EPLEY) In regards to the Mitte  
 20 Foundation on page 5, it says, The position taken by the  
 21 attorney general in this litigation was adverse to  
 22 Nate Paul.  
 23 You understand that's his, his being  
 24 Ken Paxton's, position, correct?  
 25 MR. HILTON: Objection, Your Honor.

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1 There's been no testimony about Ken Paxton's position,  
 2 and there's no -- are we talking about the report, or  
 3 are we talking about Ken Paxton? I'm still confused as  
 4 to what we're doing here.  
 5 PRESIDING OFFICER: Sustained.  
 6 Q. (BY MS. EPLEY) Is the Office of the Attorney  
 7 General report in question published on the AG's  
 8 website?  
 9 A. I'm sorry. Say that again.  
 10 Q. Is the Office of the Attorney General report  
 11 published on the AG website?  
 12 A. Yes, it is.  
 13 Q. And do you have to have either title status,  
 14 meaning Ken Paxton or the first assistant, in order to  
 15 publish it?  
 16 A. Yes. That's a fair statement.  
 17 Q. And, therefore, every statement put onto that  
 18 website is adopted and made on behalf of Ken Paxton,  
 19 correct?  
 20 A. I believe that the -- that the report is  
 21 issued by the Office of the Attorney General. You know,  
 22 whether that extrapolates to a legal position that  
 23 Ken Paxton holds pursuant to this proceeding, I'm  
 24 just -- I'm not going to go there.  
 25 Q. So as an officer of the Court and a government

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1 agent, you're not going to honestly say that anything  
 2 published on the Office of the Attorney General website  
 3 is the responsibility of Ken Paxton and something he  
 4 should be held accountable for? That's your position?  
 5 MR. HILTON: Objection, Your Honor.  
 6 Argumentative. She's demanding that this witness make a  
 7 legal conclusion that he's justified -- that he just  
 8 testified that he cannot make.  
 9 PRESIDING OFFICER: Overruled.  
 10 MS. EPLEY: He is the general -- thank  
 11 you.  
 12 Q. (BY MS. EPLEY) Is your position that he  
 13 cannot be held accountable for what he posts on the  
 14 website?  
 15 A. My position is that I can't speak to the  
 16 attorney general's legal positions as --  
 17 Q. Isn't that your entire job duty?  
 18 MR. HILTON: Objection.  
 19 PRESIDING OFFICER: Let him answer. Let  
 20 him finish his answer.  
 21 MR. HILTON: Thank you.  
 22 A. No, it is not. My job is to provide advice  
 23 and counsel to my client, the Attorney General of Texas.  
 24 Q. (BY MS. EPLEY) Okay. So if you had to choose  
 25 between the State of Texas' interest and the attorney

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1 general's interest, whose do you choose?  
 2 A. I do not see them in conflict.  
 3 Q. Okay. Then back to this point: Do you or do  
 4 you not, as attorney for Ken Paxton, think that he is  
 5 held accountable for the items that he posts on his  
 6 website?  
 7 A. I don't know what you mean by "held  
 8 accountable." That's a very vague --  
 9 Q. Are you --  
 10 A. -- question.  
 11 Q. I'll help.  
 12 Are you familiar with the Texas Rules of  
 13 Evidence?  
 14 A. Somewhat. I am general counsel. I'm not a  
 15 litigator.  
 16 Q. Do you understand what an admission by  
 17 adoption is, or an admission because it's made by a  
 18 representative, or an admission because it's made by an  
 19 employee?  
 20 A. I'm aware of those rules.  
 21 Q. Do you believe that those things would apply  
 22 in appropriate context to Ken Paxton?  
 23 A. That's not something that I've researched  
 24 specific to this proceeding. I don't have an answer for  
 25 you on that.

MARY ORALIA BERRY, CSR, RDR, CRR, CBC

1 Q. I think we're all clear on you not wanting to  
 2 answer this question, so I'll move along.  
 3 I'm going to give you a series of  
 4 statements then, and I would like for you and I to  
 5 discuss them.  
 6 This investigation revealed the OAG's  
 7 intervention worked to the foundation's advantage on  
 8 mediation. If I was telling you -- or if that statement  
 9 is about Mitte, and you have Ryan Bangert, Josh Godbey,  
 10 Darren McCarty, and Ray Chester all disagreeing with  
 11 this statement, would even them disagreeing change your  
 12 opinion as to it being valid?  
 13 MR. HILTON: Objection, Your Honor.  
 14 Assumes facts not in evidence before this witness as to  
 15 those other folks' positions.  
 16 I don't have an objection to her  
 17 questioning the witness about a document that I believe  
 18 is in evidence, but I think in fairness, he should be  
 19 provided with a copy of it.  
 20 PRESIDING OFFICER: Sustained.  
 21 Q. (BY MS. EPLEY) So earlier when Mr. Hilton  
 22 asked you if you believed in the OAG report, you're not  
 23 actually saying anything in it is true or not true or  
 24 that any of us should really entertain your opinion on  
 25 it, right?

MARY ORALIA BERRY, CSR, RDR, CRR, CBC

1 MR. HILTON: Objection. Argumentative.  
 2 Misstates testimony.  
 3 PRESIDING OFFICER: Overruled.  
 4 A. Can you restate the question?  
 5 Q. (BY MS. EPLEY) Your opinion on the Office of  
 6 the Attorney General report being truthful is irrelevant  
 7 to this proceeding because you will not address the  
 8 statements within it; is that accurate?  
 9 A. I don't agree with the question as you phrased  
 10 it.  
 11 Q. Okay. Then let's talk about -- let's talk  
 12 about the foreclosure letter. You went into great  
 13 detail in regards to the distinctions. You relied on  
 14 418.  
 15 Is it accurate to say that applies to  
 16 mayors in local subdivisions but not Senator Hughes?  
 17 A. That's correct.  
 18 Q. And so Senator Hughes' authority or name  
 19 wouldn't be necessary if that was the basis of that  
 20 letter, correct?  
 21 A. I do not believe it was necessary, that's  
 22 correct.  
 23 Q. That's a different question.  
 24 If the attorney general was relying on  
 25 418, Senator Hughes' approval would not be necessary,

MARY ORALIA BERRY, CSR, RDR, CRR, CBC



1 correct?  
 2 A. If I understand your -- yes, that's correct.  
 3 Q. in regards to 402.042, that, you do need an  
 4 official requestor for, correct?  
 5 A. That's right.  
 6 Q. And if it was an informal guidance, then no  
 7 requestor is needed at all, correct?  
 8 A. That would be my position personally.  
 9 Q. So in regards to Items 1 and 2, you wouldn't  
 10 need to involve Senator Hughes at all, let alone use his  
 11 name to put forth an opinion that he certainly would  
 12 never have approved of, right?  
 13 MR. HILTON: Objection. Assumes facts  
 14 not in evidence. Moreover, she's stating a juror's  
 15 opinion without following the rules.  
 16 PRESIDING OFFICER: Sustained.  
 17 Q. (BY MS. EPLEY) Okay. Last, in regards to  
 18 your credibility and the attorney general's reliance on  
 19 you, is it fair to say that you represented him in a bar  
 20 grievance relying on a government filing -- or a court  
 21 filing? And you took the position that the attorney  
 22 general was not subject to the bar rules or the State of  
 23 Texas' ethics rules?  
 24 MR. HILTON: Objection, Your Honor.  
 25 Assumes facts not in evidence.

1 MS. EPLEY: I'm asking him. He's on the  
 2 stand. It was his position.  
 3 MR. HILTON: And you're characterizing  
 4 that grievance and that litigation. You're  
 5 mischaracterizing it. You haven't established that any  
 6 of those things are true with this witness.  
 7 MS. EPLEY: That's the purpose of the  
 8 questioning.  
 9 PRESIDING OFFICER: Overruled.  
 10 Q. (BY MS. EPLEY) Did you or did you not take  
 11 the position that the Attorney General of the State of  
 12 Texas is not -- is not beholden to State Bar ethics  
 13 rules?  
 14 MR. HILTON: Objection. Relevance. That  
 15 doesn't have anything to do with the Article of  
 16 Impeachment.  
 17 PRESIDING OFFICER: Overruled.  
 18 A. Ms. Epley, I'm not sure which -- can you be  
 19 more specific about what complaint you're referring to?  
 20 I -- I don't have a recollection as I sit here as to  
 21 specific --  
 22 Q. (BY MS. EPLEY) Does it feel appropriate to  
 23 you that you would ever, for any reason, for any  
 24 purpose, indicate that the Attorney General of the State  
 25 of Texas was not beholden to bar ethics rules?

1 A. I don't think that's what we said at any  
 2 point.  
 3 MS. EPLEY: Pass the witness.  
 4 REDIRECT EXAMINATION  
 5 BY MR. HILTON:  
 6 Q. Mr. Kinghorn, do you know if any Proton mail  
 7 or Signal documents that would be responsive to their  
 8 subpoena exists?  
 9 A. I do not.  
 10 Q. Did you conduct a diligent search for those  
 11 documents on behalf of the Office of the Attorney  
 12 General?  
 13 A. I conducted a diligent search of -- of all  
 14 documents that we had in our custody and control.  
 15 Q. Do you have an obligation to produce documents  
 16 that don't exist and that aren't in your possession,  
 17 custody, or control?  
 18 A. I do not.  
 19 MR. HILTON: If I may have one moment,  
 20 Your Honor.  
 21 PRESIDING OFFICER: Pardon?  
 22 MR. HILTON: Just one moment. I just  
 23 want to confer with counsel.  
 24 I pass the witness, Your Honor.  
 25 PRESIDING OFFICER: Ms. Epley, are you

1 coming back?  
 2 MS. EPLEY: No. I have no further  
 3 questions for Mr. Kinghorn. Thank you.  
 4 PRESIDING OFFICER: May he be excused?  
 5 MS. EPLEY: May we approach on a quick  
 6 housekeeping matter? It's just the admission of some  
 7 records I left at the podium frankly.  
 8 PRESIDING OFFICER: May I excuse the  
 9 witness?  
 10 MR. HILTON: Yes. That's fine with us,  
 11 Your Honor.  
 12 PRESIDING OFFICER: Yes, you can  
 13 approach.  
 14 (Witness left the Senate chamber)  
 15 (At the bench, off the record)  
 16 PRESIDING OFFICER: Members, we -- we  
 17 will take our lunch break now until 1:30, and there's a  
 18 short meeting before that.  
 19 (Recess taken at 12:23 p.m.)  
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CERTIFICATE

STATE OF TEXAS        )  
COUNTY OF TRAVIS    )

I, MARY ORALIA BERRY, Certified Shorthand Reporter in and for the State of Texas, Registered Diplomat Reporter, Certified Realtime Reporter, and Certified Realtime Captioner, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Certified to by me this 14th day of September, 2023.

/s/ Mary Oralia Berry  
Mary Oralia Berry, Texas CSR #2963  
Texas Certified Shorthand Reporter  
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1 THE SENATE OF THE STATE OF TEXAS  
 2 SITTING AS A HIGH COURT OF IMPEACHMENT  
 3 IN THE MATTER OF §  
 4 WARREN KENNETH §  
 5 PAXTON, JR. §

12 TRIAL  
 13 VOLUME 8- PM SESSION  
 14 SEPTEMBER 14, 2023

24 Stenographically Reported by  
 25 Tami Lewis, CSR, RDR, CRR, CRC

TAMI LEWIS, CSR, RDR, CRR, CRC

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 Representative Ann Johnson  
 15 Representative Briscoe Cain  
 Representative Terry Canales  
 16 Representative Erin Gamez  
 Representative Charlie Geren  
 17 Representative Jeff Leach  
 Representative Oscar Longoria  
 18 Representative Morgan Meyer  
 Representative Joe Moody  
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 Representative Cody Vasut  
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5

VOLUME 8 -- PM SESSION

SENATE IMPEACHMENT TRIAL

September 14, 2023 PAGE VOL.

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BY MR. DUTKO -- 45 8

GRANT DORFMAN  
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TAMI LEWIS, CSR, RDR, CRR, CRC

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13:56:39 1 Please be seated, and speak closely to the

13:56:42 2 microphone.

13:56:46 3 Hold on. I understand we have a new court

13:56:48 4 reporter I need to swear in also. Where is our new court

5 reporter?

6 If you'll raise your right hand and step to

7 the side. Hi.

13:57:18 8 (The oath was given to the court reporter.)

13:57:18 9 HENRY DE LA GARZA,

10 having been first duly sworn, testified as follows:

13:57:19 11 DIRECT EXAMINATION

13:57:19 12 BY MS. HILTON:

13:57:19 13 **Q.** Good afternoon, Mr. De La Garza. Could you

13:57:21 14 please introduce yourself to the jury?

13:57:24 15 **A.** Yes. My name is Henry De La Garza.

13:57:27 16 **PRESIDING OFFICER:** Hold on. Henry, push

13:57:29 17 that button right there. There you go. Yes, sir.

13:57:33 18 **THE WITNESS:** Sorry about that.

13:57:37 19 **A.** My name is Henry De La Garza.

13:57:38 20 **Q.** (BY MS. HILTON) And I'd like to just have you

13:57:40 21 take a minute and a half or so and give us a little of

13:57:44 22 your background, where you're employed, and -- and what

13:57:47 23 you do there?

13:57:48 24 **A.** I work at the Office of the Attorney General,

13:57:51 25 an agency of the State of Texas, and I am the HR

TAMI LEWIS, CSR, RDR, CRR, CRC

6

PROCEEDINGS

THURSDAY, SEPTEMBER 14, 2023

(1:53 p.m.)

13:53:53 4 THE BAILIFF: All rise. The Court of

13:53:56 5 Impeachment of the Texas Senate is now in session.

13:54:01 6 **PRESIDING OFFICER:** You can all be seated.

13:54:03 7 Thank you.

13:54:14 8 To the parties, sorry we were a little

13:54:20 9 late. We had some business to take care of back there

13:54:22 10 before coming out.

13:55:21 11 Would you please state your name for the

13:55:24 12 record?

13:55:24 13 **MS. HILTON:** Yes, Your Honor. Amy Hilton

13:55:26 14 for the attorney general.

13:55:28 15 **PRESIDING OFFICER:** Would you call your

13:55:29 16 first witness.

13:55:29 17 **MS. HILTON:** Yes, Your Honor. The attorney

13:55:31 18 general calls Henry De La Garza.

13:55:34 19 **PRESIDING OFFICER:** Will the bailiff bring

13:55:35 20 in Henry De La Garza.

13:55:46 21 Amy, there are some documents still up here

13:55:49 22 if you want to get those removed.

13:56:14 23 Watch your step. I need to swear you in.

13:56:25 24 Raise your right hand.

13:56:39 25 (Witness sworn by the Presiding Officer)

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8

13:57:55 1 director, the chief employment counsel, and the ethics

13:57:58 2 advisor.

13:57:59 3 **Q.** And how long have you held the position as HR

13:58:03 4 director?

13:58:03 5 **A.** Of HR director, interim director, November 2nd

13:58:09 6 of 2020, and then became permanent HR director

13:58:14 7 December 1st of 2020.

13:58:15 8 **Q.** How long have you worked for the Office of

13:58:17 9 Attorney General?

13:58:17 10 **A.** I started in 1995 as an Assistant Attorney

13:58:22 11 General I and worked my way up.

13:58:24 12 **Q.** And what division did you start in? Have you

13:58:28 13 always been in human resources?

13:58:29 14 **A.** No. I started in the Habeas Corpus Division

13:58:32 15 and then went to transportation division and then human

13:58:36 16 resources.

13:58:36 17 **Q.** How many attorneys general have you worked for

13:58:41 18 at the agency?

13:58:41 19 **A.** Well, let's see. I guess it would have been

13:58:46 20 Dan Morales; and then John Cornyn, now Senator Cornyn;

13:58:55 21 Greg Abbott, now Governor Greg Abbott; and then

13:58:58 22 Ken Paxton; and then also the provisional AG John Scott

13:59:01 23 and provisional AG Angela Colmenero.

13:59:06 24 **Q.** How many years have you been working in human

13:59:09 25 resources?

TAMI LEWIS, CSR, RDR, CRR, CRC

13:59:10 **1** **A.** I started in May of 2008.

13:59:12 **2** **Q.** You've testified that you've been at the agency

13:59:15 **3** for a couple of decades. How would you describe your

13:59:19 **4** experience working at the Office of Attorney General?

13:59:21 **5** **A.** The agency is an outstanding state agency.

13:59:28 **6** It's a great place to work. This is a -- as a -- as a

13:59:33 **7** lawyer, it's an ideal place to practice law, whether you

13:59:37 **8** do civil, criminal, trial, appellate, transactional,

13:59:41 **9** plaintiff, defense, whatever, we -- we have it. And, you

13:59:47 **10** know, as an agency, we are -- we're number one in child

13:59:54 **11** support enforcement. This is an agency of lawyers, of

13:59:58 **12** child support officers, peace officers, and a lot of

14:00:03 **13** hard-working employees.

14:00:04 **14** **Q.** And as the HR director, how many employees of

14:00:08 **15** the Office of Attorney General are you responsible for,

14:00:12 **16** you know, enforcing agency policy and procedure?

14:00:14 **17** **A.** Well, the -- approximately 4,000 employees that

14:00:21 **18** we have throughout the State of Texas. We also handle

14:00:24 **19** human resources work for the State Office of Risk

14:00:27 **20** Management, SORM.

14:00:28 **21** **Q.** And just generally, you know, what -- what are

14:00:32 **22** your responsibilities as both the ethics advisor, the HR

14:00:37 **23** director, and the chief employment counsel?

14:00:39 **24** **A.** Well, that's quite a bit. As HR director, I --

14:00:43 **25** I oversee the HR operations for our state agency, 4,000

TAMI LEWIS, CSR, RDR, CRR, CRC

14:00:49 **1** employees throughout the State of Texas. I lead a team

14:00:51 **2** of -- of 22 talented and dedicated employees. We handle

14:00:59 **3** all sorts of HR functions from hiring, posting,

14:01:04 **4** classifications, onboarding, benefits, leave, training,

14:01:11 **5** development. We have a wonderful wellness program, and

14:01:17 **6** we also have a robust law clerk program.

14:01:22 **7** **And as, you know, chief employment counsel,**

14:01:25 **8** I, along with the other attorney in the division, an

14:01:30 **9** excellent deputy chief, we provide legal guidance to the

14:01:35 **10** managers and supervisors of the -- of the agency, and we,

14:01:41 **11** you know, make sure -- you know, EEO compliance, the rare

14:01:47 **12** EEOC charge of discrimination and workers' compensation

14:01:55 **13** and unemployment benefits.

14:01:57 **14** **And then as ethics advisor, I provide**

14:01:59 **15** guidance to approximately 700 lawyers of our agency,

14:02:04 **16** mostly on the, you know, Texas Disciplinary Rules of

14:02:07 **17** Professional Conduct, other ethical issues, and then I

14:02:12 **18** oversee the agency's fraud waste and abuse prevention

14:02:15 **19** program. I think I have it all.

14:02:16 **20** **Q.** I -- I started as a law clerk at the office,

14:02:19 **21** and so I certainly appreciate everything that -- that you

14:02:21 **22** do for the office.

14:02:22 **23** **Outside of working in HR, have you -- do**

14:02:27 **24** you have any other experience with employment law?

14:02:30 **25** **A.** Yes. Before starting in HR, I worked in the

TAMI LEWIS, CSR, RDR, CRR, CRC

14:02:37 **1** transportation division where I managed the employment

14:02:40 **2** law matters for TxDOT, another outstanding state agency,

14:02:46 **3** and handled the, you know, trials, appeals, hearings for

14:02:54 **4** state and federal law, for all different types of -- of

14:03:00 **5** employment law, Title VII, Chapter 21 of the labor code;

14:03:03 **6** FMLA, FLSA, ADA, you know, First Amendment retaliation,

14:03:08 **7** whistleblower retaliation, USERRA retaliation, workers'

14:03:12 **8** comp retaliation, all of that.

14:03:13 **9** **Q.** And so you mentioned the Whistleblower Act.

14:03:17 **10** Have you ever taken a Whistleblower Act case to trial?

14:03:20 **11** **A.** I actually have.

14:03:21 **12** **Q.** And does the Whistleblower Act, does that have

14:03:26 **13** certain requirements in order to state a claim?

14:03:28 **14** **A.** It does.

14:03:28 **15** **Q.** And does it also provide specific remedies?

14:03:34 **16** **A.** It does.

14:03:35 **17** **Q.** Is one of those remedies removal from office?

14:03:39 **18** **A.** It is not.

14:03:39 **19** **Q.** And who is a proper defendant under the Texas

14:03:43 **20** Whistleblower Act?

14:03:43 **21** **A.** The government entity.

14:03:45 **22** **Q.** Is it -- is an elected official a proper

14:03:48 **23** defendant under the Texas Whistleblower Act?

14:03:50 **24** **A.** No.

14:03:51 **25** **Q.** Where are Whistleblower Act claims usually

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14:03:57 **1** adjudicated?

14:03:58 **2** **A.** It's a -- it's a state law claim, so it would

14:04:01 **3** be in state district court.

14:04:02 **4** **Q.** Are you aware of a Whistleblower Act claim ever

14:04:06 **5** being litigated outside of the state district court?

14:04:11 **6** **A.** Not under the Texas Whistleblower Act.

14:04:17 **7** **Q.** Are you aware, Mr. De La Garza, that in 2020, a

14:04:20 **8** group of high-level staffers made reports to law

14:04:25 **9** enforcement about the attorney general?

14:04:26 **10** **A.** I am.

14:04:27 **11** **Q.** And are you aware that some of those staffers

14:04:31 **12** subsequently filed a Texas Whistleblower Act lawsuit

14:04:35 **13** against the Office of Attorney General?

14:04:37 **14** **A.** I am.

14:04:38 **15** **Q.** And to your knowledge, is that case still

14:04:40 **16** pending?

14:04:40 **17** **A.** Yes, in Travis County.

14:04:42 **18** **Q.** You mentioned that you've worked under a number

14:04:46 **19** of attorneys general, and so I just want to ask you a few

14:04:50 **20** brief questions about how the agency works. How do most

14:04:55 **21** employees of the Office of Attorney General obtain their

14:05:00 **22** positions?

14:05:00 **23** **A.** Most employees -- I mean, we're talking about,

14:05:05 **24** you know, just about everyone -- would apply through a

14:05:11 **25** competitive posting and -- and then the hiring manager

TAMI LEWIS, CSR, RDR, CRR, CRC

13

14:05:15 **1** would select the -- the best qualified candidate.

14:05:18 **2** **Q.** And how did the -- the former staffers who made

14:05:22 **3** those complaints to law enforcement, how did they obtain

14:05:26 **4** their positions?

14:05:27 **5** **A.** They were appointed by Attorney General

14:05:31 **6** Ken Paxton.

14:05:31 **7** **Q.** And so -- and typically, I think you said there

14:05:36 **8** are about 4,000 OAG employees?

14:05:38 **9** **A.** Yes, about 4,000.

14:05:39 **10** **Q.** And -- and about how many are appointed?

14:05:42 **11** **A.** We're talking about half of 1 percent, maybe .2

14:05:49 **12** percent -- or .02 percent.

14:05:51 **13** **Q.** Is it -- is it your understanding, Mr. De

14:05:54 **14** La Garza, that the attorney general has authority to

14:05:59 **15** appoint certain high-level policymakers?

14:06:02 **16** **A.** Yes.

14:06:03 **17** **Q.** And what is that understanding based on?

14:06:05 **18** **A.** Well, it's a well-established concept and

14:06:11 **19** tradition in the United States of political patronage.

14:06:15 **20** This has been affirmed in Supreme Court law, U.S. Supreme

14:06:21 **21** Court law, federal law, state law, that elected

14:06:24 **22** officials, whether you are the Governor or the attorney

14:06:28 **23** general or the elected sheriff of a county, that you have

14:06:33 **24** the right to hand-select people who you are -- who are

14:06:43 **25** going to help you reach the goals and the vision that

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14

14:06:47 **1** you've presented to -- to the electorate and who voted

14:06:55 **2** you in.

14:06:55 **3** **Q.** And for those appointed officials at the Office

14:06:58 **4** of Attorney General, are those appointed officials still

14:07:01 **5** required to comply with agency policies, just like every

14:07:05 **6** other OAG employee?

14:07:07 **7** **A.** Yes.

14:07:13 **8** **MS. HILTON:** At this time, Your Honor, I'm

14:07:14 **9** going to move to admit attorney general Exhibit 431.

14:07:19 **10** Counsel and I discussed this during the break, and I

14:07:23 **11** understand that there is no objection.

14:07:26 **12** **MR. DUTKO:** No objection.

14:07:27 **13** **PRESIDING OFFICER:** Admit AG 431 into

14:07:30 **14** evidence.

14:07:32 **15** **(AG Exhibit 431 admitted)**

14:07:32 **16** **MS. HILTON:** Mr. Arroyo, could you please

14:07:33 **17** pull up AG 431. And could you turn to the second page,

14:07:39 **18** please, Mr. Arroyo.

14:07:45 **19** **Q.** **(BY MS. HILTON)** Mr. De La Garza, is

14:07:50 **20** Exhibit 431 -- do you recognize this as a copy of OAG

14:07:52 **21** policies and procedures?

14:07:53 **22** **A.** On the screen, there's nothing on the screen.

14:07:59 **23** **Q.** Oh.

14:08:00 **24** **PRESIDING OFFICER:** Hold on one moment.

14:08:30 **25** We'll stop the clock for a moment.

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15

14:11:30 **1** **(Brief pause.)**

14:12:35 **2** **PRESIDING OFFICER:** Members, return to your

14:12:37 **3** seats, please.

14:12:38 **4** Hold on one second, Amy.

14:12:45 **5** Restart the clock again. Proceed.

14:12:50 **6** **Q.** **(BY MS. HILTON)** Mr. De La Garza, can you see

14:12:52 **7** attorney general Exhibit 431 on your screen?

14:12:55 **8** **A.** Yes.

14:12:55 **9** **Q.** And you recognize that as a copy of the

14:12:57 **10** attorney general -- office -- Office of the Attorney

14:13:02 **11** General policies and procedures?

14:13:03 **12** **A.** Manual, yes.

14:13:04 **13** **Q.** And what is your role, if any, with respect to

14:13:10 **14** drafting and creating policies for the office?

14:13:13 **15** **A.** Well, since May 2008, I've been pretty active

14:13:17 **16** in making sure that our policies are up-to-date, revising

14:13:22 **17** policies with -- with new -- new laws. For example, I

14:13:29 **18** know that we've got the new CROWN Act and military

14:13:34 **19** performance and paid parental leave, things like that, so

14:13:37 **20** we make sure that we're always keeping up, and we -- we

14:13:42 **21** made changes to the manual.

14:13:44 **22** **Q.** Do these policies provide that Office of the

14:13:50 **23** Attorney General employees are at-will employees?

14:13:53 **24** **A.** Yes.

14:13:53 **25** **Q.** And can you just briefly explain what that

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16

14:13:56 **1** means?

14:13:56 **2** **A.** Well, the State of Texas is an at-will state

14:14:03 **3** since, I think, 1877 or something like that, and it just

14:14:08 **4** means that in -- in Texas, you don't have a property

14:14:11 **5** right in your job and you can be fired for any reason.

14:14:15 **6** **Q.** Mr. De La Garza, are members of the executive

14:14:37 **7** administration at-will employees?

14:14:39 **8** **A.** Yes.

14:14:40 **9** **Q.** Does OAG have an unacceptable conduct policy?

14:14:46 **10** **A.** Yes.

14:14:50 **11** **MS. HILTON:** Mr. Arroyo, could you please

14:14:51 **12** flip to page 43 of Exhibit 431. At the bottom, the Bates

14:14:59 **13** stamp should end in 535.

14:15:25 **14** **Q.** **(BY MS. HILTON)** Mr. De La Garza, is this the

14:15:26 **15** unacceptable conduct policy we were just talking about?

14:15:29 **16** **A.** Yes.

14:15:33 **17** **MS. HILTON:** And, Mr. Arroyo, if you could

14:15:36 **18** just flip to the next page, please.

14:15:41 **19** **Q.** **(BY MS. HILTON)** And about halfway down on

14:15:42 **20** those bullet points, Mr. De La Garza, one of the things

14:15:48 **21** that's listed as unacceptable conduct is: Use of an

14:15:52 **22** insubordinate or unprofessional tone towards management.

14:15:55 **23** Do you see that?

14:15:56 **24** **A.** Yes.

14:15:56 **25** **Q.** Is that a policy that you wrote?

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14:16:01 **1** A. Yes.

14:16:03 **2** Q. And when did you write that policy?

14:16:05 **3** A. Based on the date that I saw, looked like it

14:16:12 **4** was in 2013.

14:16:13 **5** Q. And can you explain for the jury why you

14:16:18 **6** included that policy in the office's policies and

14:16:22 **7** procedures handbook?

14:16:23 **8** A. It just seems typical that most manuals for

14:16:30 **9** employers would include something about, you know,

14:16:33 **10** conduct and what's appropriate and what's not.

14:16:35 **11** Q. What are the potential consequences for failing

14:16:43 **12** to comply with agency policies?

14:16:46 **13** A. Well, it depends. We look at every situation

14:16:49 **14** individually. It could be corrective action, such as a

14:16:56 **15** counseling session, a reprimand, but if it's -- depending

14:17:00 **16** on the situation, it could be disciplinary action,

14:17:03 **17** including involuntary separation.

14:17:07 **18** Q. As the chief employment counsel, the ethics

14:17:11 **19** advisor, the director of human resources, do you provide

14:17:15 **20** advice to executive management on matters -- on

14:17:19 **21** employment issues?

14:17:20 **22** A. I do.

14:17:21 **23** Q. And do you provide advice related to the

14:17:24 **24** application of the policies that are contained in AG

14:17:29 **25** Exhibit 431?

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14:19:02 **1** Mr. Webster; is that right?

14:19:03 **2** A. Yes. Starting on October 5, 2020, they would

14:19:08 **3** have been reporting to First Assistant Brent Webster.

14:19:12 **4** Q. And would those staffers be required to comport

14:19:16 **5** with OAG policies in their interactions and their work

14:19:20 **6** for First Assistant Webster?

14:19:22 **7** A. Yes.

14:19:22 **8** Q. And that would be a reasonable expectation that

14:19:25 **9** Mr. Webster would have of them?

14:19:26 **10** A. Yes.

14:19:27 **11** Q. Let's talk about Ryan Bangert. Do you recall

14:19:31 **12** what his title was?

14:19:33 **13** A. Ryan Bangert was the deputy first assistant

14:19:36 **14** attorney general.

14:19:37 **15** Q. And how did his employment at OAG conclude?

14:19:40 **16** A. Mr. Bangert submitted a letter of resignation

14:19:44 **17** on approximately -- I think it was October 28, 2020, and

14:19:50 **18** then left the agency, as identified in the letter, on

14:19:54 **19** November 4, 2020.

14:19:55 **20** Q. And what about Darren McCarty? How did his

14:19:59 **21** employment at OAG conclude?

14:20:00 **22** A. Darren -- Darren McCarty was the deputy

14:20:05 **23** attorney general for civil litigation, and Mr. McCarty

14:20:10 **24** submitted a letter of resignation on, I believe,

14:20:16 **25** October 26, 2020, and then left the agency. Pursuant to

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14:17:29 **1** A. I do.

14:17:30 **2** Q. I'd like to -- to switch gears a little bit

14:17:33 **3** here, Mr. De La Garza, and talk about the ex-staffers,

14:17:38 **4** the former staffers, that left the Office of Attorney

14:17:41 **5** General in 2020.

14:17:44 **6** Who is -- who is Jeff Mateer?

14:17:47 **7** A. Jeff Mateer was the first assistant attorney

14:17:52 **8** general.

14:17:52 **9** Q. And how did his employment at the OAG conclude?

14:17:55 **10** A. Jeff Mateer resigned on October 2nd, 2020.

14:18:01 **11** Q. And who succeeded him as first assistant?

14:18:04 **12** A. Because Jeff Mateer resigned and Attorney

14:18:15 **13** General Ken Paxton had, you know, a right to then

14:18:19 **14** appoint -- select someone, and, you know, under the Texas

14:18:22 **15** Government Code, every state agency needs to have an

14:18:25 **16** executive head, and at the attorney general's office the

14:18:28 **17** executive head is the first assistant. And so they

14:18:32 **18** pretty much manage the -- the division day-to-day, and so

14:18:39 **19** Attorney General Paxton appointed Brent Webster, and then

14:18:43 **20** he began that same Monday, I believe, October 5, 2020.

14:18:50 **21** Q. At the time that Mr. Mateer resigned, were the

14:18:55 **22** other former staffers still employed at Office of

14:18:58 **23** Attorney General?

14:18:58 **24** A. Yes.

14:18:59 **25** Q. And so at that time, they reported to

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14:20:21 **1** the -- the letter, he left on November 4, 2020.

14:20:25 **2** Q. And what about Blake Brickman? Do you remember

14:20:29 **3** his title?

14:20:31 **4** A. Mr. Brickman was deputy attorney general for

14:20:34 **5** policy and strategy.

14:20:36 **6** Q. And how did his employment at the office

14:20:40 **7** conclude?

14:20:41 **8** A. Mr. Brick -- Brickman was involuntarily

14:20:45 **9** separated.

14:20:48 **10** MS. HILTON: Mr. Arroyo, could you please

14:20:49 **11** pull up AG Exhibit 224?

14:20:52 **12** And, Your Honor, I'm going to move to admit

14:20:54 **13** this exhibit. I understand from counsel during the break

14:20:56 **14** that there's no objection.

14:20:58 **15** MR. DUTKO: No objection.

14:21:00 **16** PRESIDING OFFICER: The exhibit shall be --

14:21:05 **17** what was the number again, Amy?

14:21:07 **18** MS. HILTON: AG 224.

14:21:08 **19** PRESIDING OFFICER: 224 admitted into

14:21:11 **20** evidence.

14:21:19 **21** (AG Exhibit 224 admitted)

14:21:19 **22** Q. (BY MS. HILTON) Mr. De La Garza, is this memo

14:21:23 **23** a memo that you drafted related to Mr. Brickman's

14:21:26 **24** employment with the attorney general's office?

14:21:28 **25** A. Yes.

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14:21:30 **1** Q. And could you -- does this memo reflect advice  
 14:21:34 **2** that you provided to the office related to Mr. Brickman's  
 14:21:38 **3** continued employment and ultimate termination?  
 14:21:41 **4** A. Yes. It was advice about if we wanted to write  
 14:21:49 **5** a justification, this could be a draft of a  
 14:21:53 **6** justification.  
 14:21:53 **7** Q. And is this justification, was this the result  
 14:21:56 **8** of an independent analysis that you made with respect to  
 14:22:00 **9** his employment at the office?  
 14:22:02 **10** A. Yes.  
 14:22:02 **11** Q. Were you instructed by anybody to -- to come to  
 14:22:07 **12** any conclusions regarding his employment?  
 14:22:09 **13** A. No.  
 14:22:10 **14** Q. Could you please explain the conclusion of this  
 14:22:14 **15** memo for the jury?  
 14:22:19 **16** A. I only see page 1. I'm not sure.  
 14:22:25 **17** MS. HILTON: Your Honor, may I approach the  
 14:22:26 **18** witness, please, with a hard copy?  
 14:22:28 **19** PRESIDING OFFICER: Yes, you may.  
 14:22:35 **20** THE WITNESS: Thank you.  
 14:22:41 **21** A. The conclusion was that -- involuntary  
 14:22:45 **22** separation, that he could be allowed to resign.  
 14:22:49 **23** Q. (BY MS. HILTON) Looking at the memo, at the  
 14:22:52 **24** bottom of page 1, you write that Mr. Brickman has engaged  
 14:22:56 **25** in the following misconduct as identified in the agency's  
 TAMI LEWIS, CSR, RDR, CRR, CRC

14:22:59 **1** unacceptable conduct policy.  
 14:23:01 **2** Do you see that?  
 14:23:01 **3** A. Yes.  
 14:23:02 **4** Q. And you list a number of violations; is that  
 14:23:06 **5** correct?  
 14:23:06 **6** A. Yes.  
 14:23:07 **7** Q. And is it true that in this memo you indicate  
 14:23:11 **8** that regardless of Mr. Brickman's report to law  
 14:23:15 **9** enforcement, there are violations of agency policy that  
 14:23:19 **10** justify termination?  
 14:23:20 **11** A. Yes. I mean, in many ways, it's just -- it was  
 14:23:25 **12** just a situation of an employee with a new boss and  
 14:23:30 **13** having an insubordinate or unprofessional tone towards  
 14:23:34 **14** the new boss and not following orders, directives of the  
 14:23:43 **15** new boss.  
 14:23:44 **16** Q. And based on the information that you were  
 14:23:46 **17** aware of at the time, was it your opinion that  
 14:23:51 **18** Mr. Brickman's -- had some job performance issues in the  
 14:23:54 **19** workplace following his report to law enforcement?  
 14:23:56 **20** A. Yes.  
 14:23:58 **21** Q. And was part of that misconduct creating an  
 14:24:04 **22** atmosphere that was untenable for the agency?  
 14:24:07 **23** A. Yes.  
 14:24:08 **24** Q. And -- and can you just describe a little bit  
 14:24:12 **25** what that is? I'm looking at page 2 of your memo talking  
 TAMI LEWIS, CSR, RDR, CRR, CRC

14:24:16 **1** about the working relationship being strained and  
 14:24:18 **2** inefficient. Could you describe what you were aware of  
 14:24:22 **3** at the time that you made this memo?  
 14:24:23 **4** A. Yes, I mean, overall, it -- it appeared that  
 14:24:28 **5** there were some pretty egregious violations of the -- you  
 14:24:37 **6** know, kind of the insubordinate tone of that policy that  
 14:24:40 **7** you had mentioned earlier, and -- the insubordinate tone,  
 14:24:42 **8** the demeanor, the language, the refusal to perform  
 14:24:46 **9** directives from the -- Mr. Brickman's new -- new boss,  
 14:24:52 **10** new supervisor.  
 14:24:56 **11** Just overall, there were -- those issues  
 14:24:58 **12** really stood out, and then, overall, just based on the,  
 14:25:06 **13** you know, everything applicable; state law, federal law,  
 14:25:09 **14** the facts presented. There was no reasonable expectation  
 14:25:13 **15** that he could -- that he wanted to work for the new boss,  
 14:25:19 **16** the new first assistant, or -- or no reasonable  
 14:25:23 **17** expectation in that --  
 14:25:25 **18** MR. DUTKO: Objection. Narrative.  
 14:25:27 **19** We just ask for question and answer, Your  
 14:25:29 **20** Honor.  
 14:25:29 **21** PRESIDING OFFICER: Sustained.  
 14:25:30 **22** Q. (BY MS. HILTON) Mr. De La Garza, you mentioned  
 14:25:31 **23** that Mr. Brickman's behavior was egregious. Did I hear  
 14:25:35 **24** that correctly?  
 14:25:35 **25** A. Yes.  
 TAMI LEWIS, CSR, RDR, CRR, CRC

14:25:36 **1** Q. And is it your understanding that part of the  
 14:25:40 **2** egregious nature of his behavior was his refusal to meet  
 14:25:44 **3** with his supervisors?  
 14:25:46 **4** MR. DUTKO: Objection. Leading.  
 14:25:48 **5** MS. HILTON: I'll rephrase.  
 14:25:48 **6** PRESIDING OFFICER: Rephrase. Sustained.  
 14:25:50 **7** Q. (BY MS. HILTON) Mr. De La Garza, what was  
 14:25:52 **8** egregious about Mr. Brickman's behavior?  
 14:25:54 **9** A. I mean, based on the facts presented to me,  
 14:26:00 **10** that type of -- of insubordinate tone and demeanor is --  
 14:26:03 **11** is pretty rare in -- in our agency.  
 14:26:07 **12** Q. Who did you provide this memo to?  
 14:26:10 **13** A. I believe I would have probably sent it to my  
 14:26:18 **14** boss at the time, the human resource director at the time  
 14:26:22 **15** and -- and probably Brent Webster, the new first  
 14:26:28 **16** assistant.  
 14:26:28 **17** Q. Who -- to your understanding, who made the  
 14:26:32 **18** decision to terminate Mr. Brickman's employment?  
 14:26:34 **19** A. It would have been -- you know, his supervisor  
 14:26:38 **20** was the first assistant.  
 14:26:39 **21** Q. And did you support the decision to terminate  
 14:26:44 **22** Mr. Brickman's employment?  
 14:26:44 **23** A. Based on -- on the -- the facts as presented to  
 14:26:48 **24** me and the applicable state law and federal law  
 14:26:54 **25** especially about, you know, political patronage, yes,  
 TAMI LEWIS, CSR, RDR, CRR, CRC



14:26:58 **1** there didn't seem to be a reasonable expectation that he  
 14:27:02 **2** could continue working with or for Brent Webster or  
 14:27:06 **3** continue serving as a high-level policymaker for the  
 14:27:10 **4** attorney general.  
 14:27:11 **5** **Q.** And do you stand by the advice in this memo  
 14:27:15 **6** today?  
 14:27:15 **7** **A.** I do.  
 14:27:16 **8** **Q.** Okay. Let's talk about Mr. Ryan Vassar. Was  
 14:27:29 **9** he the deputy attorney general for legal counsel?  
 14:27:31 **10** **A.** Yes.  
 14:27:32 **11** **Q.** And his employment at the office was  
 14:27:35 **12** terminated; is that correct?  
 14:27:36 **13** **A.** Yes, involuntary separation, yes.  
 14:27:39 **14** **Q.** And who made that decision?  
 14:27:42 **15** **A.** That also would have been the first assistant.  
 14:27:45 **16** **Q.** Did you support the decision to terminate his  
 14:27:50 **17** employment with the office?  
 14:27:51 **18** **A.** Based on all the facts presented to me and --  
 14:27:55 **19** and the applicable state and federal law, yes, there  
 14:28:02 **20** was -- there was a variety of reasons. There was a lack  
 14:28:06 **21** of confidence in -- in his --  
 14:28:08 **22** **MR. DUTKO:** Objection, Your Honor.  
 14:28:10 **23** Hearsay. The witness just testified based on information  
 14:28:12 **24** he received.  
 14:28:13 **25** **PRESIDING OFFICER:** Sustained.  
 TAMI LEWIS, CSR, RDR, CRR, CRC

14:28:13 **1** **Q.** (BY MS. HILTON) Mr. De La Garza, did you  
 14:28:15 **2** provide any recommendations concerning Mr. Vassar's --  
 14:28:19 **3** the involuntary separation?  
 14:28:20 **4** **A.** Yes. I mean, as an HR director, I have to rely  
 14:28:24 **5** on information that is presented to me.  
 14:28:26 **6** **Q.** Okay. And -- and -- sorry. I didn't mean to  
 14:28:30 **7** talk over you.  
 14:28:31 **8** **When you were providing those**  
 14:28:32 **9** **recommendations, were you -- were you advised by**  
 14:28:36 **10** **management of some issues, some job performance issues**  
 14:28:39 **11** **that -- that they were experiencing with Mr. Vassar?**  
 14:28:42 **12** **MR. DUTKO:** Objection. Hearsay. "Advised  
 14:28:43 **13** **by management," out-of-court statement.**  
 14:28:44 **14** **MS. HILTON:** Your Honor, if I may, I'm  
 14:28:46 **15** **asking about the facts that inform his recommendation.**  
 14:28:49 **16** **I'm not offering them for the truth of the -- the truth**  
 14:28:51 **17** **of the matter, but, rather, just the things that he was**  
 14:28:55 **18** **aware of at the time he made his recommendation and why**  
 14:28:58 **19** **he made that recommendation.**  
 14:29:01 **20** **PRESIDING OFFICER:** I'm going to sustain  
 14:29:03 **21** **your objection. Find another way to ask the question.**  
 14:29:05 **22** **MS. HILTON:** Thank you, Your Honor.  
 14:29:05 **23** **Q.** (BY MS. HILTON) Did agency policy support the  
 14:29:09 **24** **decision to terminate Mr. Vassar's employment with the**  
 14:29:15 **25** **agency?**  
 TAMI LEWIS, CSR, RDR, CRR, CRC

14:29:15 **1** **A.** Yes.  
 14:29:16 **2** **Q.** And was it your understanding that Mr. Vassar  
 14:29:20 **3** **had violated agency policy by sharing confidential grand**  
 14:29:25 **4** **jury subpoenas outside of the agency?**  
 14:29:27 **5** **MR. DUTKO:** Objection, Your Honor. I need  
 14:29:28 **6** **to interrupt. This is knowledge gained through hearsay**  
 14:29:35 **7** **and leading.**  
 14:29:36 **8** **PRESIDING OFFICER:** Sustained.  
 14:29:36 **9** **Q.** (BY MS. HILTON) Could you please describe what  
 14:29:38 **10** **the violations of agency policy were that supported**  
 14:29:40 **11** **termination?**  
 14:29:41 **12** **A.** Well, just overall as far as the -- the reasons  
 14:29:45 **13** **presented to me for separating him were -- there's a**  
 14:29:53 **14** **combination of --**  
 14:29:54 **15** **MR. DUTKO:** Objection, Your Honor. Reason  
 14:29:56 **16** **stated to me is an out-of-court statement. Hearsay.**  
 14:29:59 **17** **MS. HILTON:** Your Honor, again, this goes  
 14:30:01 **18** **to the basis for his recommendation. This is not a --**  
 14:30:05 **19** **he's not testifying as to the truth of it, but, rather,**  
 14:30:07 **20** **the information -- his understanding of the information**  
 14:30:10 **21** **and what informed his advice to the agency.**  
 14:30:14 **22** **PRESIDING OFFICER:** I'll overrule your  
 14:30:16 **23** **objection this time.**  
 14:30:17 **24** **Q.** (BY MS. HILTON) You can answer the question,  
 14:30:18 **25** **Mr. De La Garza.**  
 TAMI LEWIS, CSR, RDR, CRR, CRC

14:30:19 **1** **A.** Yes. I mean, I have to rely on -- on the facts  
 14:30:23 **2** **presented to me. I mean, we have 4,000 employees, so**  
 14:30:27 **3** **with respect to Mr. Vassar, I had to rely on the facts**  
 14:30:30 **4** **presented to me on what he had done or had not done and**  
 14:30:36 **5** **so as far as the overall reasons, there was a variety of**  
 14:30:40 **6** **reasons, a lack of confidence. There were some issues**  
 14:30:44 **7** **about his performance, some issues about the handling**  
 14:30:49 **8** **of -- of grants or mishandling of grants.**  
 14:30:54 **9** **Overall, there was some insubordinate tone**  
 14:30:58 **10** **and demeanor, and, overall, there was -- my**  
 14:31:04 **11** **understanding, there was one -- one last meeting to see**  
 14:31:06 **12** **if there was any reasonable expectation that Mr. Vassar**  
 14:31:10 **13** **could or wanted to work with or for his new boss.**  
 14:31:18 **14** **MR. DUTKO:** Objection, Your Honor. I  
 14:31:19 **15** **apologize for interrupting. Can we keep this question**  
 14:31:22 **16** **and answer? My objection is narrative.**  
 14:31:26 **17** **PRESIDING OFFICER:** Sustained.  
 14:31:26 **18** **Q.** (BY MS. HILTON) Mr. De La Garza, let me ask  
 14:31:28 **19** **you about that meeting. You mentioned that there was one**  
 14:31:31 **20** **last meeting before there was a decision made to separate**  
 14:31:35 **21** **Mr. Vassar from his employment at the office.**  
 14:31:39 **22** **Were you present at that meeting?**  
 14:31:40 **23** **A.** No.  
 14:31:41 **24** **Q.** Were you later requested to provide counsel as  
 14:31:46 **25** **a result of what had happened in that meeting?**  
 TAMI LEWIS, CSR, RDR, CRR, CRC

14:31:47 **1** A. Yes, my --

14:31:49 **2** Q. And, sorry, I'm going to stop you right there

14:31:51 **3** just because I want to make sure that we're keeping this

14:31:53 **4** question and answer.

14:31:54 **5** A. I apologize.

14:31:55 **6** Q. And -- but I appreciate your -- your -- your

14:31:58 **7** testimony.

14:31:58 **8** As -- when you were asked for advice, did

14:32:01 **9** you ultimately recommend separation?

14:32:03 **10** A. Yes.

14:32:03 **11** Q. And do you agree with that decision today?

14:32:06 **12** A. Yes.

14:32:07 **13** Q. Let's talk about Mr. Maxwell. Was he the

14:32:10 **14** director for law enforcement?

14:32:11 **15** A. Yes.

14:32:11 **16** Q. And was he also -- was his employment also

14:32:15 **17** terminated from the Office of Attorney General?

14:32:17 **18** A. He was involuntary separated on -- yes.

14:32:20 **19** Q. And who made that decision?

14:32:23 **20** A. First Assistant, Brent Webster.

14:32:27 **21** Q. Did you advise Mr. Webster, with respect to

14:32:30 **22** that decision to terminate Mr. Maxwell's employment from

14:32:33 **23** the agency?

14:32:34 **24** A. I recommended that it could be done, that it

14:32:40 **25** was reasonable based on the facts presented to me.

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14:34:05 **1** PRESIDING OFFICER: Sustained. Continue.

14:34:11 **2** MS. HILTON: I'd like to offer what's going

14:34:13 **3** to be marked as AG Exhibit 1055. I understand Counsel

14:34:18 **4** does not have an objection to this either.

14:34:20 **5** MR. DUTKO: No objection, Your Honor.

14:34:21 **6** PRESIDING OFFICER: Admit 1055.

14:34:23 **7** MS. HILTON: And, Your Honor, may I

14:34:24 **8** approach the witness with a hard copy?

14:34:27 **9** PRESIDING OFFICER: Yes.

14:34:28 **10** MS. HILTON: Thank you. Mr. Arroyo, could

14:34:38 **11** you please pull up AG Exhibit 1055.

14:34:53 **12** Q. (BY MS. HILTON) Mr. De La Garza, do you

14:34:54 **13** recognize AG Exhibit 1055 as an email that you drafted to

14:34:59 **14** Brent Webster and Aaron Reitz?

14:35:02 **15** A. Yes.

14:35:03 **16** Q. And does this memo provide your legal advice

14:35:06 **17** regarding these -- the continued employment of these

14:35:11 **18** staff members?

14:35:11 **19** A. Yes.

14:35:12 **20** Q. Could you -- what prompted this email?

14:35:17 **21** A. Mr. Maxwell and Mr. Penley -- Mr. Maxwell and

14:35:27 **22** Mr. Penley had been on investigative leave, and they

14:35:31 **23** wanted to have a -- like a -- a meeting to see if there

14:35:35 **24** was any reasonable expectation that they could work with

14:35:42 **25** or for Brent Webster.

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14:32:42 **1** Q. And did you personally have prior experience

14:32:46 **2** with Mr. Maxwell and -- and some violations of agency

14:32:51 **3** policy in the past?

14:32:52 **4** A. Yes.

14:32:53 **5** Q. And how -- how would you recommend -- or excuse

14:32:56 **6** me. How would you describe your experience working with

14:32:59 **7** Mr. Maxwell?

14:33:00 **8** A. I mean, I -- I admire all that he's done. But

14:33:05 **9** with respect to HR issues in -- in HR, certainly, it was

14:33:12 **10** a developing pattern of not going to HR for guidance on

14:33:17 **11** some very sensitive HR matters.

14:33:19 **12** Q. And did the failure to go to HR for guidance on

14:33:24 **13** very sensitive matters, did that ultimately expose the

14:33:27 **14** agency to liability?

14:33:28 **15** A. It could have.

14:33:30 **16** Q. And in about how many instances?

14:33:36 **17** A. Well, there was -- there was one case with a

14:33:44 **18** Hispanic peace officer, a female who had been subject to

14:33:51 **19** sexual harassment.

14:33:52 **20** MR. DUTKO: Objection, Your Honor. This is

14:33:53 **21** knowledge gained through hearsay. Presumably, he did an

14:33:56 **22** interview with this woman who will not come in to

14:33:58 **23** testify. All of the information he gathered and he's

14:34:02 **24** relaying to us is hearsay.

14:34:03 **25** MS. HILTON: Your Honor, I'll move on.

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14:35:45 **1** Q. And I'm sorry, Mr. De La Garza. Just for the

14:35:47 **2** record and for clarification, when you say "they wanted

14:35:50 **3** to have a meeting," who is "they"?

14:35:52 **4** A. Well, primarily the first assistant,

14:35:56 **5** Brent Webster.

14:35:56 **6** Q. Thank you. And I'm sorry to interrupt.

14:35:58 **7** Please go on.

14:35:59 **8** A. And there was a -- kind of a -- sort of a

14:36:06 **9** last-ditch, let's see if there's any reasonable

14:36:09 **10** expectation that they could work with or for

14:36:16 **11** Brent Webster, the new first assistant, and whether there

14:36:18 **12** was any reasonable expectation that they -- that they

14:36:22 **13** could continue as high-level policymakers with Attorney

14:36:29 **14** General Ken Paxton.

14:36:29 **15** Q. And so is this email your suggestions of things

14:36:33 **16** to ask in those meetings?

14:36:35 **17** A. Yes.

14:36:36 **18** Q. Why did you pick these particular questions,

14:36:39 **19** like, Do you trust me, Do you trust the attorney general,

14:36:42 **20** Are you committed to the vision?

14:36:43 **21** Why did those questions make it into this

14:36:46 **22** memo?

14:36:46 **23** A. Well, based on the -- you know, the -- the --

14:36:52 **24** the case law, Elrod v. Burns, Branti v. Finkel and its

14:36:58 **25** progeny, that's what you focus on; the loyalty, trust,

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14:37:01 **1** you know, can the -- can the elected official, you know,  
 14:37:05 **2** trust the people that he's -- or she has chosen to -- to  
 14:37:11 **3** support their -- their vision, their goals.  
 14:37:14 **4** **Q.** Why would that be important to the agency?  
 14:37:16 **5** **A.** Well, it's definitely a question about  
 14:37:19 **6** efficiency. I mean, you -- you -- you -- you want the --  
 14:37:24 **7** everything to move along and if his -- if his deputies  
 14:37:28 **8** aren't -- if they're not seeing eye to eye, it's going to  
 14:37:32 **9** break down and then it eventually starts trickling down  
 14:37:35 **10** and we start losing, you know, efficiency, and there  
 14:37:40 **11** could be worse problems.  
 14:37:50 **12** MS. HILTON: Mr. Arroyo, could you please  
 14:37:51 **13** pull up House Managers Exhibit 383. And, Your Honor,  
 14:37:57 **14** this is already in evidence. May I approach the witness  
 14:38:03 **15** with a hard copy?  
 14:38:04 **16** PRESIDING OFFICER: Yes.  
 14:38:17 **17** **Q.** (BY MS. HILTON) Mr. De La Garza, do you  
 14:38:18 **18** recognize this email that was sent by Greg Simpson, your  
 14:38:22 **19** former boss, to Brent Webster copying you related to the  
 14:38:27 **20** CID division?  
 14:38:29 **21** **A.** Yes.  
 14:38:30 **22** **Q.** And I just want -- I don't want to go through  
 14:38:34 **23** this whole thing, but I just want to ask you on the  
 14:38:37 **24** second page, could you please read aloud the last two  
 14:38:41 **25** sentences on the last page of this document?

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14:40:06 **1** Mr. De La Garza?  
 14:40:07 **2** **A.** I do.  
 14:40:08 **3** **Q.** And who made that decision?  
 14:40:10 **4** **A.** That would also have been the first assistant,  
 14:40:14 **5** Brent Webster.  
 14:40:14 **6** **Q.** I'd like to talk to you about Mr. Penley. Do  
 14:40:20 **7** you recall that he was the deputy attorney general for  
 14:40:22 **8** criminal justice?  
 14:40:23 **9** **A.** Yes.  
 14:40:23 **10** **Q.** And he was also involuntarily separated?  
 14:40:28 **11** **A.** Yes.  
 14:40:28 **12** **Q.** Was he offered the option to resign?  
 14:40:30 **13** **A.** Yes, he was.  
 14:40:31 **14** **Q.** And, to your knowledge, before Mr. Penley was  
 14:40:35 **15** let go, did he meet with Brent Webster?  
 14:40:37 **16** **A.** Yes.  
 14:40:37 **17** **Q.** And did he have the meeting that you  
 14:40:39 **18** suggested -- or that you mentioned earlier about whether  
 14:40:42 **19** there could be a reasonable expectation that Mr. Penley  
 14:40:45 **20** could work effectively with the new first assistant?  
 14:40:48 **21** **A.** Yes, that meeting took place.  
 14:40:49 **22** **Q.** And what was your understanding about the  
 14:40:54 **23** prospect of Mr. Penley being able to effectively work  
 14:40:57 **24** with Mr. Webster following that meeting?  
 14:40:59 **25** **A.** My understanding from that meeting was that

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14:38:45 **1** **A.** It reads: Overall, HRD has had difficulty  
 14:38:50 **2** getting CID to work with us on matters that are  
 14:38:53 **3** appropriately and exclusively within HRD's authority.  
 14:38:59 **4** Maxwell's actions have exposed the agency to potential  
 14:39:02 **5** liability.  
 14:39:02 **6** **Q.** And what does HRD and CID -- what does that  
 14:39:07 **7** mean?  
 14:39:07 **8** **A.** HRD would be the human resources division and  
 14:39:10 **9** CID would be the criminal investigations division.  
 14:39:12 **10** **Q.** And the criminal investigations division, that  
 14:39:15 **11** was the division that Mr. Maxwell was -- was chief of,  
 14:39:18 **12** correct?  
 14:39:19 **13** **A.** Yes. That's one of the primary divisions under  
 14:39:22 **14** law enforcement under his purview.  
 14:39:24 **15** **Q.** And so does this email identify a number of  
 14:39:28 **16** issues with Mr. Maxwell's management of his division?  
 14:39:32 **17** **A.** Yes. Mr. Simpson explained that there were  
 14:39:37 **18** some challenges that the -- that HR had faced.  
 14:39:42 **19** **Q.** Did you agree with the decision to terminate  
 14:39:46 **20** Mr. Maxwell's employment with the agency?  
 14:39:49 **21** **A.** Yes. Based on the facts presented to me and  
 14:39:53 **22** the applicable law, it seemed reasonable.  
 14:39:54 **23** **Q.** And -- okay. You can set that -- that aside.  
 14:39:59 **24** Thank you.  
 14:39:59 **25** Do you agree with that decision today,

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14:41:03 **1** there was no reasonable expectation that Mr. Penley  
 14:41:07 **2** wanted to work with or for his new boss, First Assistant  
 14:41:13 **3** Brent Webster, that he could in the future and that he --  
 14:41:17 **4** he could serve as a high-level policymaker for Attorney  
 14:41:25 **5** General Ken Paxton.  
 14:41:25 **6** **Q.** Did agency policy support Mr. Penley's  
 14:41:28 **7** involuntary separation?  
 14:41:29 **8** **A.** Yes.  
 14:41:29 **9** **Q.** How so?  
 14:41:31 **10** **A.** Well, just based on the -- the lack of  
 14:41:37 **11** confidence. There was -- there was some evidence of, you  
 14:41:45 **12** know, questionable decision-making, the -- you know, just  
 14:41:50 **13** the -- the breakdown in the working relationship. There  
 14:41:54 **14** may have -- also have been, from what I recall, some  
 14:42:05 **15** insubordinate tone or demeanor towards Brent Webster.  
 14:42:01 **16** And so just overall based on the -- the applicable state  
 14:42:08 **17** and federal law and the facts presented to me, it seemed  
 14:42:10 **18** reasonable, and the policy supported that.  
 14:42:12 **19** **Q.** Was it also your understanding at the time that  
 14:42:16 **20** Mr. Penley had omitted some material information in a  
 14:42:20 **21** court filing?  
 14:42:21 **22** **A.** Yes. That had been also presented to me as far  
 14:42:25 **23** as some, you know, wrongdoing, whether it was just  
 14:42:32 **24** con --  
 14:42:32 **25** MR. DUTKO: I apologize for interrupting.

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14:42:34 **1** "This had been presented to me" is hearsay, out-of-court  
 14:42:38 **2** statement. We object to hearsay.  
 14:42:39 **3** MS. HILTON: Your Honor, this is the same  
 14:42:42 **4** ruling that you made earlier to overrule the objection.  
 14:42:44 **5** This is the facts that were presented to him that  
 14:42:47 **6** informed his advice to the agency. And that was  
 14:42:49 **7** subsequently conveyed to Mr. Webster who determined what  
 14:42:53 **8** the employment decisions would be going forward.  
 14:42:54 **9** MR. DUTKO: Your Honor, if I may --  
 14:42:55 **10** PRESIDING OFFICER: Overruled.  
 14:42:57 **11** Q. (BY MS. HILTON) You may continue.  
 14:43:00 **12** A. Yes, I'm sorry. What was the question again?  
**13** I'm sorry.  
 14:43:03 **14** Q. Yes. The question was whether it was -- you  
 14:43:06 **15** know what? I think you answered it.  
**16** A. Oh, thank you.  
 14:43:07 **17** Q. Thank you, Mr. De La Garza.  
 14:43:08 **18** I will ask you a follow-up question. You  
 14:43:12 **19** said it was your understanding that facts had been  
 14:43:14 **20** presented to you that Mr. Penley had omitted material  
 14:43:18 **21** information from a court filing; is that right?  
 14:43:21 **22** A. Yes. That was the facts presented to me.  
 14:43:24 **23** Q. And do you know whether that constitutes a  
 14:43:27 **24** violation of the agency's policy on handling confidential  
 14:43:30 **25** and privileged information?

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14:44:42 **1** advice that you provided to the agency, including to  
 14:44:47 **2** Mr. Webster, about the application of the Whistleblower  
 14:44:50 **3** Act?  
 14:44:50 **4** A. Yes. I provided some -- what I considered  
 14:44:56 **5** privileged and confidential advice regarding the -- the  
 14:45:00 **6** petition that had been filed.  
 14:45:01 **7** Q. Understood. Mr. De La Garza, looking at the  
 14:45:04 **8** first paragraph of this email, you write, Here is my list  
 14:45:08 **9** of why Vassar, Maxwell, Penley, Brickman should be  
 14:45:14 **10** considered high-level policymakers who are exempt from  
 14:45:17 **11** whistleblower protection.  
 14:45:19 **12** Do you see that?  
 14:45:19 **13** A. I do.  
 14:45:20 **14** Q. And I want to ask you about that term  
 14:45:23 **15** "high-level policymakers." What does that -- why was  
 14:45:26 **16** that important?  
 14:45:26 **17** A. That is the term used in, sort of, political  
 14:45:34 **18** patronage case law about, you know, that elected  
 14:45:39 **19** officials can -- can appoint -- they have to be  
 14:45:44 **20** high-level policymakers for them to be appointed.  
 14:45:46 **21** Q. They -- I'm sorry. I just want to be -- they  
 14:45:50 **22** have to be high-level policymakers to be appointed. Is  
 14:45:53 **23** that what you said?  
 14:45:53 **24** A. Yes.  
 14:45:54 **25** Q. Thank you. And all of the former staffers who

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14:43:31 **1** A. Yes. We have a specific policy on that.  
 14:43:34 **2** Q. And did you agree with Mr. Webster's decision  
 14:43:36 **3** to terminate Mr. Penley's employment?  
 14:43:39 **4** A. Yes. Based on the law and the facts presented  
 14:43:42 **5** to me, it was a reasonable decision.  
 14:43:44 **6** Q. And sitting here today, do you stand by that,  
 14:43:48 **7** that support, that recommendation?  
 14:43:50 **8** A. I do.  
 14:43:58 **9** MS. HILTON: Mr. Arroyo, could you please  
 14:43:59 **10** pull up AG Exhibit 120.  
 14:44:01 **11** And, Your Honor, this is not in evidence,  
 14:44:04 **12** so I'm going to offer it now. I understand that Counsel  
 14:44:07 **13** does not have an objection.  
 14:44:08 **14** MR. DUTKO: No objection.  
 14:44:09 **15** PRESIDING OFFICER: Admit AG 120 into  
 14:44:17 **16** evidence.  
 14:44:18 **17** (AG Exhibit 120 admitted)  
 14:44:18 **18** MS. HILTON: And, Your Honor, may I also  
 14:44:19 **19** approach the witness with a hard copy?  
 14:44:21 **20** PRESIDING OFFICER: Yes, you may.  
 14:44:22 **21** MS. HILTON: Thank you.  
 14:44:29 **22** Q. (BY MS. HILTON) Mr. De La Garza, do you  
 14:44:34 **23** recognize this email?  
 14:44:35 **24** A. Yes.  
 14:44:38 **25** Q. And does this email reflect some of the legal

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14:45:57 **1** made reports to law enforcement, in your view, fell under  
 14:46:01 **2** the category of high-level policymakers?  
 14:46:03 **3** MR. DUTKO: Objection. Leading.  
 14:46:04 **4** MS. HILTON: Your Honor, I'm just  
 14:46:06 **5** clarifying his testimony, but can I restate.  
 14:46:07 **6** PRESIDING OFFICER: Sustained. Just  
 14:46:08 **7** restate it.  
 14:46:09 **8** Q. (BY MS. HILTON) Mr. De La Garza, is it your  
 14:46:11 **9** opinion that the former staffers who made reports to law  
 14:46:16 **10** enforcement were all high-level policymakers?  
 14:46:18 **11** A. They were high-level policymakers.  
 14:46:22 **12** Q. And could you just summarize for the jury some  
 14:46:27 **13** of the points that -- that were important to you here  
 14:46:30 **14** that led you to your conclusion that they constitute  
 14:46:36 **15** high-level policymakers that are exempt from the  
 14:46:37 **16** Whistleblower Act?  
 14:46:38 **17** A. Well, based on the -- the list that I have  
 14:46:43 **18** here, and it was supported by case law, they -- you know,  
 14:46:48 **19** they required more than simple ministerial competence.  
 14:46:51 **20** They create or implemented, you know, agency goals,  
 14:46:55 **21** policy. They -- they controlled or exercised a role in  
 14:47:02 **22** the decision-making process as to the goals and general  
 14:47:05 **23** operating procedures of the agency. They ensured that  
 14:47:09 **24** policies which the electorate had sanctioned by electing  
 14:47:12 **25** the attorney general were effectively implemented. They

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14:47:15 **1** all had access to confidential documents or other  
 14:47:18 **2** materials that embodied policymaking deliberations and  
 14:47:23 **3** determinations; you know, party affiliation was an  
 14:47:27 **4** appropriate requirement. They served as --  
 14:47:29 **5** **Q.** Sorry, Mr. De La Garza, if I could, I just want  
 14:47:32 **6** to stop you there. At the bullet point about party  
 14:47:34 **7** affiliation, you write here that, Party affiliation was  
 14:47:38 **8** an appropriate requirement for effective performance of  
 14:47:41 **9** the public office involved. Is party affiliation  
 14:47:44 **10** something that the agency would look for in the -- in the  
 14:47:48 **11** employees who apply for competitive jobs in regular  
 14:47:52 **12** postings?  
 14:47:52 **13** **A.** No.  
 14:47:52 **14** **Q.** Mr. De La Garza, do you stand by this advice in  
 14:48:02 **15** AG Exhibit 120 today?  
 14:48:03 **16** **A.** I do.  
 14:48:11 **17** **Q.** Thank you. You can set that aside.  
 14:48:21 **18** Mr. De La Garza, did the Office of the  
 14:48:23 **19** Attorney General have legitimate, nonretaliatory reasons  
 14:48:26 **20** for terminating these staffers' employment?  
 14:48:30 **21** **A.** In my opinion, yes.  
 14:48:31 **22** **Q.** And under the Texas Whistleblower Act, can the  
 14:48:34 **23** Office of Attorney General, or any state agency,  
 14:48:37 **24** terminate a whistleblower based on information or  
 14:48:40 **25** evidence that is not related to their whistleblower

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14:49:59 **1** **Q.** Do you have any knowledge that Brent Webster  
 14:50:03 **2** ever indicated, expressly or implicitly, that these  
 14:50:07 **3** former staffers needed to be fired because they made a  
 14:50:09 **4** report to law enforcement?  
 14:50:10 **5** **A.** Not to my knowledge.  
 14:50:11 **6** **Q.** Did anyone at the Office of Attorney General  
 14:50:15 **7** determine what your recommendations would be with respect  
 14:50:20 **8** to the legal advice you provided for these former  
 14:50:21 **9** staffers who were involuntarily terminated?  
 14:50:24 **10** **A.** Not to my knowledge.  
 14:50:24 **11** **Q.** Was your analysis of whether the former  
 14:50:34 **12** staffers had violated agency policy, was -- was your  
 14:50:38 **13** analysis an independent analysis?  
 14:50:39 **14** **A.** Yes. I mean, at times, I consulted with the  
 14:50:46 **15** other lawyer, my -- my boss before he -- he left.  
 14:50:53 **16** MS. HILTON: Mr. Arroyo, could you please  
 14:50:54 **17** pull up Article of Impeachment VI? And could you turn to  
 14:51:09 **18** the next paragraph of Article VI, please, Mr. Arroyo.  
 14:51:17 **19** **Q.** (BY MS. HILTON) Mr. De La Garza, Article VI  
 14:51:21 **20** accuses the attorney general of: Terminating the  
 14:51:24 **21** employees without good cause or due process and in  
 14:51:28 **22** retaliation for reporting his illegal acts and improper  
 14:51:32 **23** conduct.  
 14:51:34 **24** Do you see that?  
 14:51:35 **25** **A.** I do.

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14:48:42 **1** report?  
 14:48:43 **2** **A.** Yes.  
 14:48:44 **3** **Q.** And do you agree that the age -- that for the  
 14:48:49 **4** agency to be effective, that high-level policymakers need  
 14:48:53 **5** to be able to collaborate effectively with the first  
 14:48:55 **6** assistant and with the attorney general?  
 14:48:56 **7** **A.** Yes.  
 14:48:57 **8** **Q.** Did you believe that there was any reasonable  
 14:49:04 **9** possibility that any of these former staffers could do  
 14:49:07 **10** that?  
 14:49:08 **11** **A.** Well, Darren McCarty resigned. There -- there  
 14:49:17 **12** could have been Ryan Bangert, so, you know, I would say  
 14:49:24 **13** that there was possibly with them, but --  
 14:49:26 **14** **Q.** For the ones that resigned. But for the ones  
 14:49:28 **15** that were terminated -- for the ones that were  
 14:49:31 **16** terminated, was there a reasonable expectation that they  
 14:49:34 **17** could work with the first -- the new first assistant and  
 14:49:36 **18** with the attorney general?  
 14:49:36 **19** **A.** Yes. For the ones who were involuntarily  
 14:49:40 **20** separated, no. In my opinion, there was no reasonable  
 14:49:45 **21** expectation.  
 14:49:45 **22** **Q.** Did Ken Paxton ever indicate, expressly or  
 14:49:52 **23** implicitly, that these former staffers needed to be fired  
 14:49:56 **24** because they made a report to law enforcement?  
 14:49:57 **25** **A.** Not to my knowledge.

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14:51:35 **1** **Q.** Is good cause required to terminate an employee  
 14:51:39 **2** in Texas?  
 14:51:40 **3** **A.** No, it's not. But at the attorney general's  
 14:51:42 **4** office, we ensure that there are good reasons and that  
 14:51:46 **5** it's fair.  
 14:51:46 **6** **Q.** And did good reasons and fair reasons exist for  
 14:51:50 **7** each of the former staffers that were involuntarily  
 14:51:54 **8** terminated?  
 14:51:55 **9** **A.** In my opinion, yes.  
 14:51:56 **10** **Q.** Is due process required to terminate an  
 14:51:59 **11** employee in Texas?  
 14:52:00 **12** **A.** No. There's no property right to our -- to our  
 14:52:06 **13** jobs since we're at-will, so due process, there's no  
 14:52:11 **14** constitutional right, and -- but we ensure that it's  
 14:52:15 **15** fair.  
 14:52:15 **16** **Q.** So -- okay. Thank you.  
 14:52:17 **17** And were any of the former executive  
 14:52:22 **18** administration staffers terminated in retaliation for  
 14:52:26 **19** making a report to law enforcement?  
 14:52:28 **20** **A.** In my opinion, no.  
 14:52:31 **21** MS. HILTON: Thank you, Mr. De La Garza.  
 14:52:33 **22** I pass the witness, Your Honor.  
 14:52:34 **23** PRESIDING OFFICER: Thank you.  
 14:52:35 **24** Your witness. Please state your name for  
 14:52:42 **25** the record.

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14:52:42 **1** MR. DUTKO: Yes, Your Honor. Daniel Dutko.

14:52:56 **2** CROSS-EXAMINATION

14:52:56 **3** BY MR. DUTKO:

14:52:57 **4** **Q.** Hi, Mr. De La Garza. How are you?

14:52:59 **5** **A.** Fine. Thank you. How are you?

14:53:01 **6** **Q.** Mr. De La Garza, you testified a moment ago

14:53:03 **7** that you were familiar with the Texas Whistleblower Act,

14:53:06 **8** correct?

14:53:06 **9** **A.** Yes, I did.

14:53:08 **10** **Q.** And you understand that the Texas Whistleblower

14:53:10 **11** Act affords protection to people that go to law

14:53:14 **12** enforcement so they can go to law enforcement without

14:53:17 **13** retribution, right?

14:53:18 **14** **A.** Yes.

14:53:18 **15** **Q.** And as part of the Texas Whistleblower Act,

14:53:22 **16** that protection only extends to people who still have

14:53:26 **17** their job?

14:53:27 **18** **A.** Yes, they are -- yes.

14:53:32 **19** **Q.** Right. So what I mean is if you report someone

14:53:36 **20** to law enforcement and they still have their job and then

14:53:42 **21** they're retaliated against, they are protected by

14:53:44 **22** whistleblower, correct?

14:53:45 **23** **A.** If they -- yes, if they comply with the

14:53:49 **24** retaliatory -- the requirements in the Texas

14:53:52 **25** Whistleblower Act, yes.

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14:53:52 **1** **Q.** But if they get fired before they go to law

14:53:55 **2** enforcement, they're not afforded the protection of the

14:53:57 **3** Whistleblower Act, correct?

14:53:58 **4** **A.** Right. It has to be -- right.

14:54:01 **5** **Q.** Right. So before you go to law enforcement,

14:54:03 **6** you don't want to tell your boss: I'm going to law

14:54:08 **7** enforcement?

14:54:08 **8** MS. HILTON: Objection. Speculation.

14:54:11 **9** PRESIDING OFFICER: Sustained.

14:54:12 **10** **Q.** (BY MR. DUTKO) Under the Whistleblower Act, if

14:54:14 **11** you tell your boss you're going to law enforcement, you

14:54:18 **12** get terminated, then you go to law enforcement, you're

14:54:20 **13** not entitled to the whistleblower protection, correct?

14:54:23 **14** MS. HILTON: Objection. Speculation. It's

14:54:25 **15** the same question, Your Honor.

14:54:26 **16** MR. DUTKO: He just said he knew this.

14:54:29 **17** PRESIDING OFFICER: You can answer, if you

14:54:30 **18** know.

14:54:30 **19** **A.** All right. Could you just repeat the question,

14:54:33 **20** please?

14:54:34 **21** **Q.** (BY MR. DUTKO) Sure. Under the whistleblower

14:54:36 **22** statute that you said you're familiar with, if you tell

14:54:38 **23** your boss, I'm about to go to law enforcement, then you

14:54:41 **24** go to -- before you go to law enforcement you get fired,

14:54:44 **25** then you go to law enforcement, you're not entitled to

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14:54:48 **1** the protections of the whistleblower statute, are you?

14:54:50 **2** **A.** I guess you could make the argument in court.

14:54:55 **3** I'm not sure how successful you'd be.

14:54:58 **4** **Q.** But you agree with my statement, correct?

14:55:00 **5** **A.** Probably wouldn't be the -- the best way to do

14:55:02 **6** it.

14:55:02 **7** **Q.** So if someone were to stand up here over and

14:55:04 **8** over --

14:55:05 **9** PRESIDING OFFICER: Witness needs to speak

14:55:07 **10** up when you speak.

14:55:08 **11** THE WITNESS: Excuse me.

14:55:09 **12** **Q.** (BY MR. DUTKO) If someone were to stand up

14:55:11 **13** here over and over and say, Why didn't you just call your

14:55:13 **14** boss; before you went to law enforcement, why didn't you

14:55:16 **15** just call your boss, under the Whistleblower Act that

14:55:18 **16** wouldn't be a good idea, would it?

14:55:20 **17** **A.** I mean, if your plan was to file a lawsuit,

14:55:24 **18** then, yes, you should -- you shouldn't do that.

14:55:27 **19** **Q.** You should not go to your boss first?

14:55:30 **20** **A.** If you were planning to file a lawsuit. I

14:55:32 **21** mean, it depends on the situation.

14:55:33 **22** **Q.** I'm not talking about a lawsuit. I'm talking

14:55:35 **23** about whistleblower protection. It would not be a good

14:55:37 **24** idea to call your boss first, right?

14:55:39 **25** MS. HILTON: Objection. Asked and

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14:55:44 **1** answered.

14:55:44 **2** PRESIDING OFFICER: Overruled.

14:55:46 **3** **Q.** (BY MR. DUTKO) Right?

14:55:46 **4** **A.** You're asking me to speculate. I'm not sure

14:55:48 **5** what a plaintiff should or shouldn't do.

14:55:52 **6** **Q.** You don't want to answer that, do you?

14:55:54 **7** **A.** I -- I'm -- I'm -- I'm not a -- I'm not here

14:56:00 **8** to, you know, speculate as to what a potential plaintiff

14:56:04 **9** under the Whistleblower Act should do or could do.

14:56:06 **10** **Q.** Just so we're clear, you're not here now. A

14:56:09 **11** moment ago you were okay with it, right?

14:56:10 **12** MS. HILTON: Objection, Your Honor. It's

14:56:12 **13** argumentative.

14:56:13 **14** PRESIDING OFFICER: Sustained.

14:56:16 **15** MR. DUTKO: Let's put up AG 120, please.

14:56:26 **16** **Q.** (BY MR. DUTKO) Can you see AG 120?

14:56:27 **17** **A.** Yes.

14:56:28 **18** **Q.** This is a document that you created an email,

14:56:30 **19** right?

14:56:31 **20** **A.** Yes.

14:56:32 **21** **Q.** And in this email, it says: Here are my lists

14:56:36 **22** of why Vassar, Maxwell, Penley, Brickman should be

14:56:39 **23** considered high-level policymakers who are exempt from

14:56:42 **24** whistleblower protection. Correct?

14:56:43 **25** **A.** Yes.

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14:56:43 **1** Q. This is your analysis?

14:56:45 **2** A. This was a privileged and confidential document

14:56:51 **3** that we were -- we are brainstorming.

14:56:55 **4** Q. I appreciate that, but I think I wrote down

14:56:56 **5** your words and what you said was, This is my analysis.

14:57:00 **6** You still stand by that?

14:57:01 **7** A. Yes, sure.

14:57:02 **8** Q. And you said, I stand by that today?

14:57:04 **9** A. Yes.

14:57:05 **10** Q. And you said to the senators here, This is the

14:57:08 **11** correct analysis, right?

14:57:09 **12** A. At the time, I believed it was the correct

14:57:12 **13** analysis, sir.

14:57:14 **14** Q. This argument, this exact argument that's in

14:57:17 **15** this document right here, was made in the court, right?

14:57:19 **16** A. I'm not sure. I wasn't involved in that.

14:57:22 **17** Q. You're not familiar with the Court of Appeals

14:57:24 **18** case, Office of the Attorney General versus Blake

14:57:28 **19** Brickman, Mark Penley, David Maxwell and Ryan Vassar?

14:57:31 **20** You're not familiar with that?

14:57:32 **21** A. I'm familiar, but I wasn't involved. I didn't

14:57:36 **22** work on that appeal.

14:57:36 **23** Q. Are you familiar with the decision that came

14:57:39 **24** out in that appeal?

14:57:40 **25** A. I would have to read it and -- and --

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14:57:45 **1** Q. You don't remember?

14:57:45 **2** A. I -- to be honest, I'm not sure if I

14:57:52 **3** carefully -- that was not something that I needed to

14:57:55 **4** read.

14:57:55 **5** Q. Well, if you had read it, you would know that

14:57:58 **6** the Court of Appeals said all of your analysis in AG 120

14:58:02 **7** was wrong.

14:58:02 **8** MS. HILTON: Objection. Argumentative.

14:58:06 **9** MR. DUTKO: He knows.

14:58:07 **10** PRESIDING OFFICER: Overruled.

14:58:10 **11** Q. (BY MR. DUTKO) Right?

14:58:10 **12** A. It -- it happens as -- as lawyers. You know,

14:58:14 **13** we make arguments and -- and courts don't agree with

14:58:17 **14** them. And so, you know, there's always going to be a

14:58:20 **15** winning side and a losing side, and at the time, I was

14:58:22 **16** just coming up with potential arguments. That's what,

14:58:27 **17** you know, we do.

14:58:27 **18** Q. Right. So when the senators are deciding

14:58:30 **19** whether or not this is a valid argument, they can

14:58:32 **20** disregard it because the Court of Appeals already decided

14:58:35 **21** it was not?

14:58:35 **22** MS. HILTON: Objection. This misstates

14:58:37 **23** testimony, and it's going outside of direct. This also

14:58:40 **24** is talking about a document that is not in evidence, and

14:58:43 **25** there's been no testimony before this witness about.

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14:58:46 **1** PRESIDING OFFICER: Overruled.

14:58:48 **2** Q. (BY MR. DUTKO) Right?

14:58:49 **3** A. I defer to the Senate to do the right thing.

14:58:55 **4** Q. You spent a lot of time telling us about how

14:58:58 **5** people were involuntarily separated. That means fired,

14:59:03 **6** right?

14:59:03 **7** A. Yeah. We just like to use involuntary

14:59:05 **8** separation.

14:59:05 **9** Q. Okay. I just want to make sure we're on the

14:59:07 **10** same page. That means fired?

14:59:08 **11** A. It does.

14:59:09 **12** Q. You also spent a lot of time using the phrase

14:59:11 **13** "based on facts presented to me," right?

14:59:13 **14** A. Yes.

14:59:13 **15** Q. And those facts were presented to you by

14:59:17 **16** Brent Webster?

14:59:17 **17** A. For the most part, yes.

14:59:18 **18** Q. Doesn't it seem like you had a Brent Webster

14:59:21 **19** problem?

14:59:22 **20** A. Well, he was the -- the new first assistant,

14:59:27 **21** and these employees were reporting to him.

14:59:31 **22** Q. I mean, you've heard the term "garbage in,

14:59:33 **23** garbage out," right?

14:59:34 **24** A. I've heard the expression.

14:59:35 **25** Q. So if Brent Webster's giving you information

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14:59:37 **1** that's not true, then your analysis is wrong, correct?

14:59:40 **2** A. I -- I have to rely on the information given to

14:59:46 **3** me.

14:59:46 **4** Q. I appreciate that. My question is a little bit

14:59:48 **5** different.

14:59:48 **6** If Brent Webster's not telling you accurate

14:59:50 **7** information, then all the analysis you gave on direct

14:59:53 **8** examination is all incorrect?

14:59:54 **9** MS. HILTON: Objection. Speculation.

14:59:56 **10** MR. DUTKO: He knows.

14:59:59 **11** PRESIDING OFFICER: Overruled.

15:00:00 **12** Q. (BY MR. DUTKO) Correct?

15:00:00 **13** A. I have to rely on -- on the facts presented to

15:00:03 **14** me, and so I --

15:00:05 **15** Q. Is my question difficult?

15:00:07 **16** A. It's -- you're saying that if he presented a

15:00:12 **17** false -- if somebody present -- if he presented false

15:00:16 **18** information to me and I'm using that false -- yes, it

15:00:21 **19** could affect my analysis.

15:00:23 **20** Q. Well, let's talk about the real reason why

15:00:27 **21** these people got fired.

15:00:29 **22** MR. DUTKO: Stacey, can you put the

15:00:30 **23** timeline up, please? I'm going to use this for

15:00:34 **24** demonstrative purposes, so --

15:00:36 **25** MS. HILTON: Your Honor, I'm going to

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15:00:37 **1** object. I've never seen whatever this is before.

15:00:41 **2** Counsel and I discussed exhibits during the break. This

15:00:44 **3** was not provided to me, so I would request that we get a

15:00:46 **4** copy of whatever this is to quickly review.

15:00:49 **5** MR. DUTKO: Not an exhibit, Your Honor.

15:00:51 **6** Simply demonstrative purposes. Not going back based on

15:00:55 **7** dates that this witness provided on direct examination.

15:00:57 **8** If the dates are wrong, Counsel can correct me.

15:00:58 **9** MS. HILTON: Well, Your Honor, I mean, we

15:01:00 **10** might have an objection to whatever -- I mean, whatever

15:01:03 **11** he's going to put on this timeline. I don't know what it

15:01:06 **12** is, and I don't have an opportunity to verify it. And

15:01:07 **13** it's being published to this jury as if it's fact, so I'm

15:01:11 **14** going to object to displaying this to the jury.

15:01:13 **15** MR. DUTKO: Your Honor, this -- they're

15:01:14 **16** making evidentiary arguments. I'm not offering this into

15:01:17 **17** evidence. It's purely demonstrative.

15:01:19 **18** MS. HILTON: Your Honor, this --

15:01:20 **19** PRESIDING OFFICER: Hold on. Hold on.

15:01:21 **20** Don't talk over each other. I think you can provide

15:01:24 **21** Counsel with what you're about to show.

15:01:26 **22** MR. DUTKO: May I go to Counsel?

15:01:28 **23** PRESIDING OFFICER: Yes.

15:01:29 **24** MS. HILTON: Thank you.

15:01:56 **25** Your Honor, I might have objections as this

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15:01:57 **1** goes along because I don't think there's any foundation

15:02:00 **2** that he's laid yet, at least to ask -- to publish these

15:02:03 **3** as something that's within this witness' personal

15:02:07 **4** knowledge. But subject to that, I appreciate counsel

15:02:08 **5** providing this copy, and we can move along.

15:02:10 **6** PRESIDING OFFICER: Move along.

15:02:12 **7** Q. (BY MR. DUTKO) Mr. De La Garza, on

15:02:15 **8** September 30th -- and just before we get started, I want

15:02:18 **9** to point out, this timeline is --

15:02:22 **10** PRESIDING OFFICER: Stay at the microphone.

15:02:23 **11** MR. DUTKO: Yes.

15:02:24 **12** Q. (BY MR. DUTKO) I want to point out, Mr. De La

15:02:25 **13** Garza, that this timeline is roughly a month and a half,

15:02:28 **14** less than a month and a half.

15:02:33 **15** Do you see that?

15:02:33 **16** A. Yes.

15:02:34 **17** Q. And as you are familiar with the whistleblower

15:02:39 **18** statute, as you testified on direct examination, I'm sure

15:02:43 **19** you're familiar with 554.004, right?

15:02:45 **20** A. Is that -- could you remind me?

15:02:49 **21** Q. Sure. It says, In an adverse action if, within

15:02:53 **22** 90 days of reporting to law enforcement, there is a

15:02:56 **23** presumption of retaliatory contact.

15:02:59 **24** A. There is a presumption that can be rebutted.

15:03:01 **25** Q. And so the law says if within 90 days of

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15:03:04 **1** reporting something to law enforcement you're terminated

15:03:07 **2** or have an adverse action, we are to presume that was

15:03:11 **3** retaliatory, right?

15:03:12 **4** A. There's a presumption.

15:03:13 **5** Q. So September 30th, the whistleblowers go to the

15:03:19 **6** FBI, right?

15:03:20 **7** A. I'm not sure. I have no personal knowledge of

15:03:23 **8** what they did.

15:03:23 **9** Q. The head of HR, you don't know?

15:03:25 **10** A. I mean, I -- that's what I heard. That's what

15:03:27 **11** they presented to -- to my boss, a letter saying that

15:03:31 **12** they had gone there.

15:03:31 **13** Q. Let's start over. You're the head of HR,

15:03:34 **14** right?

15:03:34 **15** A. Now, yes.

15:03:35 **16** Q. You know that they went to FBI on

15:03:37 **17** September 30th, right?

15:03:38 **18** A. I -- I have received information that they did.

15:03:41 **19** I have no reason to disbelieve that.

15:03:43 **20** Q. You also know on October 1st the whistleblowers

15:03:47 **21** notified HR and the AG Paxton of the FBI report, correct?

15:03:51 **22** A. Yes. I believe it was the 1st.

15:03:55 **23** Q. The next day, Mark Penley and David Maxwell

15:03:58 **24** were placed on administrative leave?

15:04:00 **25** A. That's correct.

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15:04:01 **1** Q. On October 13th, David Maxwell made his formal

15:04:07 **2** complaint against Ken Paxton?

15:04:09 **3** A. I -- I'm not aware of exactly when he did.

15:04:15 **4** Formal complaints go to the formal complaint officer, so

15:04:18 **5** if -- if you say it was the 13th.

15:04:21 **6** Q. You spent a lot of time telling us about David

15:04:23 **7** Maxwell. You reviewed all of the file. You're telling

15:04:26 **8** me you don't know when David Maxwell made his formal

15:04:28 **9** complaint?

15:04:28 **10** A. I -- I don't have personal knowledge of that

15:04:31 **11** because formal complaints go to the formal complaint

15:04:34 **12** officer. They don't go to HR.

15:04:36 **13** Q. Well, we can assume by the fact that your

15:04:38 **14** lawyer hasn't stood up and objected that that's the day

15:04:40 **15** he made his formal complaint, okay?

15:04:43 **16** A. That's -- I have no reason to disbelieve that.

15:04:45 **17** Q. October 15th, Brickman, Vassar, Bangert,

15:04:48 **18** McCarty and Penley all filed formal complaints. You know

15:04:50 **19** that as well, right?

15:04:52 **20** A. I understood that they all filed formal

15:04:55 **21** complaints.

15:04:55 **22** Q. October 20th, so 20 days after going to the

15:05:01 **23** FBI, 19 days after the whistleblowers notify of the fact

15:05:06 **24** that they went to the FBI, Blake Brickman was fired,

15:05:10 **25** right?

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15:05:10 **1** A. Yes.

15:05:10 **2** Q. Lacey Mase was fired?

15:05:12 **3** A. Yes.

15:05:13 **4** Q. November 2nd, a month after going to the FBI,

15:05:20 **5** David Maxwell was fired?

15:05:20 **6** A. Yes.

15:05:21 **7** Q. November 2nd, a month after going to the FBI,

15:05:26 **8** Mark Penley was fired?

15:05:27 **9** A. Yes.

15:05:27 **10** Q. November 17th, six weeks after going to the

15:05:33 **11** FBI, Ryan Vassar is fired?

15:05:36 **12** A. Yes.

15:05:38 **13** Q. Have you ever heard of the expression, "there's

15:05:42 **14** no coincidences in Austin"?

15:05:44 **15** A. (No verbal response.)

15:05:53 **16** MR. DUTKO: Pass the witness.

15:05:54 **17** PRESIDING OFFICER: Redirect.

15:05:56 **18** MS. HILTON: Just briefly, Your Honor.

15:05:58 **19** REDIRECT EXAMINATION

15:05:59 **20** BY MS. HILTON:

15:06:01 **21** Q. Mr. De La Garza, were there -- did agency

15:06:07 **22** policy support the termination of Lacey Mase?

15:06:10 **23** A. Yes.

15:06:11 **24** Q. And did you recommend that termination?

15:06:15 **25** A. I did.

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15:09:27 **1** Will the defense call their next witness?

15:09:38 **2** MR. OSSO: Defense calls Grant Dorfman to

15:09:41 **3** the witness stand.

15:09:42 **4** PRESIDING OFFICER: Please bring in Grant

15:09:46 **5** Dorfman.

15:10:39 **6** Mr. Dorfman, if you'd raise your right

15:10:45 **7** hand.

15:11:01 **8** (Witness sworn by the Presiding Officer)

15:11:01 **9** PRESIDING OFFICER: Please have a seat.

**10** Your witness.

15:11:06 **11** MR. OSSO: May I proceed?

15:11:06 **12** GRANT DORFMAN,

**13** having been first duly sworn, testified as follows:

15:11:06 **14** DIRECT EXAMINATION

15:11:06 **15** BY MR. OSSO:

15:11:09 **16** Q. It's Anthony Osso, O-S-S-O, on behalf of

15:11:13 **17** Attorney General Paxton.

15:11:14 **18** Sir, would you please state and spell your

15:11:17 **19** name for the record?

15:11:17 **20** A. I t's Grant Dorfman, G-R-A-N-T. Dorfman is

15:11:22 **21** D-O-R-, F as in Frank, M-A-N.

15:11:22 **22** Q. Okay. And I understand you're a judge, but

15:11:24 **23** just to keep the record clear, I'm going to call you

15:11:27 **24** Mr. Dorfman, if that's all right.

15:11:28 **25** A. I appreciate that.

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15:06:16 **1** Q. Do you stand by that recommendation today?

15:06:18 **2** A. I do.

15:06:22 **3** MS. HILTON: No further questions, Your

15:06:24 **4** Honor.

15:06:26 **5** PRESIDING OFFICER: Are you --

15:06:27 **6** MR. DUTKO: No need for it.

15:06:28 **7** PRESIDING OFFICER: Okay. We can

15:06:30 **8** exclude -- excuse the witness?

15:06:31 **9** MS. HILTON: Yes, Your Honor.

15:06:32 **10** PRESIDING OFFICER: Yes. You may step

15:06:35 **11** down. Thank you.

15:06:37 **12** A little housekeeping before the next

15:06:39 **13** witness. I said that after the break I would admit 702

15:06:44 **14** into evidence. We did not do that, so 702 is admitted

15:06:47 **15** into evidence.

**16** (AG Exhibit 720 admitted)

15:06:48 **17** PRESIDING OFFICER: Mr. Donnelly, I think

15:06:49 **18** that was the correct number.

15:06:52 **19** Also, if both parties would like to come to

15:06:54 **20** the bench for a moment.

15:07:19 **21** (At the bench, off the record.)

15:09:06 **22** PRESIDING OFFICER: The court will come to

15:09:07 **23** order. Members of the jury, there was a motion filed

15:09:15 **24** yesterday by the House to amend the rules to collapse a

15:09:21 **25** vote into one vote. That motion has been withdrawn.

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15:11:29 **1** Q. Okay. Mr. Dorfman, could you please tell these

15:11:33 **2** senators how you're currently employed?

15:11:34 **3** A. I'm the deputy first assistant at the Office of

15:11:37 **4** the Attorney General.

15:11:37 **5** Q. Okay. And I'm going to ask that you lean into

15:11:40 **6** that mic and speak loud and clear so that everybody in

15:11:42 **7** the courtroom can hear you. Now, before we talk about

15:11:44 **8** your role as the deputy first assistant, I want to talk

15:11:48 **9** to you a little about your background and who you are.

15:11:50 **10** Can you tell us where you're from?

15:11:51 **11** A. Grew up in Dallas, Texas.

15:11:53 **12** Q. Okay. And where did you end up going to

15:11:55 **13** school?

15:11:56 **14** A. Brown University in Providence, Rhode Island.

15:12:00 **15** Q. Okay. And then was that for undergraduate?

15:12:01 **16** A. Sorry?

15:12:02 **17** Q. Undergraduate?

15:12:03 **18** A. That was my undergraduate, yes.

15:12:05 **19** Q. Did you go on to do law school?

15:12:07 **20** A. I did.

15:12:07 **21** Q. Okay. Can you tell us where you went?

15:12:08 **22** A. Yale Law School.

15:12:09 **23** Q. And what did you do after you completed your

15:12:12 **24** time at Yale?

15:12:12 **25** A. I accepted a clerkship with a federal judge in

TAMI LEWIS, CSR, RDR, CRR, CRC

15:12:16 **1** Houston, Texas; brought me back to Texas after ten years  
 15:12:19 **2** on the east coast. I also had -- took two years out  
 15:12:22 **3** before law school, got a graduate degree there, not -- in  
 15:12:26 **4** England, as well, and then had a one-year clerkship  
 15:12:29 **5** opportunity in Houston. Thought I was going back to D.C.  
 15:12:32 **6** to join the Department of Justice for the second term of  
 15:12:37 **7** the George Herbert Walker Bush administration. That  
 15:12:39 **8** never materialized, so I ended up staying in Houston.  
 15:12:42 **9** **Q.** Okay. So after that didn't work out, what did  
 15:12:45 **10** you end up doing next?  
 15:12:46 **11** **A.** I went to work for a commercial litigation  
 15:12:48 **12** boutique and continued in that line, went to a second  
 15:12:54 **13** firm where I made partner in, I think, 1999.  
 15:12:55 **14** **Q.** Okay. Which firm was that?  
 15:12:57 **15** **A.** Ogden, Gibson, White & Brooks. And the first  
 15:12:59 **16** firm was Susman Godfrey.  
 15:13:01 **17** **Q.** Okay. And while you were working as a partner,  
 15:13:03 **18** can you describe to us, kind of, what type of law you  
 15:13:06 **19** were practicing?  
 15:13:07 **20** **A.** Commercial litigation generally, that's a big  
 15:13:10 **21** area, but civil trial work.  
 15:13:12 **22** **Q.** Okay.  
 15:13:12 **23** **A.** And appeals and a lot of energy work, a lot of  
 15:13:16 **24** employment cases, and just the -- the things that Houston  
 15:13:22 **25** trial practice is made out of.

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15:14:35 **1** court vacancies in 2002.  
 15:14:37 **2** **Q.** Okay. And can you tell us what happened with  
 15:14:40 **3** that application?  
 15:14:44 **4** **A.** Successful. I was appointed to the 129th  
 15:14:47 **5** District Court in Harris County, it's a civil district  
 15:14:49 **6** court, in May of 2002.  
 15:14:50 **7** **Q.** Okay. And can you tell us what happened after  
 15:14:53 **8** that term and further on in your career?  
 15:14:55 **9** **A.** I'm sorry. I didn't catch that last part.  
 15:14:57 **10** **Q.** After you served as a judge, a civil court  
 15:15:00 **11** judge in Houston, what did you do next in your career?  
 15:15:02 **12** **A.** Well, involuntarily, the voters decided in  
 15:15:06 **13** 2008, that the -- they liked President Obama better than  
 15:15:10 **14** the rest of the ticket. I went in-house with Nabors  
 15:15:15 **15** Drilling as an independent oil and gas contractor -- an  
 15:15:18 **16** oil and gas contractor, I should say, with worldwide  
 15:15:20 **17** operations, based out of Houston, with about 25,000  
 15:15:24 **18** employees and managed their civil -- all their  
 15:15:26 **19** litigation.  
 15:15:26 **20** **Q.** Okay. And then at any point, did you serve  
 15:15:29 **21** another term as a judge in Houston?  
 15:15:32 **22** **A.** Got remarried in 2013, wanted to do something  
 15:15:37 **23** different and reapplied to Governor Perry for a district  
 15:15:40 **24** court bench and was appointed in November of 2013 to the  
 15:15:45 **25** 334th District Court, also in Harris County, same kind of

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15:13:23 **1** **Q.** Understandable. What did you do after you  
 15:13:26 **2** spent your time working as a partner of a law firm?  
 15:13:29 **3** **A.** Well, I had a desire for government service.  
 15:13:33 **4** I'd never really set it out (sic) to be a partner at a  
 15:13:36 **5** law firm and continue that for the next -- last 30 or 40  
 15:13:39 **6** years of my career, so I'd applied to the Department of  
 15:13:43 **7** Justice when the George W. Bush administration came  
 15:13:46 **8** around, went up to interview for two vacancies in deputy  
 15:13:50 **9** AGs in the civil division.  
 15:13:52 **10** I ended up withdrawing a -- within one week  
 15:13:55 **11** of the interview because my daughter was on the autism  
 15:13:57 **12** spectrum disorder. She was then four or five years old,  
 15:14:00 **13** and it turns out to my surprise but after exhaustive  
 15:14:04 **14** research, the school she was in in Houston did not have  
 15:14:07 **15** any counterpart, incomparable service in either the  
 15:14:13 **16** Washington or Baltimore metro area, so I had to withdraw  
 15:14:16 **17** from consideration for that. That lit a fire under me.  
 15:14:20 **18** Reminded me that's kind of what drew me to law in the  
 15:14:23 **19** first place. And so --  
 15:14:25 **20** **Q.** Let me stop you real quick. So that's back to  
 15:14:28 **21** Houston, right?  
 15:14:28 **22** **A.** I'm still in Houston.  
 15:14:29 **23** **Q.** Okay.  
 15:14:30 **24** **A.** Never left. But then I put in for an  
 15:14:32 **25** application to Governor Perry's office for two district

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15:15:48 **1** court I presided over before.  
 15:15:50 **2** **Q.** Okay. And so in total, about how long did you  
 15:15:53 **3** serve as a judge?  
 15:15:54 **4** **A.** I think altogether ten years.  
 15:15:57 **5** **Q.** Okay.  
 15:15:57 **6** **A.** Not including visiting judge service  
 15:16:00 **7** afterwards.  
 15:16:00 **8** **Q.** Okay. And then at some point, you become  
 15:16:04 **9** deputy first assistant at the attorney general's office.  
 15:16:07 **10** Can you talk to us about what took you from Houston to  
 15:16:11 **11** Austin for that job?  
 15:16:12 **12** **A.** Yeah. Not to dwell on bad news, but in 2016, I  
 15:16:19 **13** along with most of my Republican colleagues on the bench  
 15:16:21 **14** in Henderson County lost, and -- and I went back in  
 15:16:26 **15** private practice for a couple of years. My father passed  
 15:16:30 **16** in that time frame, and I stepped into a family business  
 15:16:33 **17** that needed more care than I could give it as a full-time  
 15:16:37 **18** litigator, so I juggled that with having left the law  
 15:16:41 **19** firm being in -- a mediator, an arbitrator, available to  
 15:16:46 **20** parties to resolve their disputes and also a visiting  
 15:16:49 **21** judge when the administrative presiding judge in Houston  
 15:16:53 **22** appointed me to service in that capacity.  
 15:16:56 **23** **Q.** Okay. So what brings you to the attorney  
 15:16:58 **24** general's office then? How does that -- how do you go  
 15:17:01 **25** about applying for that job?

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15:17:02 **1** **A.** Well, it came, sort of, out of the blue. I had  
 15:17:04 **2** a call from my friend Austin Kinghorn, who I'd known for  
 15:17:08 **3** several years as a law clerk to one of the justices on  
 15:17:11 **4** the Supreme Court before that on the Court of Appeals,  
 15:17:13 **5** and he asked if I knew anyone who might be interested in  
 15:17:17 **6** working for the attorney general, and I said, yeah, me.  
 15:17:20 **7** **Q.** Okay. I want to talk to you about that.  
 15:17:24 **8** Obviously, it's no surprise we're here because there have  
 15:17:27 **9** been a lot of allegations made against Attorney General  
 15:17:29 **10** Paxton. You're aware of this, I assume?  
 15:17:31 **11** **A.** Sure.  
 15:17:32 **12** **Q.** So when you get that call from Austin Kinghorn,  
 15:17:37 **13** you're interested in the job, were you aware of all these  
 15:17:39 **14** allegations at the time?  
 15:17:40 **15** **A.** Yes.  
 15:17:40 **16** **Q.** Okay. And can you talk to us a little bit  
 15:17:44 **17** about -- a little bit about how you became aware of what  
 15:17:46 **18** was going on?  
 15:17:47 **19** **A.** News reports --  
 15:17:48 **20** **Q.** Okay.  
 15:17:49 **21** **A.** -- as probably most others did.  
 15:17:52 **22** **Q.** Was that concerning for you?  
 15:17:53 **23** **A.** Yes, it was.  
 15:17:54 **24** **Q.** Can you talk to us a little bit about the  
 15:17:56 **25** concerns that you had after reading the news reports?

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15:19:10 **1** attorney general himself is -- there have been  
 15:19:12 **2** allegations made to the FBI?  
 15:19:13 **3** **A.** Right.  
 15:19:13 **4** **Q.** And so what about that was specifically  
 15:19:16 **5** concerning to you in that situation?  
 15:19:19 **6** **A.** Well, as I said, I spoke with Brent Webster  
 15:19:23 **7** when I interviewed. And I was much more pointed and  
 15:19:28 **8** brusque than I would normally be when I'm trying to get  
 15:19:30 **9** the job. And I knew he was a prosecutor and, by all  
 15:19:33 **10** counts, a good one. So I pulled no punches. I pressed  
 15:19:38 **11** him, asked what I thought were fairly pointed, direct  
 15:19:42 **12** questions as to, okay, this is the allegations I'm seeing  
 15:19:44 **13** in the paper. What's the answer to that?  
 15:19:48 **14** **Q.** Kind of like a cross-examination a little bit?  
 15:19:51 **15** **A.** A little bit. And it had an evidentiary  
 15:19:53 **16** quality to it as well because he -- very patiently, I  
 15:19:55 **17** thought, given the busy nature of the office, the  
 15:19:58 **18** constraints he was under, took the time with me to walk  
 15:20:01 **19** me through the documents he'd assembled at that point.  
 15:20:04 **20** **Q.** Okay. Now, after leaving that conversation,  
 15:20:06 **21** can you talk to us about what your opinion was with  
 15:20:09 **22** regard to taking the job as deputy first assistant  
 15:20:12 **23** attorney general?  
 15:20:12 **24** **A.** Well, I satisfied myself that these charges  
 15:20:15 **25** were, in my opinion then, not well founded. I knew, as

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15:18:59 **1** **A.** Well, I knew the reason they were calling and  
 15:18:01 **2** looking for people was because they had openings, and  
 15:18:04 **3** that was the good news. The bad news was these were  
 15:18:07 **4** serious allegations, serious charges that concerned me.  
 15:18:10 **5** And when I -- I did -- go up to interview in Austin. And  
 15:18:15 **6** for that reason, probably unlike any other interview I've  
 15:18:23 **7** had, I took special time to press, in this case, First  
 15:18:25 **8** Assistant Brent Webster on these charges.  
 15:18:28 **9** **Q.** Okay. What were -- what were your --  
 15:18:30 **10** **A.** Normally, the interviewee is the one trying to  
 15:18:33 **11** sell --  
 15:18:34 **12** **Q.** Right.  
 15:18:35 **13** **A.** -- him or herself.  
 15:18:36 **14** **Q.** You got to cross your T's and dot your I's.  
 15:18:39 **15** Can you talk to us about what your main  
 15:18:41 **16** concerns were coming into the Office of Attorney General?  
 15:18:43 **17** **A.** Well, less -- you might be less interested in  
 15:18:47 **18** this, but I have -- I had kids at the time in high school  
 15:18:50 **19** and in junior high, so commuting back and forth to work  
 15:18:54 **20** was a concern, where to live in Austin -- it's not  
 15:18:58 **21** cheap -- was a concern, as well. So those were -- I  
 15:19:01 **22** think you're asking something else.  
 15:19:02 **23** **Q.** Well, that's a fair concern.  
 15:19:04 **24** But I'm also interested, like, legally  
 15:19:06 **25** speaking. You're walking into an office where the

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15:20:19 **1** part of my job, there were a number of interesting things  
 15:20:21 **2** going on in the office, but I also knew, as part of that,  
 15:20:24 **3** like the Google AdTech lawsuit was coming. In addition  
 15:20:27 **4** to that, I'd be in charge of defending -- I think it was  
 15:20:30 **5** then pending -- the Whistleblower Act lawsuit involving  
 15:20:34 **6** these charges. So that was also a concern.  
 15:20:38 **7** **Q.** Right. So I assume you take the job because  
 15:20:41 **8** we're here right now?  
 15:20:42 **9** **A.** I did.  
 15:20:42 **10** **Q.** Okay. And I want to talk to you about -- well,  
 15:20:46 **11** when exactly was it that you started as the deputy first  
 15:20:49 **12** assistant?  
 15:20:49 **13** **A.** December 3, 2020.  
 15:20:52 **14** **Q.** Okay. So that's after everything kind of went  
 15:20:56 **15** down with regard to October and the reports to the FBI,  
 15:20:59 **16** right?  
 15:20:59 **17** **A.** Yes.  
 15:21:00 **18** **Q.** You mentioned that you were a part of,  
 15:21:04 **19** ultimately, the whistleblower suit. Are you aware of  
 15:21:08 **20** reports that were drafted within the office?  
 15:21:09 **21** **A.** Yes.  
 15:21:09 **22** **Q.** How many reports were there?  
 15:21:12 **23** **A.** Two.  
 15:21:12 **24** **Q.** Can you distinguish the two different reports  
 15:21:15 **25** that were drafted on behalf of the Office of Attorney

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15:21:17 **1** General?

15:21:17 **2** **A.** Yes. The first one started almost from the

15:21:22 **3** time I was there. First, I remember seeing a draft

15:21:25 **4** was -- sometime in January, I think early January,

15:21:28 **5** because I was still working from home right after the

15:21:33 **6** holiday. I remember that -- going through edits of 2021.

15:21:37 **7** And that was released by our office in August of 2021,

15:21:41 **8** publicly on our website.

15:21:42 **9** **Q.** Okay.

15:21:43 **10** **A.** The -- and that detailed the main whistleblower

15:21:45 **11** allegations and what our office, after forensically

15:21:49 **12** collecting documents, emails, exhaustively compiling

15:21:54 **13** everything was able to put together to address these

15:21:56 **14** allegations.

15:21:57 **15** **Q.** And can you tell us who actually authored or

15:22:01 **16** published that report?

15:22:02 **17** **A.** The Office of the Attorney General.

15:22:03 **18** **Q.** Okay. Now, is it safe to call that the

15:22:06 **19** internal report?

15:22:07 **20** **A.** Yes.

15:22:07 **21** **Q.** Was there a secondary report that was drafted?

15:22:10 **22** **A.** Yes. And if you have a copy, that would help

15:22:14 **23** me be clear and precise. But I believe it is on Lewis

15:22:18 **24** Brisbois' letterhead or in the format of a memo to the

15:22:23 **25** Office of the Attorney General.

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15:23:05 **1** foundation, Judge.

15:23:06 **2** **MR. OSSO:** I'm going to sustain.

15:23:08 **3** **MR. OSSO:** Yes, Judge.

15:23:09 **4** **MR. OSSO:** Just, you know, ask the

15:23:10 **5** questions one at a time.

15:23:11 **6** **MR. OSSO:** Certainly.

15:23:13 **7** **THE WITNESS:** It's hard for me not to rule,

15:23:16 **8** by the way.

15:23:16 **9** **MR. OSSO:** It's in their allegation, so

15:23:17 **10** I'll talk about it.

15:23:18 **11** **Q.** (BY MR. OSSO) Are you aware of the two

15:23:20 **12** reports?

15:23:20 **13** **A.** Yes.

15:23:20 **14** **Q.** Have you read the two reports?

15:23:22 **15** **A.** Yes.

15:23:22 **16** **Q.** Now, were you present at the Office of Attorney

15:23:28 **17** General during any of the subject matter involved in

15:23:30 **18** those reports?

15:23:32 **19** **A.** I want to answer no, and I think that's right.

15:23:35 **20** But I would have to look at the reports to absolutely

15:23:38 **21** confirm, but I think everything that was detailed in both

15:23:41 **22** reports --

15:23:42 **23** **Q.** Okay.

15:23:42 **24** **A.** -- predates December of 2020.

15:23:44 **25** **Q.** Sure. Well, let me be more specific. Are you

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15:22:25 **1** **MR. DUTKO:** Objection, Your Honor.

15:22:26 **2** Testifying from a document not in evidence. Testifying

15:22:28 **3** about a document not in evidence and hearsay.

15:22:31 **4** **PRESIDING OFFICER:** Sustained.

15:22:33 **5** **Q.** (BY MR. OSSO) There is a report in existence,

15:22:35 **6** correct?

15:22:36 **7** **MR. DUTKO:** Same objection, Your Honor.

15:22:37 **8** **A.** There are two reports.

15:22:39 **9** **MR. OSSO:** He's not testifying with regard

15:22:41 **10** to what is stated in the document.

15:22:42 **11** **PRESIDING OFFICER:** I'll overrule that. Go

15:22:43 **12** ahead.

15:22:43 **13** **Q.** (BY MR. OSSO) Okay. There is an existence of

15:22:46 **14** a Lewis Brisbois' report, correct?

15:22:48 **15** **A.** Yes.

15:22:48 **16** **Q.** All right. We'll get there, but before we do,

15:22:50 **17** I want to be very clear. You started in December

15:22:53 **18** of 2020, right?

15:22:54 **19** **A.** Yes.

15:22:55 **20** **Q.** Your -- you've looked at both of these reports,

15:22:59 **21** the internal report and the Lewis Brisbois' report,

15:23:01 **22** right?

15:23:02 **23** **MR. DUTKO:** Objection. Leading, Your

15:23:04 **24** Honor.

15:23:04 **25** **MR. OSSO:** It's only in the way of

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15:23:47 **1** aware that the Office of Attorney General was involved in

15:23:51 **2** an open records request involving Nate Paul?

15:23:53 **3** **A.** From -- historically, I'm aware. I wasn't

15:23:59 **4** there at the time.

15:24:00 **5** **Q.** Okay. Are you aware that they were involved in

15:24:02 **6** litigation with the Mitte Foundation?

15:24:03 **7** **A.** Yes, again, historically.

15:24:05 **8** **Q.** And are you aware that there was a non -- or an

15:24:08 **9** informal guidance letter with regard to nonjudicial

15:24:11 **10** foreclosures?

15:24:12 **11** **A.** Yes.

15:24:12 **12** **Q.** Now, were you present at the office during any

15:24:14 **13** of those events?

15:24:15 **14** **A.** No.

15:24:15 **15** **Q.** Were you present at the office during the

15:24:18 **16** hiring of Brandon Cammack?

15:24:19 **17** **A.** No.

15:24:19 **18** **Q.** So is it safe to say that you don't have

15:24:22 **19** personal knowledge of any of those events that are

15:24:24 **20** authored in the reports?

15:24:26 **21** **A.** Yes.

15:24:26 **22** **Q.** All right.

15:24:28 **23** **MR. OSSO:** Give me one second, Judge. I

15:24:30 **24** intend to get an exhibit for the witness. Copy for the

15:24:48 **25** Court. Copy for Counsel.

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15:24:58 **1** Q. (BY MR. OSSO) Mr. Dorfman, would you take a  
 15:25:04 **2** second to look at the copy of -- my exhibit numbers got  
 15:25:11 **3** off -- attorney general Exhibit 23, and let me know  
 15:25:14 **4** whether you recognize the document.  
 15:25:17 **5** A. I have looked at it, and I do recognize it.  
 15:25:19 **6** Q. What is this document?  
 15:25:20 **7** A. This is what you're referring to as the -- or  
 15:25:24 **8** referred to as the Lewis Brisbois' report, the second  
 15:25:28 **9** report in time that our office released on these matters.  
 15:25:32 **10** Well, I say "our office." This was outside counsel  
 15:25:36 **11** sending it to the office.  
 15:25:37 **12** Q. Okay. And is this a fair and accurate copy of  
 15:25:39 **13** the report issued by Lewis Brisbois on behalf of the  
 15:25:44 **14** attorney general?  
 15:25:44 **15** A. Near as I can tell.  
 15:25:45 **16** MR. OSSO: Okay. At this time, Judge, I  
 15:25:47 **17** would offer attorney general Exhibit 23.  
 15:25:52 **18** MR. DUTKO: Your Honor, this is -- there's  
 15:25:55 **19** so much hearsay in there I don't know where to begin.  
 15:25:58 **20** This is -- the document itself is hearsay. Within this  
 15:26:00 **21** document are conversations between people that are  
 15:26:03 **22** out-of-court statements that are hearsay. It relies on  
 15:26:07 **23** documents that are out-of-court statements that are  
 15:26:08 **24** hearsay. It also relies on people talking to other  
 15:26:11 **25** people who talk to other people, which is three layers of

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15:27:18 **1** necessarily clear, and I'm going to continue to argue  
 15:27:21 **2** that this is an -- this is a legally operative fact.  
 15:27:24 **3** MR. DUTKO: I would suggest, as an officer  
 15:27:26 **4** of the court, that he retract it because this report has  
 15:27:28 **5** nothing to do with this article.  
 15:27:33 **6** PRESIDING OFFICER: Come forward,  
 15:27:36 **7** gentlemen.  
 15:27:37 **8** (At the bench, off the record.)  
 15:29:35 **9** PRESIDING OFFICER: For the record, I  
 15:29:37 **10** sustained that objection and it stands.  
 15:29:39 **11** Go ahead.  
 15:29:39 **12** MR. OSSO: May I proceed, Judge?  
 15:29:41 **13** PRESIDING OFFICER: Pardon?  
 15:29:43 **14** MR. OSSO: May I proceed?  
 15:29:44 **15** PRESIDING OFFICER: You may proceed.  
 15:29:44 **16** MR. OSSO: Okay.  
 15:29:45 **17** PRESIDING OFFICER: Hold on one second.  
 15:29:46 **18** Our jurors left the building for a moment. I did not  
 15:29:49 **19** notice. Give a Senator a minute and they're gone. We  
 15:29:56 **20** will be taking a break shortly, members, okay? We've  
 15:30:02 **21** just been back 90 minutes, and we normally take a break  
 15:30:07 **22** between 90 minutes and a little bit more. I think we're  
 15:30:11 **23** still missing a few. That was a short meeting at the  
 15:30:18 **24** bench compared to other ones, so they were basing their  
 15:30:20 **25** exit on their experience here in the last two weeks.

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15:26:14 **1** hearsay.  
 15:26:15 **2** So my objection, Your Honor, is hearsay  
 15:26:18 **3** squared.  
 15:26:22 **4** PRESIDING OFFICER: Sustained.  
 15:26:22 **5** MR. OSSO: May I respond briefly? My  
 15:26:25 **6** understanding -- and, Mr. Arroyo, if you would pull up  
 15:26:28 **7** Article VII, please. My understanding is that the House  
 15:26:33 **8** Board of Managers' allegation in this case is that  
 15:26:34 **9** Ken Paxton and the Office of Attorney General issued a  
 15:26:37 **10** report that basically alleged false and misleading facts.  
 15:26:41 **11** This is a legally operative document in this case.  
 15:26:44 **12** MR. DUTKO: Your Honor, may I respond?  
 15:26:45 **13** MR. OSSO: And the House doesn't want it in  
 15:26:47 **14** evidence. I don't understand how they can argue it's a  
 15:26:49 **15** lie if it's not even in evidence before the jury.  
 15:26:52 **16** MR. DUTKO: Your Honor, I hope Counsel is  
 15:26:53 **17** not trying to mislead this Court because this Article of  
 15:26:55 **18** Impeachment is based on the internal AG report. This  
 15:26:58 **19** report, the Lewis Brisbois' report, came out after the  
 15:27:01 **20** Article of Impeachment, and so I'm sure Counsel would  
 15:27:03 **21** like to retract his statement and not mislead this Court.  
 15:27:07 **22** Regardless, this is so much levels of hearsay, and this  
 15:27:11 **23** thing up on the screen doesn't get around that.  
 15:27:14 **24** MR. OSSO: I don't wish to retract my  
 15:27:17 **25** statement at all. I don't think that the allegation is

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15:30:24 **1** MR. OSSO: I could tell where it was going  
 15:30:26 **2** so...  
 15:30:44 **3** PRESIDING OFFICER: Good news is the  
 15:30:45 **4** cricket also left the chamber.  
 15:30:48 **5** MR. OSSO: I just think we're more  
 15:30:49 **6** entertaining, Mr. Dorfman and I, so the cricket's out of  
 15:30:53 **7** here.  
 15:31:06 **8** PRESIDING OFFICER: I believe all are  
 15:31:08 **9** present and accounted for.  
 15:31:09 **10** You may proceed.  
 15:31:10 **11** MR. OSSO: Thank you, Judge.  
 15:31:12 **12** Q. (BY MR. OSSO) Before we talk about the  
 15:31:13 **13** internal report, I want to talk to you about your time at  
 15:31:17 **14** the Office of Attorney General in December of 2020.  
 15:31:21 **15** Can you talk to us about what was going on  
 15:31:24 **16** as far as it relates to the productivity in the office at  
 15:31:27 **17** that time?  
 15:31:27 **18** A. It was a very busy time. I think I mentioned  
 15:31:30 **19** the Google AdTech lawsuit. That had been years, as I  
 15:31:35 **20** understood it, in the making. We were about to release  
 15:31:37 **21** the complaint at long last in federal court. It was a  
 15:31:41 **22** huge and extraordinarily complex case. You're taking on  
 15:31:45 **23** Google. So I was told if I took the job, I would have  
 15:31:48 **24** front-line responsibility for at least overseeing that,  
 15:31:52 **25** and we intended to hire outside counsel so that was a big

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15:31:55 **1** part of that.

15:31:56 **2** At the time, of course, the election was

15:31:57 **3** still going on. There were still election challenges.

15:32:01 **4** And I know people were talking to the office about that.

15:32:05 **5** That ended up resulting in the Texas versus Pennsylvania

15:32:08 **6** lawsuit. So my first week on the job -- I think my first

15:32:11 **7** day on the job, we went to --

15:32:13 **8** **Q.** I'm going to slow you down. I'm going to break

15:32:14 **9** that up, Mr. Dorfman.

15:32:16 **10** **A.** Sorry.

15:32:16 **11** **Q.** So you're talking about the election. I assume

15:32:19 **12** it's the presidential election, correct?

15:32:20 **13** **A.** Yes.

15:32:20 **14** **Q.** And can you talk about the affect that that had

15:32:24 **15** on the workload of the Office of Attorney General at the

15:32:27 **16** very beginning of 2021?

15:32:30 **17** **A.** Well, I had nothing to gauge it by, but it was

15:32:32 **18** an extraordinarily busy time.

15:32:34 **19** **Q.** And did it appear that the morale -- that

15:32:36 **20** people were working hard at the Office of the attorney

15:32:38 **21** general?

15:32:38 **22** **A.** Oh, absolutely.

15:32:38 **23** **Q.** And despite the allegations that were made

15:32:40 **24** against Attorney General Paxton, people were still

15:32:42 **25** working at the office?

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15:33:52 **1** executive orders that we were challenging and filing

15:33:54 **2** lawsuits against.

15:33:55 **3** I was the voice in the office from the

15:33:58 **4** beginning then. But throughout this time, and as we

15:34:01 **5** continued to do the work that, look, it's great to be in

15:34:04 **6** court. It's great for our lawyers to go into court in

15:34:08 **7** the daytime and spend the whole day and file briefs at

15:34:11 **8** night, but you can only do that pace for so long. So I

15:34:14 **9** wanted us to be careful, husband our resources, use them

15:34:17 **10** wisely, pick the right cases, prioritize appropriately.

15:34:20 **11** **Q.** Utilize your resources?

15:34:21 **12** **A.** To maximize the good work we were doing.

15:34:24 **13** **Q.** During that time in fall of 2020, winter 2020

15:34:29 **14** and into spring of 2021, are you guys working in the

15:34:32 **15** office, or are you working at home at this point?

15:34:34 **16** **A.** Where I was, everyone was in the office. Now,

15:34:38 **17** some of the attorneys in the divisions, the litigation

15:34:42 **18** divisions, did a combination.

15:34:43 **19** **Q.** Okay.

15:34:44 **20** **A.** In a lot of the cases, the courts were shutdown

15:34:46 **21** due to COVID, still, in many cases. So even though we

15:34:51 **22** had cases all over the state, you might have a hearing in

15:34:55 **23** San Antonio --

15:34:56 **24** **Q.** Right.

15:34:57 **25** **A.** -- on this computer in your office, and then

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15:32:43 **1** **A.** Yes. In my first two weeks there, I don't

15:32:45 **2** think I made it home before 8:00 p.m. certainly.

15:32:47 **3** **Q.** Did you have any --

15:32:48 **4** **A.** I --

15:32:48 **5** **Q.** Sorry to cut you off. But did you have any

15:32:51 **6** concerns about the work pace and work flow at the office?

15:32:54 **7** **A.** No, it was fun. I mean, if that had been for

15:32:57 **8** the next two years, I would have had concerns.

15:33:00 **9** **Q.** Okay. As far as burnout goes or things like

15:33:03 **10** that, were there any concerns about anything like that?

15:33:05 **11** **A.** Specifically, December 2020?

15:33:07 **12** **Q.** More into 2021.

15:33:10 **13** **A.** Yes. As 2021 went on, obviously, the Biden

15:33:15 **14** administration came into office. Day one, people may

15:33:19 **15** remember this, a list, a raft of executive orders -- we

15:33:23 **16** were the first -- and I'm proud of this. We were the

15:33:25 **17** first attorney general -- state attorney general's office

15:33:27 **18** to obtain a preliminary injunction against one of those

15:33:31 **19** executive orders.

15:33:32 **20** It was the day one immigration order that

15:33:34 **21** imposed a hundred-day moratorium on deportations even

15:33:38 **22** where congressional statute dictated that removal must

15:33:44 **23** take place of a deportable alien within 90 days. And so

15:33:47 **24** we challenged that in court -- federal court here in

15:33:50 **25** Texas and won. And, of course, there were other

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15:34:58 **1** you turn and have a Zoom hearing in Midland or El Paso

15:35:04 **2** minutes later.

15:35:06 **3** **Q.** Understood. And --

15:35:08 **4** **A.** Which helps. Less travel.

15:35:10 **5** **Q.** Right. You said that you were deputy first

15:35:13 **6** assistant attorney general. Are you aware of who your

15:35:15 **7** predecessor in that position was?

15:35:18 **8** **A.** I believe it was Ryan Bangert.

15:35:19 **9** **Q.** Okay. Can you talk to us about your role, at

15:35:21 **10** the time, as the deputy first assistant attorney general?

15:35:23 **11** **A.** The core responsibility I had is to oversee the

15:35:27 **12** litigation divisions, both criminal and civil. As I'm

15:35:31 **13** not a criminal lawyer, never have been, never was a

15:35:34 **14** criminal judge for that matter, I rely very heavily on my

15:35:38 **15** criminal division deputy, that's Josh Reno, and -- to

15:35:42 **16** manage those responsibility (sic) and report up to me and

15:35:44 **17** -- as needed. But the civil litigation divisions, I feel

15:35:47 **18** very comfortable overseeing them.

15:35:49 **19** In addition to that, I have overall

15:35:51 **20** responsibility at the executive level for policies,

15:35:53 **21** procedures. From time to time, I've also had direct

15:35:58 **22** report responsibility over human resources, as I do

15:36:01 **23** currently, and also over the communications team.

15:36:04 **24** **Q.** So a wide array of divisions?

15:36:06 **25** **A.** Yes.

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15:36:06 **1** Q. Now, are you familiar with whether, at any  
 15:36:10 **2** point, special litigation was under the oversight of your  
 15:36:14 **3** position, deputy first assistant attorney general?  
 15:36:16 **4** A. I don't think it has been since I've been  
 15:36:20 **5** there. I think it was at one time. Again, I don't know  
 15:36:24 **6** this personally.  
 15:36:24 **7** Q. And can you tell us now who oversees the  
 15:36:26 **8** special litigation division?  
 15:36:28 **9** A. Ralph Molina.  
 15:36:31 **10** Q. Okay. And then under Ralph Molina, or at any  
 15:36:35 **11** point in time, was it a Patrick Sweeten?  
 15:36:37 **12** A. Yes.  
 15:36:38 **13** Q. Is he still working in that position, moved to  
 15:36:39 **14** a different position?  
 15:36:40 **15** A. He's currently our lead counsel in the buoys --  
 15:36:44 **16** the buoys case in the Rio Grande River, but that's on  
 15:36:49 **17** loan from the Governor's office.  
 15:36:50 **18** Q. Did you have the occasion of working at the  
 15:36:52 **19** Office of Attorney General while he was in charge of  
 15:36:54 **20** special litigation?  
 15:36:54 **21** A. Absolutely, yeah. I mean, until, I think,  
 15:36:56 **22** earlier this year, he joined the Governor's office. Up  
 15:36:59 **23** till that point, he was there the entire time I was  
 15:37:01 **24** there.  
 15:37:01 **25** Q. Okay. Did you feel like you had to help him

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15:37:03 **1** with his job, or did he appear to be qualified in  
 15:37:06 **2** handling his business in that position?  
 15:37:07 **3** A. Patrick?  
 15:37:08 **4** Q. Patrick.  
 15:37:09 **5** A. Very talented lawyer.  
 15:37:10 **6** Q. Okay.  
 15:37:11 **7** A. Very experienced. Very capable. If I had one  
 15:37:13 **8** criticism of him, it's that he's in court more and  
 15:37:18 **9** managing less. We wanted him to clone Patrick Sweeten,  
 15:37:23 **10** so we had a team of Patrick Sweetens. But Patrick is so  
 15:37:27 **11** good and so natural in the courtroom, I think he -- he  
 15:37:30 **12** longed to be there.  
 15:37:30 **13** Q. Okay. Does it feel -- do you feel that Patrick  
 15:37:34 **14** is the kind of guy that takes pressure off you if you  
 15:37:36 **15** didn't have to watch the special litigation division?  
 15:37:38 **16** A. Certainly. Those are -- they're the special  
 15:37:43 **17** litigation division for a reason. I think that was a  
 15:37:45 **18** creation of Attorney General Abbott to have the tip of  
 15:37:48 **19** the spear. We have a lot of litigating divisions. We  
 15:37:50 **20** have our general litigation division, which are  
 15:37:53 **21** outstanding. All our divisions are very good, do  
 15:37:56 **22** different things.  
 15:37:57 **23** And special litigation is the -- you know,  
 15:37:59 **24** you need to be at the courthouse in 30 minutes; we just  
 15:38:01 **25** found out the Obama administration has filed -- is doing

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15:38:05 **1** this. They've issued that executive order. No time.  
 15:38:08 **2** Let's go.  
 15:38:08 **3** Q. Okay.  
 15:38:09 **4** A. And so if I had to oversee that as well as  
 15:38:11 **5** everything else, you're right. It would put more  
 15:38:13 **6** pressure on me.  
 15:38:13 **7** Q. I want to fast-forward and talk to you about  
 15:38:18 **8** the internal investigation report. You said you had no  
 15:38:21 **9** personal knowledge of the contents of the subject matter  
 15:38:23 **10** of that report, right?  
 15:38:24 **11** A. Say that again, please.  
 15:38:27 **12** Q. You had no personal knowledge. You weren't  
 15:38:30 **13** personally there for the subject matter that is in the  
 15:38:32 **14** internal report authored by the Office of Attorney  
 15:38:34 **15** General?  
 15:38:34 **16** A. I wasn't there at the time these events  
 15:38:36 **17** happened.  
 15:38:36 **18** Q. Were you present at the Office of Attorney  
 15:38:38 **19** General when the report was being drafted?  
 15:38:41 **20** A. Yes.  
 15:38:41 **21** Q. Can you talk to us about who was responsible  
 15:38:44 **22** for that and, if you know, what process went into  
 15:38:47 **23** drafting that report?  
 15:38:48 **24** A. I think in the first instance, we relied on an  
 15:38:52 **25** office-wide forensic compilation of documents, emails, et

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15:38:59 **1** cetera, that were relevant. Brent Webster took the lead  
 15:39:01 **2** in compiling that, and then we had a team. And again, as  
 15:39:04 **3** early as January I was editing drafts with others, Josh  
 15:39:09 **4** Reno; later Murtaza Sutarwalla, a deputy for legal  
 15:39:14 **5** counsel -- legal policy; Austin Kinghorn, Enrique Varela.  
 15:39:23 **6** There were others, but I may have left them out.  
 15:39:25 **7** Q. Okay. And can you talk to us about what your  
 15:39:28 **8** role was with regard to the publishing of that report, or  
 15:39:30 **9** at least getting the report ready to be published?  
 15:39:32 **10** A. Well, I don't think we published it until  
 15:39:34 **11** August of 2021, and that probably is a reflection, one,  
 15:39:38 **12** of just how busy the office was and how much other stuff  
 15:39:41 **13** there was to attend to. But I'm sure I revised and  
 15:39:43 **14** edited and redlined, at least five or six times, the  
 15:39:47 **15** entire document front to back.  
 15:39:49 **16** Q. Okay. Now, understand --  
 15:39:52 **17** A. And others did as well.  
 15:39:53 **18** Q. Right. Understandably, you weren't present for  
 15:39:56 **19** these events that the document summarizes. Did you play  
 15:39:59 **20** a hand in trying to find documentation to support the  
 15:40:03 **21** positions taken in that report?  
 15:40:04 **22** A. More oversaw that process.  
 15:40:07 **23** Q. Can you talk to us about your oversight of that  
 15:40:09 **24** process?  
 15:40:09 **25** A. Yeah. I felt very strongly -- this had to be --

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15:40:13 **1** it was going out as a report of the office. I believe  
 15:40:16 **2** the attorney general had said that these allegations are  
 15:40:20 **3** baseless, and I will investigate and present the facts  
 15:40:23 **4** and let the voters decide, words to that effect.  
 15:40:27 **5** **Q.** Sure.  
 15:40:27 **6** **A.** I wasn't there. And so this was a fulfillment  
 15:40:33 **7** of that commitment. I took it as our charge to lay it  
 15:40:35 **8** out there, and I think it's fair to say that the  
 15:40:36 **9** document -- my emphasis throughout this process of  
 15:40:39 **10** editing was, Look, this needs to be the voice of the  
 15:40:42 **11** agency. It's not any one person. It's all of us, and  
 15:40:46 **12** it's objective; it's factual both in tone and substance.  
 15:40:50 **13** If we make a conclusion or -- from the facts that we  
 15:40:54 **14** presented from the documents that isn't supported by the  
 15:40:58 **15** document, let's not make that conclusion. Let's take  
 15:41:00 **16** that out and let the -- let the people reading it make  
 15:41:03 **17** their own decisions.  
 15:41:04 **18** **Q.** And so, really, you were just trying to make  
 15:41:11 **19** sure that they weren't making allegations that they can't  
 15:41:13 **20** back up?  
 15:41:13 **21** **MR. DUTKO:** Objection. Leading.  
 15:41:15 **22** **PRESIDING OFFICER:** Sustained.  
 15:41:17 **23** **Q.** (BY MR. OSSO) Would you agree that your job  
 15:41:18 **24** was to make sure that the claims were verified?  
 15:41:21 **25** **MR. DUTKO:** Same objection, Your Honor.  
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15:42:07 **1** **A.** Mr. Maxwell's first name is --  
 15:42:12 **2** **Q.** David Maxwell?  
 15:42:12 **3** **A.** David Maxwell. Thank you.  
 15:42:16 **4** **Q.** All right. Mark Penley ring a bell?  
 15:42:17 **5** **A.** Mark Penley and Blake Brickman. Sorry.  
 15:42:20 **6** **Q.** Okay. And more focused on who is the named  
 15:42:24 **7** party or the named defendant in that lawsuit?  
 15:42:25 **8** **A.** There's just one defendant. The Office of the  
 15:42:28 **9** Attorney General.  
 15:42:28 **10** **Q.** Okay. Was Ken Paxton specifically named as the  
 15:42:31 **11** party to the lawsuit?  
 15:42:32 **12** **A.** No.  
 15:42:32 **13** **Q.** All right. So it's the Office of Attorney  
 15:42:35 **14** General on the filing?  
 15:42:35 **15** **A.** Yes.  
 15:42:36 **16** **Q.** And what is the first thing that you-all do --  
 15:42:43 **17** who all's working on the lawsuit with you at this time?  
 15:42:46 **18** **A.** About the same time I was interviewing, I think  
 15:42:50 **19** they were interviewing for outside counsel, so I knew  
 15:42:53 **20** Lewis Brisbois had been hired. And either the first or  
 15:42:57 **21** second week, we might have had a phone conference or  
 15:42:59 **22** meeting with them. At that point, I think the lawsuit  
 15:43:02 **23** had been amended at least once. There was later a second  
 15:43:06 **24** amended, and so I was working on it. Austin Kinghorn was  
 15:43:11 **25** working on it. The first assistant would have been  
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15:41:23 **1** **PRESIDING OFFICER:** Restate.  
 15:41:25 **2** **MR. OSSO:** Sure.  
 15:41:25 **3** **Q.** (BY MR. OSSO) Was it your job to make sure  
 15:41:27 **4** that there was evidence or at least something to  
 15:41:27 **5** corroborate statements that were made?  
 15:41:29 **6** **PRESIDING OFFICER:** Was there an objection  
 15:41:30 **7** there?  
 15:41:30 **8** **MR. DUTKO:** Not to that, Your Honor.  
 15:41:31 **9** **PRESIDING OFFICER:** I didn't think so,  
 15:41:32 **10** okay.  
 15:41:33 **11** **A.** I certainly viewed that as my job, yes.  
 15:41:35 **12** **Q.** (BY MR. OSSO) All right. Now, you mentioned  
 15:41:37 **13** earlier that, at some point, you get involved into the  
 15:41:39 **14** lawsuit in this case, and I want to talk to you about the  
 15:41:41 **15** lawsuit, okay.  
 15:41:42 **16** Can you tell us your understanding of when  
 15:41:45 **17** the whistleblower lawsuit was first filed against the  
 15:41:48 **18** Office of Attorney General?  
 15:41:49 **19** **A.** I think it was November of 2020.  
 15:41:52 **20** **Q.** Can you tell us who the named parties within  
 15:41:54 **21** that lawsuit are?  
 15:41:55 **22** **A.** I'm going to struggle on their first names.  
 15:42:03 **23** **Q.** No problem.  
 15:42:04 **24** **A.** Ryan Vassar.  
 15:42:06 **25** **Q.** Okay.  
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15:43:14 **1** involved.  
 15:43:17 **2** **Q.** How about Chris Hilton? Was he working on it?  
 15:43:19 **3** **A.** I think that's right. I think Chris Hilton was  
 15:43:23 **4** also from the start there. He certainly was later.  
 15:43:23 **5** **Q.** Sure.  
 15:43:30 **6** **A.** Enrique Varela, as well, who worked with  
 15:43:31 **7** Austin Kinghorn.  
 15:43:31 **8** **Q.** And I'm going to cut you off. You mentioned  
 15:43:33 **9** Lewis Brisbois. Can you explain to us what Lewis  
 15:43:35 **10** Brisbois' job was with regard to the whistleblower  
 15:43:37 **11** lawsuit against the Office of Attorney General?  
 15:43:39 **12** **A.** To be outside counsel. Bill Helfand is an  
 15:43:43 **13** attorney I'd known in Houston for at least 20 years.  
 15:43:47 **14** Very good lawyer specializing in government work,  
 15:43:51 **15** especially defense like Section 1983 federal court  
 15:43:54 **16** lawsuits; many of which, if not most, have an employment  
 15:43:57 **17** quality to them, the sheriff being sued by his deputy,  
 15:44:02 **18** something like that.  
 15:44:02 **19** **Q.** And just without getting into the contents of  
 15:44:05 **20** the document that I showed you earlier, the Lewis  
 15:44:07 **21** Brisbois' report, was that authored by the attorneys that  
 15:44:11 **22** were outside counsel for the Office of Attorney General?  
 15:44:12 **23** **A.** Yes, Mr. Helfand and others.  
 15:44:17 **24** **Q.** Okay. Now, in that litigation, did you-all  
 15:44:21 **25** file a plea to the jurisdiction?  
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15:44:22 **1** A. Yes, we did.

15:44:23 **2** Q. Okay. Can you explain to us what a plea to

15:44:25 **3** jurisdiction is?

15:44:26 **4** A. A plea to the jurisdiction is a document that

15:44:32 **5** says to the court, every court must first assess whether

15:44:34 **6** it has --

15:44:34 **7** Q. Speak into the microphone.

15:44:35 **8** A. Every court must first assess -- that was too

15:44:38 **9** loud -- whether it has jurisdiction to entertain a

15:44:39 **10** lawsuit. And the State of Texas cannot be sued for money

15:44:44 **11** damages without its consent, and this body and the House

15:44:49 **12** are the ones that must expressly waive, by statute, the

15:44:55 **13** immunity from lawsuit, the sovereign immunity of the

15:44:58 **14** State of Texas, in order for plaintiff to recover money

15:45:00 **15** damages. They argued the plaintiffs in this case that

15:45:04 **16** the whistle --

15:45:04 **17** Q. I'm going to -- I'm going to stop you, and I'm

15:45:05 **18** going to break that down.

**19** A. Sure.

15:45:07 **20** Q. You know, I didn't go to Yale, so you got to

15:45:09 **21** make it slow for me.

15:45:11 **22** MR. OSSO: Mr. Arroyo, would you please put

15:45:13 **23** up Article VIII onto the overhead screen.

15:45:18 **24** Q. (BY MR. OSSO) So essentially, plea to

15:45:20 **25** jurisdiction -- well, let me ask you this: Is that

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15:45:22 **1** something that is commonly filed in lawsuits in your

15:45:25 **2** experience as a civil litigator? Or at least with regard

15:45:30 **3** to Office of the Attorney General?

15:45:31 **4** A. I was going to say at the Office of the

15:45:34 **5** Attorney General, I'd say probably 90 percent of our

15:45:36 **6** defensive cases, at least the ones I'm most familiar

15:45:39 **7** with, we file plea to the jurisdiction in almost every

15:45:42 **8** case challenging the most recent enactments of the

15:45:46 **9** Legislature arising out of the last session, which have

15:45:49 **10** been all those legal challenges that have been brought in

15:45:51 **11** the last few months. We filed pleas of jurisdiction, I

15:45:54 **12** think, in every one of those, saying this suit -- this

15:45:58 **13** suit can't go forward. The Court has no jurisdiction.

15:46:01 **14** The state is immune.

15:46:03 **15** Q. Okay.

15:46:06 **16** MR. OSSO: Now, Erick, if you could just

15:46:08 **17** blow up the second paragraph, specifically all the way

15:46:10 **18** down to -- well, this part's fine right here, if you

15:46:13 **19** could blow that up.

15:46:13 **20** Q. (BY MR. OSSO) Okay. So I'm just going to read

15:46:16 **21** the article, Article VIII to you, Mr. Dorfman, which

15:46:19 **22** states that, Specifically, Paxton entered into a

15:46:21 **23** settlement agreement with whistleblowers that provides

15:46:23 **24** for payment of the settlement from public funds. The

15:46:25 **25** settlement agreement stayed the wrongful termination suit

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15:46:29 **1** and conspicuously delayed the discovery of the facts.

15:46:32 **2** The next page goes on to say, And testimony

15:46:35 **3** at trial to Paxton's advantage -- sorry.

15:46:38 **4** PRESIDING OFFICER: Let me get it up on the

15:46:41 **5** screen.

**6** MR. OSSO: Yep.

15:46:41 **7** PRESIDING OFFICER: Okay. Continue.

15:46:42 **8** Q. (BY MR. OSSO) To Paxton's advantage which

15:46:44 **9** deprived the electorate of its opportunity to make an

15:46:47 **10** informed decision when voting for attorney general.

15:46:49 **11** So at what time did you -- we know that the

15:46:55 **12** lawsuit was filed in November of 2020. When was it that

15:46:58 **13** the Office of Attorney General actually files the plea to

15:47:02 **14** jurisdiction?

15:47:02 **15** A. Not exactly sure, but I believe it was

15:47:06 **16** January of 2021.

15:47:07 **17** Q. Okay. And when did the Office of Attorney

15:47:10 **18** General engage in settlement agreements with the

15:47:12 **19** whistleblower plaintiffs in this case?

15:47:13 **20** A. Almost exactly two years later.

15:47:16 **21** Q. Okay. So when we're talking about the plea to

15:47:19 **22** jurisdiction, we are two years before settlement

15:47:23 **23** discussions even come into play, right?

15:47:24 **24** A. Right.

15:47:27 **25** Q. Now, what was -- I think in your motion for

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15:47:33 **1** plea to jurisdiction it was in two parts, correct?

15:47:35 **2** A. I'd have to see it.

15:47:37 **3** Q. Well, did you talk about sovereign immunity?

15:47:41 **4** A. Absolutely.

15:47:41 **5** Q. Can you explain to us how sovereign immunity

15:47:44 **6** comes into play in your plea to jurisdiction?

15:47:46 **7** A. Well, I think I covered that. The suit -- the

15:47:48 **8** State is immune from suit unless there's an express

15:47:52 **9** statutory waiver from the Legislature.

15:47:53 **10** Q. Okay. And then the second part of that was

15:47:55 **11** that you talked about separation of powers?

15:47:57 **12** A. Yes.

15:48:00 **13** Q. Can you talk about that to us?

15:48:02 **14** A. Well, let me go back and cover the first one,

**15** if you don't mind.

15:48:04 **16** THE WITNESS: May I, Your Honor?

15:48:07 **17** Q. (BY MR. OSSO) If you'd please go back and --

15:48:08 **18** A. I need to qualify my comments. What you're

15:48:11 **19** describing is -- you've reminded me and refreshed my

15:48:12 **20** memory that the -- yes, the Whistleblower Act is exactly

15:48:15 **21** the type of express statutory waiver of sovereign

15:48:19 **22** immunity that allows one to sue the state, in this case

15:48:23 **23** for money damages. But the case law has been clear, and

15:48:28 **24** we argued it, that unless you meet all the elements of a

15:48:31 **25** Whistleblower Act claim, there is no waiver of sovereign

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15:48:35 **1** immunity. There's no jurisdiction for the court to  
 15:48:37 **2** proceed, and we alleged that they -- the plaintiffs in  
 15:48:42 **3** the case had not met their burden of establishing all the  
 15:48:46 **4** elements of the whistleblower claim, and therefore  
 15:48:48 **5** sovereign immunity still applied.  
 15:48:50 **6** **Q.** Okay. And was that file in the plea of  
 15:48:52 **7** jurisdiction -- plea to jurisdiction, was that made in  
 15:48:55 **8** good faith and based on your legal research?  
 15:48:58 **9** **A.** Yes.  
 15:48:58 **10** **Q.** All right. Now, I want to focus back onto the  
 15:49:01 **11** article that states specifically --  
 15:49:02 **12** **MR.** OSSO: If you would go back to the  
 15:49:03 **13** other page, Erick. It talks about -- I need you to zoom  
 15:49:19 **14** in.  
 15:49:20 **15** **Q.** (BY MR. OSSO) The settlement agreement stayed  
 15:49:20 **16** the wrongful termination case. I just want to be clear,  
 15:49:22 **17** when you-all filed the plea to jurisdiction, that had  
 15:49:25 **18** nothing to do with the settlement agreement, right?  
 15:49:26 **19** **A.** We weren't even discussing settlement at that  
 15:49:28 **20** time, no.  
 15:49:28 **21** **Q.** Okay. Now, what is the result of a plea to  
 15:49:32 **22** jurisdiction with regard to discovery in a lawsuit?  
 15:49:34 **23** **A.** The plea to jurisdiction -- again, every court  
 15:49:38 **24** must first assess whether it has jurisdiction. If it  
 15:49:40 **25** doesn't, its powerless to order discovery or proceed any

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15:50:45 **1** **A.** We did it because we thought the State had  
 15:50:48 **2** sovereign immunity, and it was our duty to assert that as  
 15:50:51 **3** we do in so many of our cases. That does have the effect  
 15:50:55 **4** of stopping discovery from going forward and saving the  
 15:50:58 **5** taxpayers the expense of that discovery and our lawyers  
 15:51:02 **6** the time. You know, discovery is really where the time  
 15:51:05 **7** gets taken in trial cases.  
 15:51:07 **8** **Q.** Okay. I want to talk to you about the  
 15:51:09 **9** procedural posture of the plea to jurisdiction. Can you  
 15:51:12 **10** talk to us about the first court that ultimately ruled on  
 15:51:15 **11** you-all's plea to jurisdiction in the whistleblower  
 15:51:17 **12** lawsuit?  
 15:51:18 **13** **A.** The first court.  
 15:51:20 **14** **Q.** Yes.  
 15:51:21 **15** **A.** That was the Third Court of Appeals here in  
 15:51:23 **16** Austin.  
 15:51:23 **17** **Q.** Well, did it -- did it go to the district court  
 15:51:25 **18** prior to -- prior to that filing?  
 15:51:26 **19** **A.** Oh, I'm sorry. Yes, you're right.  
 15:51:27 **20** **Q.** Can you talk to us about that?  
 15:51:29 **21** **A.** We had some discussions back and forth. I  
 15:51:36 **22** don't know how much detail you want to go into, but with  
 15:51:41 **23** the plaintiffs' attorneys about scheduling a hearing on  
 15:51:43 **24** two things; they wanted to have a temporary injunction  
 15:51:46 **25** hearing. I think initially they said they needed four

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15:49:44 **1** further. And the -- this -- the Legislature has passed  
 15:49:49 **2** an interlocutory appeal so that even if we lose the plea  
 15:49:53 **3** to the jurisdiction -- if we win, the case is over and  
 15:49:55 **4** dismissed. If we lose the plea to the jurisdiction, we  
 15:49:58 **5** have the right to immediately appeal, when normally you  
 15:50:01 **6** would have to wait till the end of a case to file your  
 15:50:04 **7** appeals.  
 15:50:04 **8** **Q.** And --  
 15:50:04 **9** **A.** And the immediate appeal stays the -- the  
 15:50:10 **10** Court's jurisdiction. It can't proceed further in any  
 15:50:14 **11** capacity until the appeal is resolved.  
 15:50:16 **12** **Q.** Okay. Now, was that plea to jurisdiction filed  
 15:50:20 **13** to stop the discovery getting out to the public in this  
 15:50:24 **14** case?  
 15:50:24 **15** **A.** I don't understand your question.  
 15:50:26 **16** **Q.** You just said that a plea to jurisdiction  
 15:50:29 **17** essentially stops the discovery from occurring in a  
 15:50:31 **18** lawsuit, right?  
 15:50:32 **19** **A.** It stops anything from occurring in the trial  
 15:50:34 **20** court.  
 15:50:35 **21** **Q.** Okay. So my question to you is: When you-all  
 15:50:37 **22** filed the plea to jurisdiction, did you do so because you  
 15:50:40 **23** felt that the law applied in that situation, or did you  
 15:50:42 **24** do so because you wanted to stop discovery from getting  
 15:50:44 **25** out to the public?

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15:51:48 **1** days. The only purpose of a temporary injunction hearing  
 15:51:51 **2** in this context would be to -- for Mr. Maxwell and  
 15:51:59 **3** Mr. Vassar to seek reinstatement under the Whistleblower  
 15:52:04 **4** Act. So to be reinstated to their position with the  
 15:52:08 **5** Office of the Attorney General.  
 15:52:08 **6** **Q.** So are you saying that Mr. Maxwell and  
 15:52:11 **7** Mr. Vassar actually wanted to come back to the Office of  
 15:52:14 **8** the Attorney General?  
 15:52:14 **9** **A.** Yes. And I think that's still in their live  
 15:52:17 **10** pleading.  
 15:52:17 **11** **Q.** Okay.  
 15:52:17 **12** **A.** Well, their pleading. I shouldn't say live.  
 15:52:19 **13** **Q.** Now, what was the ultimate decision by the  
 15:52:22 **14** district court with regard to that plea to jurisdiction?  
 15:52:25 **15** **A.** Well -- so we were trying to schedule the plea  
 15:52:29 **16** to the jurisdiction before, one week before, something,  
 15:52:32 **17** one day, whatever, because the Court can't have a  
 15:52:35 **18** temporary injunction hearing until it's heard and ruled  
 15:52:39 **19** on the plea to jurisdiction.  
 15:52:40 **20** **The** plaintiffs requested and the court  
 15:52:44 **21** agreed to set them on the same day, but that had the  
 15:52:47 **22** effect of -- meaning before the Judge ruled, we were set  
 15:52:53 **23** to a temporary injunction hearing, which got underway and  
 15:52:56 **24** started. And there was even testimony taken I think from  
 15:52:59 **25** Mr. Mateer for some time before we got the Court of

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15:53:03 **1** Appeals to agree that by proceeding with the temporary  
 15:53:06 **2** injunction, she had implicitly ruled, the Judge, and  
 15:53:09 **3** implicitly ruled that she had jurisdiction.  
 15:53:12 **4** **Q.** So ultimately -- and I'm going to cut you off.  
 15:53:15 **5** Ultimately, the case goes up to the Third  
 15:53:18 **6** Court of Appeals?  
 15:53:18 **7** **A.** Yes.  
 15:53:18 **8** **Q.** Okay. So the district court didn't rule on the  
 15:53:20 **9** plea to jurisdiction necessarily?  
 15:53:21 **10** **A.** I'd have to go back and check. I think she may  
 15:53:25 **11** have written an order expressly denying it, but -- but  
 15:53:28 **12** not until after we're already gone up to the third court  
 15:53:34 **13** and said we need an intervention.  
 15:53:35 **14** **Q.** Okay. And can you talk to us about what  
 15:53:38 **15** happened at the Third Court of Appeals?  
 15:53:39 **16** **A.** They set oral argument and I can't remember  
 15:53:43 **17** exactly when that was, but I believe it was in October  
 15:53:45 **18** of 2021 when they issued their opinion, maybe 30 pages.  
 15:53:49 **19** **Q.** So almost a year later while that plea to  
 15:53:53 **20** jurisdiction is still pending, right?  
 15:53:55 **21** **A.** Well, the plea would have been filed in  
 15:53:58 **22** January, I think, and so you're talking nine months  
 15:54:01 **23** later.  
 15:54:02 **24** **Q.** Okay. And can you tell us how the Court ruled,  
 15:54:05 **25** the Third Court of Appeals ruled?

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15:55:19 **1** Members, it's five minutes to 4:00. Come  
 15:55:22 **2** back at 4:15. 20-minute break.  
 15:55:29 **3** (Recess taken from 3:55 p.m. to 4:23 p.m.)  
 16:23:51 **4** PRESIDING OFFICER: Bailiff can bring in  
 16:23:52 **5** the witness, please. Do we all have the jurors?  
 16:24:30 **6** Mr. Osso is the correct pronunciation? I want to be sure  
 16:24:34 **7** I have that right.  
 16:24:34 **8** MR. OSSO: Thank you, Judge.  
 16:24:37 **9** **Q.** (BY MR. OSSO) Mr. Dorfman, we were just  
 16:24:39 **10** talking about the effect that a plea to jurisdiction  
 16:24:44 **11** actually has on the discovery in the case. Now, I want  
 16:24:47 **12** to focus --  
 16:24:49 **13** MR. OSSO: Erick, if you wouldn't mind  
 16:24:51 **14** focusing on the next page, top paragraph, which is the  
 16:24:58 **15** bottom paragraph of Article -- excuse me, bottom  
 16:25:01 **16** paragraph of Article VIII.  
 16:25:03 **17** **Q.** (BY MR. OSSO) I want to read that to you.  
 16:25:04 **18** Testimony at trial to Paxton's advantage,  
 16:25:07 **19** which deprived the electorate of its opportunity to make  
 16:25:10 **20** an informed decision when voting for attorney general.  
 16:25:15 **21** Now, throughout the course of the lawsuit  
 16:25:17 **22** that the whistleblowers filed, are you aware of whether  
 16:25:23 **23** specific facts or allegations became public?  
 16:25:25 **24** **A.** Yes.  
 16:25:27 **25** **Q.** And could you turn your mic on, sir?

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15:54:07 **1** **A.** Third Court of Appeals agreed with the  
 15:54:09 **2** plaintiffs that the trial court had jurisdiction that our  
 15:54:13 **3** reading of the Whistleblower Act on the two prongs you  
 15:54:17 **4** mentioned was not -- was wrong. Well, they -- they  
 15:54:21 **5** disagreed with it.  
 15:54:21 **6** **Q.** Okay. And in response to the Third Court of  
 15:54:26 **7** Appeals ruling in that case, what did you-all do on  
 15:54:29 **8** behalf of the Office of attorney general?  
 15:54:30 **9** **A.** We appealed that to the Supreme Court of Texas  
 15:54:31 **10** by filing a petition for review, asking them to take the  
 15:54:37 **11** case and reverse the third court's ruling.  
 15:54:40 **12** **Q.** Okay. Now, do you recall when the appeal to  
 15:54:43 **13** the Supreme Court of Texas was filed?  
 15:54:45 **14** **A.** Not exactly. It would have been within 30  
 15:54:48 **15** days, maybe 45, of that October, I think, '21, 2021  
 15:54:56 **16** opinion from the third court.  
 15:54:57 **17** **Q.** Okay. And at this point in time, what is going  
 15:55:01 **18** on with the litigation in the whistleblower lawsuit?  
 15:55:03 **19** **A.** Only the appeals process.  
 15:55:07 **20** PRESIDING OFFICER: Counsel, excuse me. I  
 15:55:09 **21** promised a break about 15 minutes ago for the jurors.  
 15:55:11 **22** They've been in a two-hour sit down.  
 15:55:14 **23** MR. OSSO: Now's an okay time to stop.  
 15:55:16 **24** PRESIDING OFFICER: I don't want to  
 15:55:17 **25** interrupt but is this a good time?

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16:25:36 **1** PRESIDING OFFICER: Hit that white button.  
 16:25:39 **2** MR. OSSO: Better. Okay. I'm going to  
 16:25:41 **3** reask that question.  
 16:25:41 **4** THE WITNESS: Please.  
 16:25:44 **5** **Q.** (BY MR. OSSO) Were you aware of whether the  
 16:25:46 **6** specific facts or allegations with regard to the  
 16:25:49 **7** whistleblower suit became public?  
 16:25:50 **8** **A.** Yes.  
 16:25:50 **9** **Q.** Can you tell us about in which ways, if you  
 16:25:53 **10** know, they became public?  
 16:25:55 **11** **A.** Well, we talked about that earlier. Before I  
 16:25:58 **12** came to interview at the office, there were news stories  
 16:26:01 **13** that contained allegations made by the whistleblowers.  
 16:26:07 **14** It was about that same time, maybe a little later, that  
 16:26:11 **15** the lawsuit was filed. That was a news story and a very  
 16:26:15 **16** detailed state court petition, that's public record,  
 16:26:19 **17** public filing, covered in press accounts. And then I  
 16:26:22 **18** think they amended that petition twice between the  
 16:26:26 **19** original filing and early February.  
 16:26:28 **20** So there was a first amended maybe in  
 16:26:31 **21** December and then in February, just before the plea to  
 16:26:34 **22** jurisdiction hearing and the temporary injunction  
 16:26:37 **23** hearing, they filed a second amended petition which I  
 16:26:40 **24** think is the last one, but that's 63 pages, very detailed  
 16:26:44 **25** allegations.

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16:26:44 **1** Q. I'm going to stop you real quick just to  
 16:26:46 **2** clarify. When you say "they filed and amended  
 16:26:48 **3** petitions," can you talk to us a little bit about --  
 16:26:51 **4** well, who filed those petitions?  
 16:26:52 **5** A. The four plaintiffs through their lawyers.  
 16:26:54 **6** Q. So David Maxwell, Mark Penley, Ryan Vassar, and  
 16:26:58 **7** Blake Brickman?  
 16:26:58 **8** A. Yes.  
 16:26:58 **9** Q. And did those petitions include specific facts  
 16:27:02 **10** that they were alleging --  
 16:27:04 **11** A. Yes.  
 16:27:04 **12** Q. -- Attorney General Paxton and the Office of  
 16:27:07 **13** Attorney General committed?  
 16:27:07 **14** A. Yes.  
 16:27:08 **15** Q. Okay. And those pleadings were actually  
 16:27:10 **16** available to the public, correct?  
 16:27:11 **17** A. Yes.  
 16:27:12 **18** Q. You can look them up online?  
 16:27:14 **19** A. Yes.  
 16:27:17 **20** MR. OSSO: So, Erick, if you don't mind  
 16:27:22 **21** going back one page to the bottom paragraph, bottom  
 16:27:26 **22** clause.  
 16:27:31 **23** Q. (BY MR. OSSO) Article VIII alleges that,  
 16:27:32 **24** Paxton entered into a settlement agreement with  
 16:27:33 **25** whistleblowers that provides for payment of the  
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16:28:43 **1** most serious allegations that the complaints -- the  
 16:28:45 **2** petitions made were restated in the Court of Appeals'  
 16:28:47 **3** decision which also garnered news attention when it came  
 16:28:50 **4** out.  
 16:28:51 **5** Q. Right. And you had talked about -- I think  
 16:28:53 **6** opposing counsel actually held up a document that was the  
 16:28:55 **7** Third Court of Appeals' decision against the Office of  
 16:28:58 **8** Attorney General in this case, correct?  
 16:28:59 **9** A. I'm sorry. What was your question?  
 16:29:01 **10** Q. Essentially that the Third Court of Appeals  
 16:29:03 **11** ruled against the Office of Attorney General?  
 16:29:05 **12** A. Correct.  
 16:29:05 **13** Q. So you filed what with the Supreme Court?  
 16:29:09 **14** A. Petition for review. An appeal, notice of  
 16:29:13 **15** appeal at the Third Court's decision with a petition for  
 16:29:16 **16** review, asking the Supreme Court to take the case.  
 16:29:18 **17** Q. Can you explain to us -- I deal predominantly  
 16:29:22 **18** with criminal law. Can you deal -- can you explain to us  
 16:29:26 **19** kind of how the process works when you file a petition  
 16:29:28 **20** for review with the Supreme Court of Texas?  
 16:29:30 **21** A. It's in the form of a brief and very much like  
 16:29:34 **22** what we would call a merits brief, but it's not. It is  
 16:29:38 **23** simply an argument for why this case is sufficiently  
 16:29:41 **24** important to be one of the 100 or 110 cases that the  
 16:29:45 **25** Supreme Court can take from the entire state and rule on.  
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16:27:35 **1** settlement from public funds. This settlement agreement  
 16:27:38 **2** stayed the wrongful termination suit and conspicuously  
 16:27:42 **3** delayed the discovery of facts.  
 16:27:44 **4** Is that allegation true?  
 16:27:48 **5** A. No. Can I explain?  
 16:27:52 **6** Q. Please do.  
 16:27:53 **7** A. The settlement agreement didn't stay the  
 16:27:56 **8** wrongful termination suit. It was on appeal. And our  
 16:28:00 **9** petition for review was pending with the Supreme Court of  
 16:28:03 **10** Texas. That court doesn't have to take any case it  
 16:28:05 **11** doesn't want to, so you have to convince it to take the  
 16:28:08 **12** case. We had made a case. We'd made -- filed two briefs  
 16:28:12 **13** to do that.  
 16:28:12 **14** Q. I'm going to stop you, because we're going to  
 16:28:14 **15** get there. And I want to break that down.  
 16:28:16 **16** A. All righty.  
 16:28:16 **17** Q. But with regard to conspicuously delaying the  
 16:28:19 **18** discovery of facts --  
 16:28:20 **19** A. The settlement agreement didn't do that.  
 16:28:24 **20** Q. And weren't the facts available to the public  
 16:28:26 **21** at this point anyway?  
 16:28:27 **22** A. More than we discussed. Obviously the  
 16:28:29 **23** petitions I mentioned, but the Court of Appeals' decision  
 16:28:32 **24** is 30 pages and has bullet point, block-paragraph  
 16:28:38 **25** recitals from the pleadings. So it was restated. The  
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16:29:48 **1** They only hear so many oral arguments or take so many  
 16:29:53 **2** cases so you have to convince them this is worthy of  
 16:29:55 **3** their attention. We tried to do just that.  
 16:29:58 **4** Q. Okay.  
 16:29:59 **5** A. And our opponents filed a brief between our  
 16:30:04 **6** initial and reply brief, explained to the Court they  
 16:30:05 **7** should not and they should let the Third Court of Appeals  
 16:30:08 **8** case stand in which case the case would have then gone  
 16:30:12 **9** back to the trial court.  
 16:30:13 **10** Q. Okay. And so the Third Court of Appeals'  
 16:30:17 **11** ruling was actually up for appeal, right?  
 16:30:18 **12** A. Yes.  
 16:30:19 **13** Q. Was that ultimately ruled on, that appeal?  
 16:30:21 **14** A. Not to this day, no.  
 16:30:24 **15** Q. Okay. Can you talk to us -- are there certain  
 16:30:29 **16** sessions or time periods where the Supreme Court tends to  
 16:30:31 **17** hear cases?  
 16:30:32 **18** A. I think that's why I would defer to people --  
 16:30:36 **19** bless you -- who -- who argue in front of the Supreme  
 16:30:40 **20** Court for a living, but yes.  
 16:30:42 **21** Q. Okay. Do you feel that -- I guess at any time  
 16:30:44 **22** the Supreme Court can pull your case out of a hat to hear  
 16:30:47 **23** it, right?  
 16:30:47 **24** A. I think that's right.  
 16:30:47 **25** Q. Is that --  
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16:30:49 **1** A. They usually confer as a body, I think, in  
 16:30:52 **2** person, although maybe by remote sometimes, too --  
 16:30:56 **3** Q. Right.  
 16:30:57 **4** A. -- especially during COVID.  
 16:30:58 **5** Q. Okay. Does that have an affect on your ability  
 16:31:00 **6** to negotiate or work out a settlement with another party,  
 16:31:03 **7** or does it affect the other party's, maybe, goal or them  
 16:31:08 **8** wanting to settle?  
 16:31:08 **9** A. I don't know what the "what" is in your  
 16:31:10 **10** sentence.  
 16:31:10 **11** Q. The potential for the Supreme Court to pull  
 16:31:13 **12** your issue out of a hat and have it come before them?  
 16:31:17 **13** A. Absolutely. It's a significant moment in a  
 16:31:21 **14** case. If they take it, I think the common -- with  
 16:31:26 **15** conventional wisdom would be, they're not taking the  
 16:31:28 **16** third court's case if they decide to take it to affirm it  
 16:31:31 **17** because they could just do that by denying the petition  
 16:31:33 **18** for review, save themselves time.  
 16:31:35 **19** Q. So what does that mean to you in the event that  
 16:31:37 **20** they might decide to take your case for --  
 16:31:41 **21** A. It would have altered our assessment of the  
 16:31:43 **22** case and made it -- we would have felt very good about  
 16:31:46 **23** our chances for winning the appeal and dismissing the  
 16:31:49 **24** case outright.  
 16:31:50 **25** Q. Would that give you the upper hand potentially

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16:32:53 **1** A. They reached out to us, my recollection.  
 16:32:55 **2** Q. And when you say "they," you mean the  
 16:32:59 **3** whistleblowers' attorneys?  
 16:33:00 **4** A. Yes.  
 16:33:01 **5** Q. Okay. And can you talk to us about when -- if  
 16:33:05 **6** you know, when that occurred?  
 16:33:06 **7** A. Same time, late December, early January  
 16:33:10 **8** of 2023.  
 16:33:10 **9** Q. And what did you do in response to them  
 16:33:15 **10** reaching out?  
 16:33:16 **11** A. We discussed internally whether we wanted to --  
 16:33:20 **12** as they were requesting, go to mediation with a  
 16:33:23 **13** professional mediator in the Austin area.  
 16:33:25 **14** Q. Did -- what kinds of things were you discussing  
 16:33:32 **15** within your office as to why or why not settle a case?  
 16:33:36 **16** A. We certainly wanted to discuss the pending  
 16:33:38 **17** petition for review and when it might be ruled on and  
 16:33:40 **18** what that might do to the parties' willingness to mediate  
 16:33:45 **19** at that point if it happened, whether we could get a  
 16:33:49 **20** professional mediator worth his or her salt on that short  
 16:33:53 **21** of notice because I think the plaintiffs wanted to  
 16:33:56 **22** mediate in the next 7 to 10 days maybe 14 at the out set  
 16:34:02 **23** at the latest, because they were concerned that the  
 16:34:04 **24** Supreme Court might rule and either way it ruled, the  
 16:34:06 **25** other side would feel good and the other side would feel

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16:31:52 **1** in settlement negotiations?  
 16:31:53 **2** A. So much so that it might make settlement  
 16:31:56 **3** impossible.  
 16:31:56 **4** Q. Okay. Do you think, if you know, that that had  
 16:31:59 **5** any effect on this case coming to a settlement or at  
 16:32:02 **6** least settlement discussions starting in this  
 16:32:05 **7** whistleblower lawsuit?  
 16:32:09 **8** A. I think that's why settlement negotiations  
 16:32:11 **9** started.  
 16:32:11 **10** Q. Okay. About what time did settlement  
 16:32:13 **11** negotiations actually begin in this case?  
 16:32:14 **12** A. I'm not sure whether it was the very end of  
 16:32:17 **13** December or the first week or so in January of 2021.  
 16:32:21 **14** About -- somewhere in that time.  
 16:32:23 **15** Q. 2021 or 2022?  
 16:32:25 **16** A. Sorry. 2023.  
 16:32:26 **17** Q. 2023?  
 16:32:27 **18** A. December 2022 and January 2023. Thank you.  
 16:32:30 **19** Q. Now, just to clarify for the Senators, the  
 16:32:33 **20** petition for review probably sat with the Supreme Court  
 16:32:35 **21** for quite a while, did it not?  
 16:32:37 **22** A. Yes, I think we filed our initial petition,  
 16:32:41 **23** our -- yeah, initial brief in July of 2022.  
 16:32:47 **24** Q. Okay. Who reached out to who to discuss  
 16:32:51 **25** settling the whistleblower lawsuit?

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16:34:09 **1** bad and maybe couldn't -- risk creates settlement --  
 16:34:16 **2** Q. Okay.  
 16:34:17 **3** A. -- potential, so that would take out some of  
 16:34:18 **4** the risk.  
 16:34:19 **5** Q. Risk for the plaintiffs, right?  
 16:34:20 **6** A. Risk to the plaintiffs that the Court would  
 16:34:22 **7** grant it and that might indicate their case was going to  
 16:34:25 **8** be dismissed maybe in a year, maybe in nine months. They  
 16:34:29 **9** may have assessed it differently. That's how I would  
 16:34:31 **10** have seen it. And risk for us that if the Court declined  
 16:34:35 **11** to accept our petition for review, the third court ruling  
 16:34:39 **12** stands and we're back in trial court and we have years  
 16:34:42 **13** perhaps of lawsuits and appeals, litigation and appeals  
 16:34:47 **14** and the accompanying expense and time.  
 16:34:49 **15** Q. Who found the mediators?  
 16:34:52 **16** A. The plaintiffs' lawyers did that. I remember  
 16:34:54 **17** clearly because I was very skeptical that on that short  
 16:34:58 **18** of notice we would get any good mediators and they told  
 16:35:02 **19** us in response to that, I think, that not only they had  
 16:35:06 **20** two or three who had available dates in the next week or  
 16:35:09 **21** two, which indicated to me -- I told people at the office  
 16:35:13 **22** that's a good sign that they're eager to mediate because  
 16:35:16 **23** they must have called 10 or 12 people if they could find  
 16:35:19 **24** two or three available on that short of notice.  
 16:35:22 **25** Q. Okay. So it appeared to you that they intended

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16:35:24 **1** to reach a settlement?

16:35:25 **2** **A.** I think they were highly motivated to settle.

16:35:29 **3** **Q.** Okay. And that's based on your years of

16:35:32 **4** commercial litigation experience, I assume?

16:35:33 **5** **A.** And as a mediator and trying to get a mediator

16:35:37 **6** on short notice.

16:35:38 **7** **Q.** Fair enough.

**8** **A.** In fact, that was kind of my speciality as I

16:35:39 **9** didn't mediate full-time, so if parties couldn't get one

16:35:41 **10** of the regular mediators they knew I was probably

16:35:43 **11** available.

16:35:43 **12** **Q.** Now, I want to zoom out a little bit. Just

16:35:46 **13** generally speaking in your years of experience as both a

16:35:49 **14** mediator, a judge and a litigator, does a party's

16:35:53 **15** willingness to settle a case indicate that maybe they

16:35:56 **16** think they're liable or that they think that the other

16:35:58 **17** party is correct? Can you talk to me about that?

16:36:01 **18** **A.** Sure. In my experience, especially mediating

16:36:07 **19** and representing parties who mediate their cases, both

16:36:12 **20** sides at least will say they like their case and they

16:36:14 **21** may. They frequently do. Mediation takes place when

16:36:18 **22** there's risk and uncertainty and the only way to control

16:36:21 **23** the outcome is for the parties to reach an agreement and

16:36:24 **24** take it out of a jury's hands. You never know what a

16:36:27 **25** jury's going to do. You don't know who the jurors are.

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16:37:28 **1** being a voice as I am generally and maybe professionally,

16:37:36 **2** look, let's go to mediation, compared to years of trial

16:37:40 **3** and discovery and outside counsel on both sides, the

16:37:46 **4** expenses -- the time is short. We can do it in a day,

16:37:49 **5** maybe two, and the expense is a rounding-error in the

16:37:55 **6** budget. It's the responsible thing to do, especially in

16:37:58 **7** this case. It's one thing if you're a private plaintiff

16:37:59 **8** or a defendant. It's another when you are dealing with

16:38:03 **9** the state's money. I think you're -- I felt and

16:38:05 **10** articulated that we kind of have a duty to explore

16:38:08 **11** settlement. Maybe it can't happen, but we should -- we

16:38:11 **12** should give it a try.

16:38:12 **13** **Q.** Right.

16:38:13 **14** **MR. OSSO:** Your Honor, at this time, may I

16:38:16 **15** approach the witness and the court and opposing counsel?

16:38:44 **16** **Q.** (BY MR. OSSO) Mr. Dorfman, I'm showing you

16:38:47 **17** what's been premarked as attorney general Exhibit 335.

16:38:51 **18** Do you recognize this document?

16:38:52 **19** **A.** Yes.

16:38:52 **20** **Q.** And what do you recognize this document to be?

16:38:55 **21** **A.** This is an internal memo prepared by Chris

16:38:59 **22** Hilton, the chief of our general litigation division,

16:39:02 **23** assessing after we'd received settlement statements from,

16:39:06 **24** I think, three of the plaintiffs in the Whistleblower Act

16:39:09 **25** case, explaining why they thought their case was strong

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16:36:30 **1** **Q.** Right.

16:36:30 **2** **A.** And maybe two years from now, it may be --

16:36:33 **3** again, 12 people pulled off the street. That's -- if you

16:36:39 **4** want to subordinate your control of your affairs to those

16:36:42 **5** people, that's your choice, but that's expensive and

16:36:44 **6** risky.

16:36:44 **7** **Q.** Okay. And I want to --

16:36:46 **8** **A.** I'm not sure I answered your -- did I answer

16:36:48 **9** your question?

16:36:49 **10** **Q.** You did answer my question. I appreciate it,

16:36:51 **11** and I want to bring your answer and apply it to the fact

16:36:55 **12** of this case. Did you have a conversation without

16:36:58 **13** getting into specifics with other OAG employees about

16:37:00 **14** settling -- or at least going to a mediation with the

16:37:03 **15** plaintiffs in this case?

16:37:03 **16** **A.** Oh, yes.

16:37:04 **17** **Q.** Okay. Now, when you entered those discussions,

16:37:08 **18** did you have a viewpoint on the strength of your case for

16:37:10 **19** the defense, the Office of Attorney General in this case?

16:37:13 **20** **A.** Yes.

16:37:13 **21** **Q.** And what was your viewpoint?

16:37:14 **22** **A.** Well, we hadn't probably looked at it in

16:37:18 **23** sometime since filing the briefing so we reconvened,

16:37:22 **24** revisited, reminded everybody where things were and what

16:37:24 **25** the arguments were, so we could assess that. I remember

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16:39:13 **1** and what they thought they would recover at trial.

16:39:15 **2** **Q.** And let's not talk about the contents of the

16:39:17 **3** document, but could you tell me when this document was

16:39:19 **4** authored?

16:39:20 **5** **A.** This, on its face, it says February 1, 2023. I

16:39:25 **6** don't have any reason to doubt that's the date. That's

16:39:28 **7** the date, by the way, we mediated the case.

16:39:31 **8** **Q.** Okay.

16:39:31 **9** **A.** So whether it was circulated before that date

16:39:34 **10** in draft form -- I think it was, my recollection. We

16:39:37 **11** certainly discussed the contents of it internally before

16:39:40 **12** it was put into final form.

16:39:41 **13** **Q.** Okay. And did the findings without getting

16:39:43 **14** into what the findings were or the subject matter of what

16:39:47 **15** the document is, did this have an effect on your mindset

16:39:50 **16** going into the negotiations?

16:39:51 **17** **A.** I don't know if it -- it certainly informed me

16:39:55 **18** and I relied upon it and had -- I think it summarized the

16:40:00 **19** state of play well.

16:40:01 **20** **Q.** Okay. And is -- is -- AG Exhibit 335 is that a

16:40:05 **21** fair and accurate copy of the memo that you received from

16:40:07 **22** Chris Hilton?

16:40:08 **23** **A.** Give me one second.

16:40:09 **24** **Q.** Sure.

16:40:20 **25** **A.** Yes.

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16:40:22 **1** MR. OSSO: Your Honor, at this time, I  
 16:40:24 **2** would offer AG Exhibit 335 into evidence.  
 16:40:26 **3** PRESIDING OFFICER: Any objection?  
 16:40:27 **4** MR. DUTKO: I just want to make sure I have  
 16:40:29 **5** the right document. Is this the one with the OAG seal  
 16:40:32 **6** but with Ken Paxton's name removed?  
 16:40:34 **7** MR. OSSO: Yep, that's it.  
 16:40:37 **8** MR. DUTKO: Then no objection.  
 16:40:40 **9** PRESIDING OFFICER: Admit.  
 16:40:42 **10** MR. OSSO: May I proceed?  
 16:40:44 **11** PRESIDING OFFICER: 335 AG Exhibit into  
 16:40:49 **12** evidence. You may continue.  
 16:40:50 **13** (AG Exhibit 335 admitted)  
 16:40:50 **14** MR. OSSO: Thank you, Judge.  
 16:40:50 **15** Q. (BY MR. OSSO) Now, I don't want to go line by  
 16:40:52 **16** line in this report, but would you mind just summarizing  
 16:40:55 **17** the -- kind of what this document is and what you and  
 16:40:58 **18** Mr. Hilton's thought process was with regard to the  
 16:41:02 **19** financial aspect of this mediation in the case.  
 16:41:06 **20** A. Sure. It's important to realize the mediation  
 16:41:08 **21** -- we were told in no uncertain terms Blake Brickman  
 16:41:12 **22** would not participate in mediation. He would not come to  
 16:41:14 **23** mediation. He would not be there. He was going to trial  
 16:41:18 **24** come hell or high water, so the opportunity was to settle  
 16:41:21 **25** with three, not all four of the whistleblower plaintiffs,  
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16:41:25 **1** and this -- so we received settlement statements from  
 16:41:29 **2** demands basically, this is what we're going to present  
 16:41:32 **3** the week before -- maybe a few days before the mediation  
 16:41:37 **4** date and this was kind of a summary. I think  
 16:41:41 **5** collectively they were -- their attorneys argued for over  
 16:41:45 **6** \$5 million in damages if they settled today. Of course,  
 16:41:49 **7** prejudgement interest and attorneys' fees, as they said,  
 16:41:50 **8** would go up if the case continued, et cetera. But -- so  
 16:41:53 **9** for three of them, that was the -- and we didn't to want  
 16:41:56 **10** take their word for it so we asked one of our top  
 16:41:58 **11** attorneys to read those carefully, review the case law  
 16:42:03 **12** and report back on what a more -- what we would consider  
 16:42:07 **13** a more realistic assessment of the case's value was.  
 16:42:09 **14** Q. And just a brief question: This is just an  
 16:42:16 **15** inner office memorandum, right?  
 16:42:17 **16** A. Yes.  
 16:42:18 **17** MR. DUTKO: Objection. Leading.  
 16:42:19 **18** Q. (BY MR. OSSO) Was this --  
 16:42:20 **19** PRESIDING OFFICER: Overruled.  
 16:42:20 **20** MR. OSSO: I'm going to ask the question  
 16:42:23 **21** again.  
 16:42:23 **22** Q. (BY MR. OSSO) Was this an inner office  
 16:42:25 **23** memorandum?  
 16:42:25 **24** A. Yes.  
 16:42:25 **25** Q. Did you send this out to anybody outside of the  
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16:42:28 **1** attorney general's office?  
 16:42:28 **2** A. No, we would not have done that.  
 16:42:30 **3** Q. Did you represent that you were the attorney  
 16:42:32 **4** general, or that you had the authority to act without Ken  
 16:42:35 **5** Paxton's, I don't know, authority in this document?  
 16:42:38 **6** A. By this memo?  
 16:42:39 **7** Q. Yeah, by this memo.  
 16:42:41 **8** A. No.  
 16:42:42 **9** Q. No, okay. So can you tell us whether or not  
 16:42:45 **10** you felt that there was an ability to potentially save  
 16:42:49 **11** the State of Texas, the public of Texas, money by  
 16:42:53 **12** engaging in a mediation and potentially a settlement?  
 16:42:56 **13** A. Well, I certainly thought that was the case.  
 16:43:03 **14** Otherwise, it wouldn't have been advisable to go to  
 16:43:06 **15** mediation.  
 16:43:07 **16** Q. Okay. Now, which specific plaintiffs in the  
 16:43:09 **17** whistleblower lawsuit were involved in the initial  
 16:43:13 **18** willingness to settle or request to settle the case?  
 16:43:16 **19** A. Ryan Vassar, Mark Penley, and David Maxwell  
 16:43:25 **20** through their attorneys. I don't think we ever talked  
 16:43:27 **21** directly to them during this process.  
 16:43:28 **22** Q. What about Blake Brickman?  
 16:43:30 **23** A. Well, as I said, Mr. Brickman's attorney told  
 16:43:34 **24** us -- and the -- actually the attorneys for the other  
 16:43:39 **25** three plaintiffs told us Blake Brickman will not come to  
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16:43:44 **1** Austin. He will not participate in the mediation. He  
 16:43:46 **2** doesn't care. He -- he wants his day in court.  
 16:43:50 **3** Q. Did you have a reason or idea as to why  
 16:43:57 **4** Mr. Brickman wanted his day in court?  
 16:43:58 **5** A. Yeah. Well, this is secondhand, so I  
 16:44:04 **6** understand Mr. Brickman is financially secure.  
 16:44:05 **7** MR. DUTKO: Objection. Hearsay. This is  
 16:44:07 **8** secondhand.  
 16:44:08 **9** PRESIDING OFFICER: Sustained.  
 16:44:11 **10** MR. OSSO: Your Honor, I'd actually argue  
 16:44:12 **11** that it goes towards settlement agreements in this case,  
 16:44:14 **12** and under 408(b), it should come into play.  
 16:44:18 **13** MR. DUTKO: And my objection is 408. This  
 16:44:20 **14** goes to settlement and it's also hearsay.  
 16:44:22 **15** MR. OSSO: Which is an -- which is --  
 16:44:25 **16** 408(b) is the exception to the rule and --  
 16:44:27 **17** PRESIDING OFFICER: We've had this  
 16:44:29 **18** discussion I think yesterday or the day before, so I  
 16:44:32 **19** sustain the objection.  
 16:44:32 **20** MR. OSSO: Yes, Judge.  
 16:44:34 **21** Q. (BY MR. OSSO) Needless to say, Brickman's not  
 16:44:36 **22** there, is he?  
 16:44:37 **23** A. Wasn't there. Wasn't going to be there. Well,  
 16:44:39 **24** and I say wasn't there. It -- we didn't anticipate this  
 16:44:42 **25** or plan this, but February 1st, the date we set for the  
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16:44:46 **1** mediation, it ended up being the winter freeze.

16:44:49 **2** **Q.** Did Mr. Brickman's attorneys come to you with

16:44:52 **3** additional demands -- well, we'll get there.

16:44:54 **4** Talk to us how the mediation went. What

16:44:57 **5** day do you recall you started mediation?

16:44:58 **6** **A.** I believe it was a Wednesday, February 1st.

16:45:01 **7** And -- and I -- we had planned to be in Austin in person

16:45:05 **8** at Patrick -- the mediator Patrick Keel's, former Judge,

16:45:10 **9** office. As it happened when the freeze set in, I stayed

16:45:14 **10** in Houston and we were all on a Zoom.

16:45:16 **11** **Q.** And, Mr. Dorfman, it's been a few years. Is it

16:45:19 **12** possible that the dates may be...

16:45:20 **13** **A.** Might not have been a Wednesday.

16:45:22 **14** **Q.** Fair enough.

16:45:22 **15** MR. OSSO: Judge, may I approach

16:45:24 **16** Mr. Dorfman?

16:45:36 **17** THE WITNESS: I think it was a Wednesday.

16:45:48 **18** **Q.** (BY MR. OSSO) Was this a one-day mediation or

16:45:50 **19** a two-day mediation?

16:45:51 **20** **A.** Ended up being -- initially, planned to be one

16:45:54 **21** day, February 1st. We ended up, I think, on February 8th

16:45:56 **22** having a second day by agreement --

16:45:58 **23** **Q.** Okay.

16:45:58 **24** **A.** -- with the party -- the plaintiffs' attorneys.

16:46:02 **25** **Q.** Okay. Can you talk to us -- and we'll get to

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16:47:10 **1** You said Mr. Brickman showed up. Can you talk to us

16:47:12 **2** about any effect that only three of the four plaintiffs

16:47:18 **3** were present that it had on you and then what happens

16:47:22 **4** when Mr. Brickman shows up?

16:47:23 **5** **A.** Well, I think Mr. Hilton's memo, Exhibit 335,

16:47:26 **6** speaks of the fact that it's more valuable to us to

16:47:28 **7** settle the entire case.

16:47:30 **8** **Q.** Okay. And why is that?

16:47:31 **9** **A.** Because if we're settling with three of them,

16:47:34 **10** we're paying money out. Yet, we still have to pay our

16:47:37 **11** lawyers and outside counsel on top of that to go to

16:47:41 **12** trial, to go to discovery, all the expense, maybe less

16:47:47 **13** time, maybe less discovery because it's just one

16:47:49 **14** plaintiff, but still time, resources that we would like

16:47:53 **15** to save ideally by getting rid of the whole case at once.

16:47:59 **16** **Q.** Because what is the point of settling this case

16:48:01 **17** to you guys?

16:48:02 **18** **A.** We have to be good stewards of the taxpayers'

16:48:07 **19** money, the state fisc. And so we viewed this as any

16:48:10 **20** other case. One, that's why I argued for mediation is we

16:48:13 **21** should at least try if it's cheap and inexpensive to try

16:48:16 **22** and settle this and save that money and time and

16:48:19 **23** resources. And then settling with three, I think

16:48:26 **24** that's -- it would be less valuable, but by the same

16:48:29 **25** token, we would offer less money and I think Mr. Hilton

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16:46:05 **1** the document in a second, but can you talk to us about

16:46:07 **2** how the first day of mediation went?

16:46:09 **3** **A.** It went long. I think we broke sometime around

16:46:13 **4** midnight. I want to give Patrick Keel all the credit in

16:46:16 **5** the world. We didn't know until it started turning dark

16:46:19 **6** that he didn't have power in his house. And at some

16:46:22 **7** point he was on his laptop and lost that power, couldn't

16:46:24 **8** recharge, so he's now on his phone on the Zoom call.

16:46:27 **9** **Q.** All -- this is all happening online, right?

16:46:30 **10** **A.** All happening online till midnight and I think

16:46:33 **11** his juice gave out at some point.

16:46:35 **12** **Q.** Was it a -- was it a good day of mediation, or

16:46:37 **13** was it a bad day of mediation?

16:46:38 **14** **A.** I didn't have a whole lot of expectations that

16:46:42 **15** this would settle. It didn't obviously on that first

16:46:45 **16** day, but we got real close and again we came in with the

16:46:49 **17** expectation that we -- the option today is to settle with

16:46:52 **18** three plaintiffs. Sometime between 5:00 and 6:00 p.m.,

16:46:56 **19** Mr. Brickman showed up again remotely, so I don't know if

16:46:59 **20** he was physically present.

16:47:00 **21** **Q.** Sure. I'm going to stop you real quick. Was

16:47:03 **22** this the first day that it got real close and

16:47:06 **23** Mr. Brickman showed up or the second day of mediation?

16:47:07 **24** **A.** First day.

16:47:08 **25** **Q.** All right. So you guys are making headway.

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16:48:32 **1** says it in the reverse way in his memo that if they're --

16:48:35 **2** if Mr. Brickman would come to the table and we could make

16:48:38 **3** sure we don't have to expend any money after a

16:48:42 **4** settlement, that would -- I think his word is a pre --

16:48:47 **5** that would be worth a premium.

16:48:49 **6** **Q.** Okay. Talk to us about what happens when

16:48:51 **7** Brickman joins the negotiation table. How did that go

16:48:54 **8** down? Did you -- did you-all reach out to Mr. Brickman,

16:48:57 **9** or did somebody else reach out to Mr. Brickman? What is

16:49:00 **10** your understanding?

16:49:00 **11** **A.** I don't recall real clearly. I think it was a

16:49:04 **12** surprise to us.

16:49:05 **13** **Q.** And how did you take that surprise?

16:49:06 **14** **A.** Good and bad.

16:49:09 **15** **Q.** Can you tell us about that?

16:49:10 **16** **A.** The good is, look, we've all along preferred to

16:49:15 **17** settle with all four rather than piecemeal. It's more

16:49:18 **18** valuable. It's worth the premium for the reasons

16:49:21 **19** Mr. Hilton stated in the memo, in the exhibit. So that

16:49:24 **20** was good.

16:49:25 **21** Bad is, wait a second. You told us all

16:49:30 **22** along all week, maybe two weeks now, Blake Brickman is

16:49:33 **23** not interested in settlement. Blake Brickman is not

16:49:35 **24** going to participate in the mediation. He's not

16:49:37 **25** available. He's going to trial. And now -- now that

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16:49:41 **1** we're talking real dollars and it looks good that we  
 16:49:45 **2** might actually settle, now he's interested. All that --  
 16:49:50 **3** was that posturing? Were we being sold a bill of goods?  
 16:49:57 **4** That suspicion crossed my mind.  
 16:49:59 **5** **Q.** Did you-all reach a settlement that night?  
 16:50:00 **6** **A.** No. We got real close, but no.  
 16:50:02 **7** **Q.** Now, I want to talk to you about AG  
 16:50:06 **8** Exhibit 423. Do you recognize this document?  
 16:50:09 **9** PRESIDING OFFICER: Mr. Osso, make sure you  
 16:50:13 **10** speak up and stay on that microphone.  
 16:50:14 **11** MR. OSSO: Yes, Judge.  
 16:50:16 **12** **Q.** (BY MR. OSSO) Do you recognize AG Exhibit 423?  
 16:50:17 **13** **A.** Yes, I do.  
 16:50:17 **14** **Q.** What do you recognize that document to be?  
 16:50:19 **15** **A.** This is General Paxton conferring on --  
 16:50:25 **16** MR. DUTKO: Objection, Your Honor.  
 16:50:26 **17** Testifying from a document not in evidence.  
 16:50:29 **18** MR. OSSO: I'm going to lay the predicate  
 16:50:31 **19** right now, Judge, and I'll instruct the witness.  
 16:50:36 **20** PRESIDING OFFICER: Overruled.  
 16:50:37 **21** **Q.** (BY MR. OSSO) Without getting into the  
 16:50:38 **22** contents of the document, what do you recognize this  
 16:50:40 **23** document to be?  
 16:50:41 **24** **A.** It's a memo from Attorney General Paxton to me  
 16:50:44 **25** and to Chris Hilton. Subject line: Settlement  
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16:50:47 **1** Authority, dated February 8.  
 16:50:48 **2** **Q.** Okay. And did this email have an effect on  
 16:50:51 **3** your abilities and your thought process when going into  
 16:50:55 **4** the mediation on day two?  
 16:50:56 **5** **A.** It confirmed what we had discussed internally,  
 16:51:01 **6** yes.  
 16:51:01 **7** **Q.** Okay. Did it grant you any form of authority?  
 16:51:04 **8** **A.** Yes.  
 16:51:04 **9** **Q.** All right. Is this email that you see in AG  
 16:51:10 **10** 423 a fair and accurate copy of the email that you  
 16:51:12 **11** received from Ken Paxton on February 8th of 2023?  
 16:51:16 **12** **A.** Yes.  
 16:51:17 **13** MR. OSSO: At this time, Judge, I would  
 16:51:18 **14** offer AG Exhibit 423 into evidence.  
 16:51:21 **15** PRESIDING OFFICER: Any objection?  
 16:51:21 **16** MR. DUTKO: Yes, Your Honor. I have three  
 16:51:23 **17** objections. First, it was never produced. Second, it  
 16:51:26 **18** was listed on their privilege log, so it was never  
 16:51:28 **19** produced, and three it's hearsay. So it is inadmissible.  
 16:51:33 **20** MR. OSSO: I can address the objections.  
 16:51:35 **21** I didn't hear your second objection. Could  
 16:51:37 **22** you repeat that?  
 16:51:37 **23** MR. DUTKO: Yes. This document was  
 16:51:39 **24** identified on your privilege log, so you never gave it to  
 16:51:41 **25** us and now you're bringing it to the Court for the first  
 TAMI LEWIS, CSR, RDR, CRR, CRC

16:51:45 **1** time and showing it to us for the first time.  
 16:51:47 **2** MR. OSSO: Let me address the privilege log  
 16:51:49 **3** first. As an attorney for Ken Paxton, I think at this  
 16:51:52 **4** time we'd be willing to waive any privilege.  
 16:51:52 **5** MR. DUTKO: I appreciate that. But the  
 16:51:53 **6** fact is --  
 16:51:53 **7** MR. OSSO: I'm not done. And if I could  
 16:51:55 **8** just finish my response, then I'd be happy to be quiet  
 16:51:58 **9** and let opposing counsel go.  
 16:52:00 **10** So first and foremost, as Ken Paxton's  
 16:52:02 **11** attorney, I'll waive the privilege. With regard to  
 16:52:04 **12** hearsay, it's not offered for the truth of the matter  
 16:52:06 **13** asserted. It goes towards the effect on the listener and  
 16:52:10 **14** the mediation the next day. We heard Mr. Dorfman just  
 16:52:13 **15** state that on the record. And his first objection with  
 16:52:15 **16** regard to it being -- not being on the witness list -- or  
 16:52:17 **17** excuse me -- the exhibit list, Judge, this is a rebuttal  
 16:52:20 **18** case at this point and arguably we don't even have to put  
 16:52:24 **19** a case on. Most of our exhibits are rebuttal exhibits,  
 16:52:27 **20** but we did give them the list. I am arguing that this is  
 16:52:29 **21** a rebuttal exhibit, and for that reason it is not covered  
 16:52:32 **22** by the witness -- the exhibit list rule and it should  
 16:52:35 **23** come into evidence.  
 16:52:36 **24** MR. DUTKO: Your Honor, may I respond?  
 16:52:37 **25** PRESIDING OFFICER: Yes, you may.  
 TAMI LEWIS, CSR, RDR, CRR, CRC

16:52:38 **1** MR. DUTKO: Just so we're clear, the  
 16:52:40 **2** process that occurred was they produced a privilege log,  
 16:52:43 **3** never gave us this document, and now for the first time  
 16:52:47 **4** they're sandbagging us with this document without giving  
 16:52:49 **5** it to us. As the Court is aware, you've ruled several  
 16:52:52 **6** times the documents that we did not produce would not  
 16:52:55 **7** come into evidence. They never gave this document to us.  
 16:52:58 **8** This is the first time we're ever seeing it. If they  
 16:53:00 **9** want to take every document off their privilege log and  
 16:53:03 **10** put it into the record, we're good with it. Otherwise,  
 16:53:07 **11** we have a valid objection.  
 16:53:08 **12** Second, Your Honor, it is clear hearsay.  
 16:53:11 **13** There is no business record. The predicate laid was --  
 16:53:14 **14** was not the standard for hearsay, and so it is  
 16:53:17 **15** inadmissible on all of those grounds.  
 16:53:19 **16** MR. OSSO: If I -- and just briefly, yes,  
 16:53:22 **17** Judge.  
 16:53:22 **18** PRESIDING OFFICER: Go ahead.  
 16:53:22 **19** MR. OSSO: Well -- and I'm not aware of a  
 16:53:25 **20** privilege log that we came up with or provide to the  
 16:53:29 **21** House Board of Managers first and foremost. This was on  
 16:53:31 **22** our fourth supplemental notice of the exhibit list. I  
 16:53:34 **23** think the Court is aware that the managers have given us  
 16:53:38 **24** plenty of exhibits throughout the course of this trial.  
 16:53:40 **25** I mean, if I remember correctly, Mr. Bangert dumped phone  
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1 exhibit -- text messages between him and the attorney  
 16:53:44 2 general during the middle of trial. So to say that I'm  
 16:53:46 3 sandbagging them, it's just simply not an accurate  
 16:53:49 4 reflection of what's going on throughout this case or  
 16:53:51 5 with regard to this exhibit.  
 16:53:53 6 PRESIDING OFFICER: Okay. I've heard both  
 16:53:55 7 arguments. Give us a moment.  
 16:57:31 8 (Brief pause.)  
 16:57:34 9 PRESIDING OFFICER: Jurors, please take  
 16:57:35 10 your seat.  
 16:57:40 11 After consultation with my team here, we  
 16:57:44 12 will sustain the objection on hearsay.  
 16:57:47 13 Continue.  
 16:57:47 14 MR. OSSO: Yes, Your Honor.  
 16:57:49 15 Q. (BY MR. OSSO) Did General Paxton delegate you  
 16:57:53 16 the authority to engage in a settlement agreement with  
 16:57:55 17 the whistleblowers?  
 16:57:55 18 A. Yes.  
 16:57:56 19 Q. Okay. Did he do so on February 8th of 2023?  
 16:58:00 20 A. On or about that date.  
 16:58:01 21 Q. Where was Ken Paxton while the settlement  
 16:58:04 22 agreement was going on?  
 16:58:05 23 A. I don't recall. I know he wasn't in Austin.  
 16:58:09 24 And I believe he was traveling, which is in part why we  
 16:58:14 25 needed to formalize my authority and the scope in case we  
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16:58:19 1 weren't able to reach him on short notice if it appeared  
 16:58:21 2 that we had an agreement subject again to his  
 16:58:24 3 confirmation.  
 16:58:25 4 Q. But to be clear, you guys formalized that  
 16:58:27 5 delegation of duty, right?  
 16:58:29 6 A. Yes.  
 16:58:29 7 Q. All right. So then you go into the second day  
 16:58:33 8 of mediation, right?  
 16:58:34 9 A. Yes.  
 16:58:34 10 Q. Will talk to us about the second day of  
 16:58:37 11 mediation?  
 16:58:38 12 A. I believe it was also remote by Zoom even  
 16:58:41 13 though the weather had cleared up. And I can't remember  
 16:58:45 14 exactly when it was, we agreed we had a deal. But the  
 16:58:49 15 same dynamic had played out the -- Mr. Brickman was  
 16:58:54 16 participating from the start on the second day at least,  
 16:58:56 17 and so we were now dealing with four plaintiffs rather  
 16:59:01 18 than a settlement for three as we had most of the first  
 16:59:04 19 day of mediation.  
 16:59:05 20 Q. And did you-all reach a settlement agreement?  
 16:59:07 21 A. We did.  
 16:59:08 22 Q. What was the settlement agreement that you-all  
 16:59:11 23 came to?  
 16:59:11 24 A. And to be certain, I can't -- I think we  
 16:59:15 25 reached it that day. It may have been the next  
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16:59:17 1 morning --  
 16:59:17 2 Q. Okay.  
 16:59:17 3 A. -- before it was finalized.  
 16:59:18 4 Q. Fair enough. What was the settlement  
 16:59:20 5 agreement?  
 16:59:20 6 A. It was in the form of a mediated settlement  
 16:59:24 7 agreement, a payment of \$3.3 million to the four  
 16:59:31 8 plaintiffs in exchange for full and complete releases of  
 16:59:34 9 liability against the Office of the Attorney General.  
 16:59:38 10 There was other components. We had agreed to -- and if  
 16:59:44 11 you have a copy of it, that might help me, but we had  
 16:59:47 12 agreed to attempt with ERS to reinstate Mr. Vassar in his  
 16:59:55 13 retirement plan. I think that was the only fringe  
 16:59:58 14 benefit that was addressed, but I recall that.  
 17:00:02 15 And then Mr. Maxwell had an -- separate F5  
 17:00:09 16 administration hearing case in SOAH, State Office of  
 17:00:11 17 Administrative Hearings, which was abated pending the --  
 17:00:14 18 in pendency of the whistleblower case. So that stayed --  
 17:00:17 19 their filing stayed that proceeding which was an attempt  
 17:00:20 20 to reclassify him from a plain discharge to an honorable  
 17:00:24 21 discharge without which his employment as a -- according  
 17:00:28 22 to them as a law enforcement officer in Texas was  
 17:00:33 23 problematic.  
 17:00:34 24 Q. Okay. How did you feel about this agreement on  
 17:00:38 25 behalf of the Office of Attorney General and the public  
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17:00:40 1 of Texas?  
 17:00:41 2 A. I felt overall especially now that it was a  
 17:00:45 3 settlement of all four plaintiffs and the case would not  
 17:00:47 4 go forward, it was a good assessment of our risk.  
 17:00:53 5 It's -- to be honest, it's more than we would have liked  
 17:00:56 6 to have settled for. I'm sure it's less than the --  
 17:00:59 7 certainly it was less than the plaintiffs' lawyers were  
 17:01:02 8 telling us they should settle for, so that's probably --  
 17:01:14 9 again, 90, 95 percent of mediation settlements fall under  
 17:01:10 10 that category.  
 17:01:10 11 Q. Now, after this case comes to an agreement, you  
 17:01:14 12 still have this petition for review in the Supreme Court,  
 17:01:17 13 right?  
 17:01:17 14 A. It's still pending, yes.  
 17:01:20 15 Q. And did you-all file any motions with the  
 17:01:23 16 plaintiffs' attorneys in regard to that petition for  
 17:01:26 17 review?  
 17:01:26 18 A. I think the next day.  
 17:01:30 19 Q. Can you tell us what motion you filed with the  
 17:01:33 20 plaintiffs' attorneys in regard to that petition for  
 17:01:36 21 review?  
 17:01:36 22 A. I believe it was styled as a joint motion to  
 17:01:41 23 abate in the Supreme Court.  
 17:01:41 24 Q. Can you tell us what the joint motion to abate  
 17:01:41 25 did in this case?  
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17:01:41 **1** **A.** Very short motion. It was simply telling the  
 17:01:44 **2** Court, look, we've reached a settlement agreement that's  
 17:01:49 **3** binding and disposes of the case. If the Supreme Court  
 17:01:55 **4** went ahead and conferred and spent time deciding whether  
 17:01:58 **5** to take our case or not and made a decision, they'd be  
 17:02:03 **6** very peeved if they found out later that that was wasted  
 17:02:07 **7** energy on their part, so we didn't want to -- we didn't  
 17:02:10 **8** want to upset the Court, so we let them know, Hey, we  
 17:02:13 **9** reached a settlement. We're going to paper it up and  
 17:02:16 **10** finalize a larger document. That's all the bells and  
 17:02:21 **11** whistles, dot some I's, cross some T's, but you don't  
 17:02:25 **12** need to do anything now and the parties are jointly  
 17:02:27 **13** asking you to -- to put it aside for now.  
 17:02:29 **14** **Q.** Okay. Now, I want you to focus your attention  
 17:02:32 **15** on the Article of Impeachment that is on the screen right  
 17:02:34 **16** now. And it states, The settlement agreement stayed the  
 17:02:37 **17** wrongful termination suit and conspicuously delayed the  
 17:02:42 **18** discovery of facts; is that true?  
 17:02:43 **19** **A.** No.  
 17:02:43 **20** **Q.** Why is that not true?  
 17:02:45 **21** **A.** Well, the plea to the jurisdiction stayed the  
 17:02:48 **22** termination suit pending the Supreme Court -- at that  
 17:02:50 **23** point the Supreme Court's consideration. It didn't --  
 17:02:54 **24** whether it was conspicuous or not, it didn't delay the  
 17:02:57 **25** discovery of facts by settling. There was no discovery

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17:04:16 **1** agree.  
 17:04:17 **2** **Q.** Okay. And are you aware of whether that  
 17:04:20 **3** lawsuit has been paid?  
 17:04:21 **4** **A.** No, it has not been paid. Not been funded.  
 17:04:26 **5** **Q.** Now, did you engage without getting into  
 17:04:29 **6** specific conversations of what was said, did you engage  
 17:04:31 **7** in discussions with the plaintiffs' attorneys about  
 17:04:34 **8** getting the Legislature to pay for this lawsuit?  
 17:04:35 **9** **A.** Yes.  
 17:04:36 **10** **Q.** Were they for or against that?  
 17:04:42 **11** **A.** For it. Excuse me. For it.  
 17:04:45 **12** **Q.** Now, were you a part of any specific  
 17:04:48 **13** discussions with any legislators about getting this  
 17:04:50 **14** lawsuit funded?  
 17:04:51 **15** **A.** Yes, I was.  
 17:04:52 **16** **Q.** Okay. Can you talk to us without getting into  
 17:04:56 **17** the specific conversations you had, can you talk to us  
 17:04:58 **18** about who -- who it was that you met with to talk about  
 17:05:02 **19** the settlement?  
 17:05:03 **20** **A.** I think there were two separate meetings that I  
 17:05:05 **21** participated in. Other people in our office had more.  
 17:05:09 **22** Both on the House side and the Senate side. I recall  
 17:05:13 **23** meeting with Senator Hughes where we discussed it and  
 17:05:16 **24** with Senator Huffman.  
 17:05:25 **25** **Q.** And so you also mentioned that other people

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17:03:00 **1** ongoing at that time. And, you know, the way this is  
 17:03:04 **2** written, it's sort of passive voice. But who's doing the  
 17:03:08 **3** delaying is the suggestion here that the whistleblowers  
 17:03:10 **4** by filing a motion to abate with the Supreme Court are  
 17:03:13 **5** trying to delay the discovery effects?  
 17:03:16 **6** **Q.** Mr. Dorfman, I don't know. I didn't -- I  
 17:03:19 **7** didn't draft the Articles of Impeachment.  
 17:03:23 **8** **Q.** Okay. So I want to move on to who pays  
 17:03:25 **9** this lawsuit. Who pays this lawsuit? Who pays the  
 17:03:28 **10** settlement?  
 17:03:28 **11** **A.** Well, the defendant is the Office of Attorney  
 17:03:36 **12** General. That's the party that would be liable and would  
 17:03:38 **13** pay any settlement. Obviously, the Legislature has to  
 17:03:41 **14** fund that. So those --  
 17:03:42 **15** **Q.** And why is that? Why does the Legislature have  
 17:03:44 **16** to fund that settlement?  
 17:03:45 **17** **A.** Goes back to our discussion about sovereign  
 17:03:48 **18** immunity. You can't sue the state without its consent.  
 17:03:51 **19** And if -- even if you have a waiver of sovereign immunity  
 17:03:55 **20** like the Texas Tort Claims Act or the Whistleblower Act  
 17:03:58 **21** and you go get a judgment from a court, jury, verdict,  
 17:04:01 **22** all the way hold it up to appeal, you have a final  
 17:04:05 **23** unappealable judgment that entitles you to, let's say,  
 17:04:08 **24** \$2 million against any state entity, this Legislature,  
 17:04:13 **25** this body can still decline to pay it. They have to

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17:05:28 **1** were meeting -- or were other people meeting with other  
 17:05:31 **2** legislators about getting the settlement paid?  
 17:05:34 **3** **A.** I believe our head of government relations at  
 17:05:37 **4** the time Ryan Fisher and his deputy Colleen Tran were  
 17:05:40 **5** having such meetings, formal or informal, and Mr. Hilton,  
 17:05:43 **6** I think, too, had some.  
 17:05:44 **7** **Q.** And if you know, were the plaintiffs' attorneys  
 17:05:48 **8** in this case aware of these conversations happening with  
 17:05:51 **9** legislators?  
 17:05:51 **10** **A.** Absolutely. They were adamant. There's email  
 17:05:53 **11** traffic where they're saying we're not doing enough. We  
 17:05:56 **12** need to do more. This person wants to meet with you.  
 17:05:59 **13** That person wants to meet with you and we said we're  
 17:06:02 **14** doing our best. We agree we have an obligation to act in  
 17:06:08 **15** good faith and make reasonable efforts, but to really --  
 17:06:13 **16** you should be highly motivated to do what you can and  
 17:06:17 **17** have the meetings you need to have as well and we'll --  
 17:06:18 **18** we'll show up with you.  
 17:06:19 **19** **Q.** Okay.  
 17:06:20 **20** **A.** But let us know.  
 17:06:21 **21** **Q.** And just because they haven't agreed to pay yet  
 17:06:23 **22** doesn't mean they can't at a later date, right?  
 17:06:26 **23** **A.** Of course.  
 17:06:26 **24** **Q.** Do you -- and you still believe that -- that it  
 17:06:31 **25** is the State of Texas, the public funds that should fund

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17:06:34 **1** this settlement agreement, right?

17:06:35 **2** **A.** I believe that initially. I -- you know, I

17:06:38 **3** believe it now if the case goes back to trial, which I

17:06:43 **4** think it settled but others may feel differently. All

17:06:48 **5** the reasons that were there before, again, we'll go back

17:06:51 **6** to the Supreme Court presumably. So -- but the risk

17:06:55 **7** return of time -- the certainty of time, litigation,

17:07:00 **8** resources, lawyers being devoted to this when they could

17:07:03 **9** be doing Biden administration lawsuits or something.

17:07:06 **10** **Q.** Let me stop you real quick. And just to be

17:07:08 **11** clear, you said "if the case went back to trial." If the

17:07:11 **12** case had gone to trial and there was a judgment entered

17:07:14 **13** against the Office of Attorney General, would it still

17:07:17 **14** be -- should that still be paid from public funds?

17:07:20 **15** **A.** That would be up to the Legislature to decide.

17:07:22 **16** **Q.** Okay.

17:07:23 **17** **A.** No one can make them.

17:07:24 **18** **Q.** Would Ken Paxton ever be personally liable for

17:07:28 **19** that lawsuit?

17:07:28 **20** **A.** No, he's not a defendant.

17:07:30 **21** **Q.** Okay. You were at the Office of Attorney

17:07:33 **22** General -- you're currently still working there, right?

17:07:36 **23** **A.** Yes.

17:07:36 **24** **Q.** My understanding is you took leave for a little

17:07:37 **25** bit of time.

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17:08:43 **1** General's productivity after this whistleblower's

17:08:45 **2** lawsuit, after these terminations occurred. They talked

17:08:47 **3** about the fact that there was not productivity and that

17:08:50 **4** the office wasn't functioning well. As a result, they've

17:08:52 **5** opened the door. That would leave this impression on the

17:08:55 **6** jury, and as a result, Mr. Dorfman should be able to talk

17:08:58 **7** about how the office is functioning.

17:09:00 **8** **PRESIDING OFFICER:** Overruled.

17:09:02 **9** **Q.** (BY MR. OSSO) Okay. So you talked to us about

17:09:03 **10** one of the lawsuits. Would you please continue to talk

17:09:05 **11** about the other accomplishments and the functioning of

17:09:07 **12** the Office of Attorney General?

17:09:09 **13** **A.** I should have started with our immigration

17:09:11 **14** cases which I'm probably the most proud of.

17:09:13 **15** **Q.** Would you please tell us about your immigration

17:09:16 **16** cases?

17:09:18 **17** **A.** Day one -- I mentioned this maybe earlier -- of

17:09:19 **18** the Biden administration, all the executive orders that

17:09:20 **19** came out, one was the hundred-day moratorium. We were

17:09:24 **20** the first to get a nationwide injunction requiring the

17:09:29 **21** Biden administration to abide by congressional directive

17:09:30 **22** that, no, if you have a deportable alien, they must be

17:09:34 **23** deported within 90 days, no exceptions.

17:09:36 **24** **And that -- we continued to file and**

17:09:39 **25** challenge and try to hold the Biden administration to the

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17:07:38 **1** **A.** Yes.

17:07:39 **2** **Q.** Okay. About how long were you gone from the

17:07:42 **3** office?

17:07:42 **4** **A.** From roughly early May -- I -- I returned to

17:07:49 **5** work remotely probably around the July 4th holiday.

17:07:52 **6** **Q.** So just recently, right?

17:07:53 **7** **A.** Just recently.

17:07:54 **8** **Q.** Okay. I want to talk to you about the time

17:07:58 **9** period from where when you started at the Office of the

17:08:00 **10** Attorney General in December of 2020 up until you took

17:08:03 **11** leave in May of 2023, okay?

17:08:05 **12** **A.** Okay.

17:08:05 **13** **Q.** Can you talk to us about some of the

17:08:07 **14** accomplishments made by the attorney general's office

17:08:12 **15** under the leadership of Ken Paxton while you were there?

17:08:13 **16** **A.** Well, I've referenced the Google AdTech

17:08:17 **17** lawsuit, one of the biggest antitrust cases not just in

17:08:21 **18** the country, but in decades. That's still ongoing.

17:08:23 **19** **MR. DUTKO:** Objection. I apologize for

17:08:24 **20** interrupting. Anything after this lawsuit is irrelevant.

17:08:30 **21** **MR. OSSO:** Actually, Judge, if I may be

17:08:32 **22** heard on the matter. Yesterday, the House Board of

17:08:36 **23** Managers elicited testimony from Blake Brickman. I have

17:08:39 **24** a transcript here and I'd be happy to show the Court, but

17:08:41 **25** they've opened the door to the Office of the Attorney

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17:09:42 **1** letter of the law and the rule of law on our border.

17:09:45 **2** Title 42 is one of those cases. DACA is a continuation

17:09:50 **3** of the case that attorney general Abbott brought years

17:09:56 **4** ago against the Obama administration. We just won, I

17:09:59 **5** think, in the last week a ruling out of a federal court

17:10:02 **6** in Houston that the revised Biden administration DACA

17:10:04 **7** policy is just as illegal -- unlawful, I should say, as

17:10:08 **8** that in our favor.

17:10:10 **9** **Q.** Okay. I'm going to bring -- you talked about

17:10:13 **10** AdTech already. You talked about the Google case.

17:10:14 **11** **A.** That's one of the Google cases. Another Google

17:10:18 **12** case we settled before I took leave. We broke away from

17:10:22 **13** a multi-state -- all the states suing in one location.

17:10:26 **14** We broke out of that, filed our own lawsuit in Texas

17:10:29 **15** State court. We settled with Google for \$8 million when

17:10:33 **16** all the other states put together settled for \$9 million

17:10:36 **17** over the Google pixel phones and that was to the relief

17:10:38 **18** of Texas consumers who were deceived by misleading

17:10:42 **19** advertisements.

17:10:43 **20** **Q.** Any litigation with regards to opioids?

17:10:45 **21** **A.** This is mostly before my time. The money has

17:10:47 **22** come in since I've been at the agency --

17:10:49 **23** **Q.** Okay.

17:10:49 **24** **A.** -- but I can't claim credit.

17:10:52 **25** **General Paxton himself led the nationwide**

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17:10:53 **1** negotiations on that, worked very hard on that, deserves  
 17:10:57 **2** the credit for that. And it's been billions in money  
 17:11:01 **3** from those manufacturers, distributors, marketers,  
 17:11:06 **4** consultants, pharmacies that were responsible for the  
 17:11:11 **5** opioid crisis that was so devastating.  
 17:11:13 **6** **Q.** And so based on what you've seen at the office  
 17:11:17 **7** during your time there, have they been successful in  
 17:11:20 **8** their efforts in their litigation under the leadership of  
 17:11:23 **9** Attorney General Ken Paxton?  
 17:11:24 **10** **A.** I think so. I've been amazed at what we've  
 17:11:26 **11** accomplished. It's -- we -- we've worked our lawyers  
 17:11:30 **12** very hard, and they've done very well. They deserve the  
 17:11:33 **13** credit. They're the ones going to court, making the  
 17:11:35 **14** winning arguments and filing the winning briefs, not me.  
 17:11:39 **15** So I don't want to seem like I'm tooting my own horn when  
 17:11:43 **16** I say CNN, no great fan of Attorney General Paxton or our  
 17:11:46 **17** office had to concede in a news article that Texas had  
 17:11:52 **18** become the legal graveyard for Biden administration  
 17:11:54 **19** policies and executive orders.  
 17:11:57 **20** **MR. OSSO:** Well, thank you, Mr. Dorfman.  
 17:11:59 **21** I'll pass the witness, Your Honor.  
 17:12:01 **22** **PRESIDING OFFICER:** Your witness.  
 17:12:13 **23** That sound you're hearing you have not  
 17:12:17 **24** heard in a long time. It's called rain.  
 17:12:20 **25** CROSS-EXAMINATION  
**TAMI LEWIS, CSR, RDR, CRR, CRC**

17:13:16 **1** **Q.** And one of the lawyers standing over there --  
 17:13:20 **2** sitting over there?  
 17:13:20 **3** **A.** Sitting, yes.  
 17:13:22 **4** **Q.** Sitting, yes.  
 17:13:23 **5** When you got this memo, were you shocked?  
 17:13:25 **6** **A.** By what?  
 17:13:26 **7** **Q.** By the fact that Mr. Hilton was attempting to  
 17:13:30 **8** usurp the power of Ken Paxton by removing his name from  
 17:13:33 **9** the letterhead.  
 17:13:33 **10** **A.** No.  
 17:13:34 **11** **Q.** Did it appall you?  
 17:13:37 **12** **A.** No.  
 17:13:38 **13** **Q.** Was it simply a matter of Mr. Hilton picking  
 17:13:41 **14** out this letterhead that is available to every employee  
 17:13:46 **15** of the AG's office?  
 17:13:47 **16** **A.** I think you'd have to ask Mr. Hilton about  
 17:13:50 **17** that. I -- I don't know.  
 17:13:53 **18** **Q.** You talked about the internal investigation  
 17:13:56 **19** that was conducted by the attorney general's office,  
 17:13:58 **20** correct?  
 17:13:59 **21** **A.** Yes.  
 17:14:00 **22** **Q.** And you talked about the fact that it needed to  
 17:14:03 **23** be fair?  
 17:14:04 **24** **A.** Yes.  
 17:14:05 **25** **Q.** It needed to be unbiased?  
**TAMI LEWIS, CSR, RDR, CRR, CRC**

17:12:20 **1** BY MR. DUTKO:  
 17:12:21 **2** **Q.** Hi, Mr. Dorfman. How are you?  
 17:12:23 **3** **A.** I'm very good. Thank you.  
 17:12:24 **4** **Q.** I was --  
 17:12:24 **5** **PRESIDING OFFICER:** The mic's not on, Mr.  
 17:12:27 **6** Dutko.  
 17:12:27 **7** **MR. DUTKO:** Can you hear me?  
 17:12:28 **8** **PRESIDING OFFICER:** Yes, sir.  
 17:12:29 **9** **Q.** (BY MR. DUTKO) Mr. Dorfman, we were looking at  
 17:12:31 **10** Exhibit 335 that was introduced by your counsel or  
 17:12:32 **11** counsel for Mr. Paxton.  
 17:12:34 **12** **MR. DUTKO:** Can you pull that up for me,  
 17:12:36 **13** Stacey?  
 17:12:57 **14** **PRESIDING OFFICER:** Check your mic one more  
 17:12:58 **15** time. It doesn't sound --  
 17:12:58 **16** **MR. DUTKO:** Is it not working?  
 17:12:59 **17** **THE COURT:** No. It is now, but you're tall  
 17:13:01 **18** enough that you're going to have to bend down a little  
 17:13:03 **19** bit.  
 17:13:03 **20** **MR. DUTKO:** Yes, Mr. President.  
 17:13:06 **21** **Q.** (BY MR. DUTKO) Is this the memo you were  
 17:13:08 **22** talking about on 335 with the counsel a moment ago?  
 17:13:12 **23** **A.** It's one of them, yes.  
 17:13:13 **24** **Q.** And this memo was created by Chris Hilton?  
 17:13:15 **25** **A.** I believe so, yes.  
**TAMI LEWIS, CSR, RDR, CRR, CRC**

17:14:08 **1** **A.** Well, it needed to be objective, I think is the  
 17:14:11 **2** word I used.  
 17:14:12 **3** **Q.** And the subject of that investigation was  
 17:14:14 **4** Ken Paxton?  
 17:14:15 **5** **A.** One of the subjects of that investigation.  
 17:14:18 **6** **Q.** It certainly was a big part of it, right?  
 17:14:20 **7** **A.** The allegations against him were a big part of  
 17:14:23 **8** it.  
 17:14:25 **9** **MR. DUTKO:** Your Honor, may I approach the  
 17:14:26 **10** witness?  
 17:14:26 **11** **PRESIDING OFFICER:** You may.  
 17:14:41 **12** **Q.** (BY MR. DUTKO) Mr. Dorfman, I am showing you  
 17:14:43 **13** what has been marked as 524, Exhibit 524. Do you  
 17:14:46 **14** recognize this document?  
 17:14:49 **15** **A.** Give me one minute to read it quickly.  
 17:15:15 **16** Can you restate your question, please?  
 17:15:17 **17** **Q.** Yes, maybe I can make it easier. You see your  
 17:15:19 **18** email address right there halfway down the page?  
 17:15:21 **19** **A.** I do.  
 17:15:22 **20** **Q.** This is an email exchange that you received,  
 17:15:24 **21** you were on?  
 17:15:24 **22** **A.** Yes.  
 17:15:24 **23** **Q.** And so as a result, you recognize this  
 17:15:27 **24** document?  
 17:15:27 **25** **A.** Yes.  
**TAMI LEWIS, CSR, RDR, CRR, CRC**

17:15:27 **1** Q. And, you know, to use a predicate that's being  
 17:15:31 **2** laid by your counsel, this fairly and accurately  
 17:15:33 **3** represents the email as well as the attachment?  
 17:15:35 **4** A. I think that's right.  
 17:15:37 **5** MR. DUTKO: Your Honor, at this time we  
 17:15:38 **6** offer Exhibit 524.  
 17:15:41 **7** PRESIDING OFFICER: Any objection?  
 17:15:42 **8** MR. OSSO: Yes, Judge. I'd object to  
 17:15:45 **9** hearsay, and they haven't provided a proper foundation  
 17:15:47 **10** for this witness to sponsor this document.  
 17:15:49 **11** MR. DUTKO: Your Honor, we have a business  
 17:15:51 **12** record affidavit that overcomes hearsay. That gets by  
 17:15:53 **13** that, and the predicate is this witness was part of this  
 17:15:56 **14** email exchange, is a proper sponsoring witness, testified  
 17:16:00 **15** it fairly and accurately represents the email exchange  
 17:16:03 **16** that he was a part of.  
 17:16:04 **17** MR. OSSO: Judge, I'm just confused. I  
 17:16:06 **18** don't have a copy of a business record affidavit.  
 17:16:07 **19** MR. DUTKO: You do have a copy of the  
 17:16:09 **20** business record affidavit. I didn't hand it to you but  
 17:16:11 **21** if you want I can get it for you.  
 17:16:12 **22** MR. OSSO: Well, that would be great. I  
 17:16:15 **23** think part of the rule is it's got to be provided to  
 17:16:18 **24** counsel so that would be good.  
 17:16:20 **25** MR. DUTKO: I will --  
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17:17:39 **1** It's supposed to be attached so that we know.  
 17:17:43 **2** MR. DUTKO: I appreciate that, Your Honor.  
 17:17:44 **3** It was attached to a bigger swathe of documents. This is  
 17:17:47 **4** just one of the documents that's part of it.  
 17:18:41 **5** PRESIDING OFFICER: We will stop the clock  
 17:18:42 **6** and give you credit for a couple minutes here.  
 17:19:46 **7** Mr. Dutko, I will say I stopped the clock,  
 17:19:49 **8** but when either side has not been ready to present us  
 17:19:52 **9** what is needed, we have not stopped the clock previously  
 17:19:55 **10** so I'm giving you two minutes here, but I don't know how  
 17:19:58 **11** long you're going to take.  
 17:19:59 **12** MR. DUTKO: Yes, Your Honor.  
 17:20:00 **13** PRESIDING OFFICER: It does not seem you  
 17:20:01 **14** have your paperwork together.  
 17:20:04 **15** MR. DUTKO: Yes.  
 17:20:05 **16** PRESIDING OFFICER: So can we continue and  
 17:20:06 **17** get the clock running and come back to that, if you'd  
 17:20:09 **18** like?  
 17:20:10 **19** MR. DUTKO: Yes.  
 17:20:11 **20** PRESIDING OFFICER: All right. Resume the  
 17:20:13 **21** clock. Resume your questioning.  
 17:20:14 **22** MR. DUTKO: May I proceed?  
 17:20:16 **23** PRESIDING OFFICER: You may.  
 17:20:18 **24** Q. (BY MR. DUTKO) Mr. Dorfman, when you were on  
 17:20:20 **25** direct examination, you spent a lot of time talking about  
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17:16:20 **1** PRESIDING OFFICER: Would you provide him a  
 17:16:21 **2** copy?  
 17:16:22 **3** MR. DUTKO: Yes.  
 17:16:33 **4** MR. OSSO: Judge, if I could just have a  
 17:16:35 **5** moment to look at business record affidavit.  
 17:16:37 **6** PRESIDING OFFICER: Take a moment.  
 17:16:39 **7** MR. OSSO: Thank you.  
 17:16:43 **8** MR. DUTKO: Your Honor, I assume we're  
 17:16:45 **9** stopping the clock respectfully?  
 17:16:47 **10** MR. OSSO: Judge, I mean, I don't see why  
 17:16:51 **11** it should. They -- they're offering it.  
 17:16:52 **12** PRESIDING OFFICER: If it's a minute, we're  
 17:16:54 **13** not stopping the clock. But if it's longer than that,  
 17:16:58 **14** I'll stop it.  
 17:17:03 **15** MR. OSSO: Judge, I have to -- I have to  
 17:17:06 **16** reurge my objection. This business record affidavit is  
 17:17:08 **17** not the correct affidavit for these documents. It  
 17:17:11 **18** references Office of Attorney General numbers that are  
 17:17:15 **19** just not contained on the documents that counsel has  
 17:17:18 **20** provided me, and so I can't verify that it's the document  
 17:17:20 **21** that he's purporting it to be.  
 17:17:23 **22** PRESIDING OFFICER: And we don't have a  
 17:17:24 **23** copy either of the business affidavit.  
 17:17:27 **24** MR. DUTKO: I can get you a copy.  
 17:17:29 **25** PRESIDING OFFICER: That would be good.  
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17:20:23 **1** the fact that -- the quality of attorney that is  
 17:20:24 **2** currently at the attorney general's office. Do you  
 17:20:27 **3** remember that?  
 17:20:27 **4** A. Yeah, I think so.  
 17:20:29 **5** Q. And you said how you were proud to walk through  
 17:20:33 **6** the halls and the lawyers and the high caliber of  
 17:20:34 **7** lawyers?  
 17:20:34 **8** A. I don't recall saying that. It's certainly  
 17:20:36 **9** true, but I don't recall saying it.  
 17:20:37 **10** Q. And you were talking about how good the lawyers  
 17:20:39 **11** are and how hard they work. Do you remember that?  
 17:20:42 **12** A. Yes.  
 17:20:42 **13** Q. Yet, despite the fact that there's the high  
 17:20:45 **14** quality of lawyer that currently exists at the attorney  
 17:20:48 **15** general's office, you had to -- Ken Paxton had to hire  
 17:20:53 **16** Lewis Brisbois as outside counsel?  
 17:20:54 **17** A. Didn't have to. He did.  
 17:20:56 **18** Q. And it was certainly something that could have  
 17:20:59 **19** been handled internally?  
 17:21:00 **20** A. I'm not going to agree with you on that. Now,  
 17:21:05 **21** I have an explanation why.  
 17:21:06 **22** Q. Okay. Are you aware of the fact that Lewis  
 17:21:09 **23** Brisbois has billed the Texas taxpayers \$524,000 for the  
 17:21:15 **24** work that was done?  
 17:21:16 **25** A. Yes, I am.  
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17:21:17 **1** Q. And that doesn't bother you?

17:21:19 **2** A. I think I've been very clear that I view the

17:21:24 **3** Texas fisc is a sacred calling for us. It's very

17:21:30 **4** important for us to preserve it and spend it wisely.

17:21:33 **5** Again, I had a reason why I supported the hiring of Lewis

17:21:35 **6** Brisbois as outside counsel, but part of the motivation

17:21:40 **7** for settlement was to stop paying Lewis Brisbois as

17:21:43 **8** outside counsel.

17:21:44 **9** MR. DUTKO: Your Honor, we have a business

17:21:46 **10** record affidavit that we were going to present to

17:21:48 **11** opposing counsel.

17:21:48 **12** PRESIDING OFFICER: Okay.

17:21:50 **13** MR. OSSO: Is this for this document?

17:21:51 **14** MR. DUTKO: Yes.

17:21:52 **15** MR. OSSO: Just got extra copies of BRAs.

17:21:55 **16** Again, Judge, I got to reurge the -- the objection. The

17:21:58 **17** -- the document that they've handed me doesn't have a

17:22:00 **18** single Bates label on it, and this business record

17:22:02 **19** affidavit talks about Bates-labeled documents. No way

17:22:05 **20** for me to verify the validity of these documents.

17:22:07 **21** MR. DUTKO: Your Honor, just so we're

17:22:09 **22** clear, these are documents that --

17:22:11 **23** PRESIDING OFFICER: Could I have a copy of

17:22:12 **24** that?

17:22:13 **25** MR. DUTKO: Yes.

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17:22:23 **1** PRESIDING OFFICER: And before you answer

17:22:24 **2** his objection, let us look at this.

**3** (Brief pause.)

17:23:44 **4** PRESIDING OFFICER: We're ready to resume.

17:23:45 **5** I'm going to sustain the objection because we don't find

17:23:48 **6** a way to identify this affidavit with the document.

17:23:50 **7** MR. DUTKO: Yes, Your Honor.

17:23:52 **8** Q. (BY MR. DUTKO) Remember when you talked about

17:23:55 **9** the plea with the jurisdiction a while ago?

17:23:57 **10** A. Yes.

17:23:57 **11** Q. One thing is clear, a plea to the jurisdiction

17:24:00 **12** stays the case?

17:24:01 **13** A. Once it's denied or granted.

17:24:03 **14** Q. Right. And so when you filed that plea to the

17:24:07 **15** jurisdiction, you, as the attorney general's office knew

17:24:10 **16** that the case would be stayed?

17:24:11 **17** A. Yes.

17:24:11 **18** Q. That meant there would be no written discovery?

17:24:15 **19** A. Yes.

17:24:16 **20** Q. That meant there would be no deposition

17:24:19 **21** discovery?

17:24:19 **22** A. Right.

17:24:19 **23** Q. That means that Ken Paxton did not have to

17:24:23 **24** testify under oath for the entire time that that plea to

17:24:27 **25** the jurisdiction was being determined?

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17:24:28 **1** A. No one had to testify, yes.

17:24:30 **2** Q. Right. But Ken Paxton didn't as well, right?

17:24:33 **3** A. Yes.

17:24:33 **4** Q. And so when you filed it, you knew that was

17:24:35 **5** going to happen?

17:24:39 **6** A. Once a ruling was made, yes.

17:24:40 **7** Q. Right. And even though you lost at the trial

17:24:43 **8** court, instead of going back to the case and conducting

17:24:47 **9** discovery, you appealed it to the Court of Appeals?

17:24:49 **10** A. Well, we didn't lose the case at the trial

17:24:52 **11** court. We lost the plea.

17:24:53 **12** Q. Right. You lost the plea to the jurisdiction?

17:24:55 **13** A. We disagreed with that and we appealed it, yes.

17:24:57 **14** Q. Which means that when you lost that case, that

17:25:02 **15** plea to the jurisdiction, that meant if you did not

17:25:04 **16** appeal it, you could go back to the trial court and take

17:25:06 **17** discovery?

17:25:07 **18** A. If we chose not to appeal it?

17:25:11 **19** Q. Right.

17:25:11 **20** A. I supposed that's true.

17:25:12 **21** Q. And then you appealed it?

17:25:14 **22** A. We did.

17:25:14 **23** Q. And lost?

17:25:15 **24** A. We lost in the third court.

17:25:18 **25** Q. So then instead of going back to the trial

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17:25:20 **1** court to conduct discovery where Mr. Paxton would have to

17:25:23 **2** give his deposition, you took a flyer and took it to the

17:25:26 **3** Supreme Court?

17:25:26 **4** A. I disagree with you that we took a flyer. We

17:25:29 **5** urged the constitutional separation of powers, which is a

17:25:33 **6** pretty important constitutional doctrine and we also

17:25:36 **7** relied on the sovereign immunity of the state which this

17:25:39 **8** body thinks pretty importantly of as well.

17:25:42 **9** Q. Right. And then while the case was pending at

17:25:45 **10** the Supreme Court, there was an appeal -- I mean, a

17:25:48 **11** election, right?

17:25:49 **12** A. Yes.

17:25:52 **13** Q. And after the election, before the Supreme

17:25:56 **14** Court where you say you had a good-faith basis to go,

17:25:58 **15** immediately after that's when you guys settled, right?

17:26:02 **16** A. Not immediately, no.

17:26:03 **17** Q. Shortly thereafter?

17:26:08 **18** A. We settled three months later, a little more

17:26:11 **19** than three months later.

17:26:12 **20** MR. DUTKO: Your Honor, I was told that the

17:26:13 **21** document that was printed for everybody had the Bates

17:26:16 **22** label that ran off the bottom and so now I have a version

17:26:19 **23** that has the Bates label that identifies it as a document

17:26:22 **24** within the range on the attorney general's -- I mean, on

17:26:25 **25** the business record affidavit. Since it was on short

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17:26:28 **1** notice, I have one copy. I would like to show it to

17:26:30 **2** opposing counsel and then bring it to the Court if that

17:26:32 **3** is okay.

17:26:35 **4** PRESIDING OFFICER: Can I see it first?

17:26:57 **5** MR. DUTKO: Yes, Your Honor.

17:28:16 **6** PRESIDING OFFICER: You can come forward if

17:28:18 **7** you'd like. Come forward if you'd like.

17:28:29 **8** Y'all can take a stand-up break, but don't

17:28:31 **9** leave because we're moving forward.

17:28:34 **10** (At the bench, off the record.)

17:31:41 **11** PRESIDING OFFICER: Members, please take

17:31:44 **12** your seats. Give them a second to settle down here for a

**13** moment.

17:31:58 **14** You may continue.

17:32:00 **15** Q. (BY MR. DUTKO) Mr. Dorfman, I'm going to make

17:32:02 **16** this short because everyone is ready to be done. You

17:32:04 **17** started in December of 2020?

17:32:06 **18** A. Yes, sir.

17:32:08 **19** I went off.

17:32:09 **20** That's a yes.

17:32:10 **21** Q. And when you started, all of the whistleblowers

17:32:14 **22** had already been fired or resigned, correct?

17:32:16 **23** A. Yes.

17:32:16 **24** Q. You didn't interview Mr. Vassar?

17:32:19 **25** A. No, I did not.

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17:32:20 **1** Q. You didn't interview Mr. Bangert?

17:32:22 **2** A. No.

17:32:22 **3** Q. You didn't determine the veracity of what their

17:32:25 **4** testimony is in front of this Senate?

17:32:27 **5** A. I hadn't been allowed to watch their testimony,

17:32:30 **6** so I -- I don't know.

17:32:32 **7** Q. Right. But you didn't determine the

17:32:35 **8** truthfulness of what they were saying?

17:32:36 **9** A. To the Senate?

17:32:37 **10** Q. No, as far as whistle blowing allegations.

17:32:42 **11** A. We took their pleadings at face value and

17:32:45 **12** addressed those in the report.

17:32:46 **13** Q. I appreciate that. But you didn't make a

17:32:48 **14** determination yourself?

17:32:49 **15** A. I never interviewed them, but the -- the report

17:32:55 **16** is the -- I don't know if you call it a determination.

17:32:59 **17** It's a report of our office.

17:33:00 **18** Q. Right. But when it comes to determining

17:33:04 **19** personal knowledge about the allegations that are made

17:33:06 **20** here in the Senate --

17:33:07 **21** A. Yeah.

17:33:07 **22** Q. -- the allegations that are made before you got

17:33:09 **23** there, your testimony would not be helpful as far as

17:33:12 **24** personal knowledge goes?

17:33:13 **25** A. I have no personal knowledge of what happened.

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17:33:17 **1** I didn't hear any conversations in September or October

17:33:20 **2** or prior to that at the agency. That's true.

17:33:22 **3** MR. DUTKO: Pass the witness, Your Honor.

17:33:25 **4** MR. OSSO: No redirect, Your Honor.

17:33:27 **5** PRESIDING OFFICER: Can we excuse the

17:33:29 **6** witness, both sides?

17:33:30 **7** MR. OSSO: Yes, Judge.

17:33:34 **8** THE WITNESS: Thank you, Judge.

17:33:35 **9** PRESIDING OFFICER: Mr. Buzbee, who is the

17:33:39 **10** next witness?

17:33:41 **11** MR. BUZBEE: Your Honor, Attorney General

17:33:44 **12** Ken Paxton rests.

17:35:52 **13** PRESIDING OFFICER: Would the parties

17:35:54 **14** approach the bench.

17:35:55 **15** (At the bench, off the record.)

17:46:04 **16** PRESIDING OFFICER: You can still stand. I

17:46:05 **17** just need a little quiet. Both parties come back.

17:46:17 **18** (At the bench, off the record.)

17:55:05 **19** PRESIDING OFFICER: Parties can come back.

17:55:08 **20** (At the bench, off the record.)

18:17:09 **21** PRESIDING OFFICER: Parties, I need someone

18:17:11 **22** from each side to announce that you're going to have

18:17:14 **23** closing arguments in the morning before I adjourn for the

18:17:15 **24** day.

**25** MR. MURR: Mr. President --

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**1** PRESIDING OFFICER: Do you close tomorrow?

18:17:35 **2** MR. MURR: Yes, Mr. President, the House

18:17:36 **3** will -- will have closing argument.

18:17:38 **4** PRESIDING OFFICER: On the record.

18:17:40 **5** MR. BUZBEE: Yes, Your Honor, the attorney

18:17:42 **6** general will close tomorrow, closing argument.

18:17:48 **7** PRESIDING OFFICER: For the record.

18:17:51 **8** 9:00 a.m. As always, 9:00 a.m. We are

18:17:56 **9** adjourned for today.

18:18:10 **10** (Off the record at 6:18 p.m.)

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TAMI LEWIS, CSR, RDR, CRR, CRC



1 C E R T I F I C A T E

2 STATE OF TEXAS )

3 COUNTY OF TRAVIS )

4 I, Tami G. Lewis, Certified Shorthand Reporter  
5 in and for the State of Texas, Registered Diplomat  
6 Reporter, Certified Realtime Reporter, and Certified  
7 Realtime Captioner, do hereby certify that the  
8 above-mentioned matter occurred as hereinbefore set out.

9 I further certify that I am neither counsel  
10 for, related to, nor employed by any of the parties or  
11 attorneys in the action in which this proceeding was  
12 taken, and further that I am not financially or otherwise  
13 interested in the outcome of the action.

14 Certified to me by this 14th day of September,  
15 2023.

16 *Tami Lewis*

17 Tami G. Lewis, RDR, CRR, CRC  
18 Texas Certified Shorthand Reporter  
19 CSR No. 7494 - Expires 10/31/25  
email: realtimedepos@gmail.com

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TAMI LEWIS, CSR, RDR, CRR, CRC



VOLUME 9 - AM SESSION  
SENATE IMPEACHMENT TRIAL

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PROCEEDINGS  
FRIDAY, SEPTEMBER 15, 2023  
(9:09 a.m.)

THE BAILIFF: All rise. The Court of Impeachment of the Texas Senate is now in session. The Honorable Lieutenant Governor and President of the Senate Dan Patrick now presiding.

PRESIDING OFFICER: Bailiff, you may call the jury.

(Senators enter)

PRESIDING OFFICER: Senator Alvarado, I believe you are delivering the prayer this morning.

SENATOR ALVARADO: Good morning. In the Father, Son, and Holy Spirit. Amen.

Heavenly Father, in this sacred chamber, we come together as servants of the great state of Texas united by the privilege of serving our fellow Texans and serving you, Lord. As we near the end of these proceedings, let us take a moment to reflect on the weight of our task and express our gratitude for the trust placed in us.

We recognize the solemn responsibility that accompanies our positions, and we pray for the guidance and wisdom needed to make decisions that honor the best interest of the state of Texas.

As we stand here today representing different communities and backgrounds, we're thankful for the strength that comes from our differences. It is through unity and collaboration that we find common ground. Work together harmoniously and uphold the values that define this great state.

We are grateful for the opportunity to serve, for the chance to make a difference, and for the trust that has been bestowed upon us.

May your grace shine upon this chamber lighting our path as we navigate the challenge before us with humility and dedication. With your presence, Lord, as our guiding light, we are confident that we will meet this challenge with unity, integrity, and a shared commitment to the people of Texas.

In your name we offer this prayer, amen.  
PRESIDING OFFICER: Amen.  
You may be seated.

Good morning, everyone, in the gallery, and those who are watching online.

Before I begin, I have a few remarks to make. I first want to thank our clerk, Patsy Spaw, and our entire team in Austin, our bailiff and all his team for the work during the trial.

(Applause)

PRESIDING OFFICER: I've had questions who are these people behind me. They've never been introduced. This is Darrell Davila, my chief of staff, former prosecutor, strong legal background.

This is Chris Turner, my legal counsel. Strong legal background working for governors before this.

And Lola Fender, our deputy chief counsel. They've done tremendous work.

And, of course, Judge Lana Myers who served as a prosecutor on a criminal court in Dallas and on the 5th Court of Appeals.

I would not have been able to work through these last two weeks without them. As I said on day one, I've never been to law school, I've never taken a course, but we prepared for the last three months to do the very best job that we could to present a fair trial, which I think we have done, to both parties during this time. We've read thousands of pages of documents of history of legal proceedings, and I even took a little bit of a judge boot camp along the way.

So we've done the very best we can. And in a very short period of time, the trial will be in the hands of 30 members of the Senate who will vote.

This impeachment trial, for the -- only

1 the third time of the statewide impeachment in the  
 2 history of Texas has been closely monitored either  
 3 through the media or through people watching online each  
 4 day. I want to take a few minutes to go over a few of  
 5 the key rules and to explain about what is to happen  
 6 because this is an unusual proceeding, not a normal  
 7 trial. And I want to be sure the media reports it  
 8 correctly and that the public understands everything we  
 9 do will be in total transparency throughout this  
 10 process.

11 First of all, we've talked about the rules  
 12 a lot in here. The rules were written and voted on by  
 13 the members of the Court. The final vote was 25 to 3,  
 14 and these rules set out the framework for what has  
 15 happened and what is about to happen.

16 Let me highlight a few of the rules that  
 17 we often get the most questions on.

18 Pursuant to the rules written and adopted  
 19 by the senators, Senator Angela Paxton cannot vote  
 20 because of a spousal conflict. That's in rule 31.  
 21 However, the members kept the threshold to convict on  
 22 any article at two-thirds of 31 members. That means  
 23 it's still requires 21 votes to convict even though only  
 24 30 senators will cast a vote.

25 It only takes a conviction on one article

1 of the 16 articles to remove the attorney general from  
 2 office. Like any jury, the senators will deliberate in  
 3 private. But under rule 28, the Senators will cast  
 4 their vote in open court on the Senate floor without  
 5 debate one article at a time after each member has  
 6 finished their deliberations. All 16 articles will be  
 7 voted on.

8 I want to point out that under rule 28, it  
 9 provides an article of impeachment is not divisible.  
 10 What does that mean? That means the Senators must  
 11 consider each allegation in each article and determine  
 12 whether the managers have proved each allegation in an  
 13 article beyond a reasonable doubt before they can  
 14 consider whether an article warrants removal from  
 15 office. Then and only then may an article be sustained.

16 For example, if an article has three  
 17 allegations in it, and only two are proven beyond a  
 18 reasonable doubt in the mind of a Senator, then a member  
 19 shall not vote to sustain that article.

20 Members, under the rules you adopted, I  
 21 will read jury charges as written in rule 27 after the  
 22 conclusion of the final arguments.

23 As I said in my remarks on opening day,  
 24 your decision must be based only and only on the facts  
 25 and evidence presented here in this chamber. You are

1 the sole judges of the credibility of the witnesses.  
 2 Evidence consists of the testimony of the witnesses and  
 3 the materials admitted into evidence during this trial.  
 4 Statements by attorneys in this trial are not evidence.  
 5 Questions asked by attorneys are not evidence.

6 I have no idea of how long the jury is  
 7 going to deliberate. It could be hours. It could be  
 8 days. Once they have notified me that all members are  
 9 ready to vote, we will alert the media for a time  
 10 certain when the members will come to the floor to cast  
 11 their votes, and we will post that on the impeachment  
 12 page of the state website.

13 We will try to give the media and the  
 14 public ample time to be ready for that time certain, at  
 15 least 30 minutes' notice.

16 I know you are interested in the outcome  
 17 of the trial so check in on the website from time to  
 18 time.

19 No evidence whatsoever, members, outside  
 20 this chamber shall be considered for any purpose.  
 21 Nothing that I have said as Presiding Officer and Judge  
 22 or that I have done or I have ruled shall be considered  
 23 as an opinion on facts or the case, and my words and  
 24 actions should not influence your vote one way or the  
 25 other. I do not have the vote. You have the vote.

1 The fact that the House of Representatives  
 2 has preferred articles of impeachment to the Senate is  
 3 no inference of guilt. Like any defendant, the attorney  
 4 general is not required to prove he is innocent or  
 5 produce any evidence at all. The attorney general is  
 6 presumed to be innocent until proven otherwise.

7 Even if a member believes the House  
 8 Managers have proven every element of an article beyond  
 9 a reasonable doubt, the member may only sustain the  
 10 article if they also believe Attorney General Paxton  
 11 should be removed from office based on that article.

12 The senate jurors will begin deliberations  
 13 today after final arguments, and they will continue as  
 14 long as it takes.

15 For the public, in some respects,  
 16 understand this is like 16 trials in one. This is not a  
 17 normal trial. They have to decide on 16 separate  
 18 articles.

19 Unlike a normal jury, the Senators will  
 20 not arrive at a group decision. One -- each member has  
 21 come to their individual decision, they will come to the  
 22 floor and vote one by one on each article.

23 They will not have their phones with them  
 24 during deliberations. They will not talk to staff  
 25 during deliberations, legal counsel or anyone else,

1 Members. Only to each other during deliberations.  
 2 They will be allowed, if necessary,  
 3 depending on how long deliberations go, to sleep outside  
 4 the Capitol, but under strict rules, members. You shall  
 5 have no communications with anyone. You may not look at  
 6 television. You may not look at your phone unless it's  
 7 a call from a family member, and they should not discuss  
 8 anything. It should only be for a family personal  
 9 issue. You can tell your kids goodnight or your wife or  
 10 your husband, but you shall not read any news, look at  
 11 any news, go online, open up your computers.  
 12 Before retiring to deliberate today after  
 13 closing arguments, each juror will be given a copy of  
 14 the articles of impeachment. They will also be provided  
 15 with all the exhibits that have been admitted into  
 16 evidence.  
 17 Both sides will have one hour for final  
 18 arguments. The House Board of Managers having the  
 19 burden of proof has the right to open and close final  
 20 argument. They may divide their hour into any time  
 21 segments as they wish for open and close.  
 22 That means the House Board of Managers  
 23 will argue first and last, but only for that total of  
 24 one hour.  
 25 The attorney general's legal counsel will

1 also have one hour for final arguments. Once again,  
 2 after closing arguments by both sides, I will read the  
 3 charge as you have written in your rules to the jury and  
 4 you will begin deliberation.  
 5 I will now read the articles of  
 6 impeachment.  
 7 Article No. I, disregard of official duty  
 8 - protection of charitable organization.  
 9 While holding office as attorney general,  
 10 Warren Kenneth Paxton violated the duties of his office  
 11 by failing to act as a public protector of charitable  
 12 organizations as required by Chapter 123, Property Code.  
 13 Specifically, Paxton caused employees of  
 14 his office to intervene in a lawsuit brought by the Roy  
 15 F. and JoAnn Cole Mitte Foundation against several  
 16 corporate entities controlled by Nate Paul. Paxton  
 17 harmed the Mitte Foundation in an effort to benefit  
 18 Paul.  
 19 Article No. II, disregard of official duty  
 20 - abuse of the opinion process.  
 21 While holding office as attorney general,  
 22 Warren Kenneth Paxton misused his official power to  
 23 issue written legal opinions under Subchapter C,  
 24 Chapter 402, Government Code.  
 25 Specifically, Paxton caused employees of

1 his office to prepare an opinion in an attempt to avoid  
 2 impending foreclosure sales of properties belonging to  
 3 Nate Paul or business entities controlled by Paul.  
 4 Paxton concealed his actions by soliciting the chair of  
 5 a Senate committee to serve as a straw requestor.  
 6 Furthermore, Paxton directed employees of  
 7 his office to reverse their legal conclusion for the  
 8 benefit of Paul.  
 9 Article No. III, disregard of official  
 10 duty - abuse of the open records process.  
 11 While holding office as attorney general,  
 12 Warren Kenneth Paxton misused his official power to  
 13 administer the public information law, Chapter 552,  
 14 Government Code.  
 15 Specifically, Paxton directed employees of  
 16 his office to act contrary to law by refusing to render  
 17 a proper decision relating to a public information  
 18 request for records held by the Department of Public  
 19 Safety and by issuing a decision involving another  
 20 public information request that was contrary to law and  
 21 applicable legal precedent.  
 22 Article No. IV -- and both parties had  
 23 asked me to read these articles before their closing  
 24 arguments.  
 25 While holding office as attorney general,

1 Warren Kenneth Paxton misused his official power to  
 2 administer the public information law, Chapter 552,  
 3 Government Code.  
 4 Specifically, Paxton improperly obtained  
 5 access to information held by his office that had not  
 6 been publicly disclosed for the purpose of providing the  
 7 information of benefit to Nate Paul.  
 8 Article No. V, disregard of official duty  
 9 - engagement of Cammack.  
 10 While holding office as attorney general,  
 11 Warren Kenneth Paxton misused his official power by  
 12 violating the laws governing the appointment of  
 13 prosecuting attorneys pro tem.  
 14 Specifically, Paxton engaged Brandon  
 15 Cammack, a licensed attorney, to conduct an  
 16 investigation to a baseless complaint during which  
 17 Cammack issued more than 30 grand jury subpoenas in an  
 18 effort to benefit Nate Paul or Paul's business entities.  
 19 While holding office as attorney general,  
 20 Article VI -- disregard of official duty - termination  
 21 of whistleblowers -- Warren Kenneth Paxton violated the  
 22 duty of his office by terminating and taking adverse  
 23 personal action against employees of his office in  
 24 violation of this state's whistleblower law, Chapter  
 25 554, Government Code.

1 Specifically, Paxton terminated employees  
 2 of his office who made good-faith reports of his  
 3 unlawful actions to law enforcement authorities. Paxton  
 4 terminated the employees without good cause or due  
 5 process and in retaliation for reporting his illegal  
 6 acts and improper conduct. Furthermore, Paxton engaged  
 7 in a public and private campaign to impugn the  
 8 employees' professional reputations or prejudice in  
 9 their future employment.

10 Article VII, misapplication of public  
 11 resources - whistleblower investigation report.

12 While holding office as attorney general,  
 13 Warren Kenneth Paxton misused public resources entrusted  
 14 to him.

15 Specifically, Paxton directed employees of  
 16 his office to conduct a sham investigation into  
 17 whistleblower complaints made by employees who Paxton  
 18 had terminated and to create and publish a lengthy  
 19 written report containing false or misleading  
 20 information or statements in Paxton's defense.

21 Article No. VIII, disregard of official  
 22 duty - settlement agreement.

23 While holding office as attorney general,  
 24 Warren Kenneth Paxton misused his official powers by  
 25 concealing his wrongful acts in connection with

1 whistleblower complaints made by employees whom Paxton  
 2 had terminated.

3 Specifically, Paxton entered into a  
 4 settlement agreement with the whistleblowers that  
 5 provides for payment of the settlement from public  
 6 funds. The settlement agreement stayed the wrongful  
 7 termination suit inconspicuously delayed the discovery  
 8 of facts and testimony at trial, to Paxton's advantage,  
 9 which deprived the electorate of its opportunity to make  
 10 an informed decision when voting for attorney general.

11 Article No. IX, constitutional bribery -  
 12 Paul's employment of mistress.

13 While holding office as attorney general,  
 14 Warren Kenneth Paxton engaged in bribery in violation of  
 15 Section 41, Article XVI, Texas Constitution.

16 Specifically, Paxton benefited from Nate  
 17 Paul's employment of a woman with whom Paxton was having  
 18 an extramarital affair. Paul received favorable legal  
 19 assistance from or specialized access to the Office of  
 20 the Attorney General.

21 Constitutional bribery - Paul's providing  
 22 renovations to the Paxton's home.

23 While holding office as attorney general,  
 24 Warren Kenneth Paxton engaged in bribery in violation of  
 25 Section 41, Article XVI, Texas Constitution.

1 Specifically, Paxton benefited from Nate  
 2 Paul providing renovations to Paxton's home. Paul  
 3 received favorable legal assistance from or specialized  
 4 access to the Office of the Attorney General.

5 Article XV, false statements in official  
 6 records - whistleblower response.

7 While holding office as attorney general,  
 8 Warren Kenneth Paxton made false or misleading  
 9 statements of official records to mislead both the  
 10 public and public officials.

11 Specifically, Paxton made or caused to be  
 12 made multiple false or misleading statements in the  
 13 lengthy written report issued by his office in the  
 14 response of whistleblower allegations.

15 Article XVI, conspiracy and attempted  
 16 conspiracy.

17 While holding office as attorney general,  
 18 Warren Kenneth Paxton acted with others to conspire or  
 19 attempt to conspire to commit acts described in one or  
 20 more articles.

21 Article XVII, misappropriation of public  
 22 resources.

23 While holding office as attorney general,  
 24 Warren Kenneth Paxton misused his official powers by  
 25 causing employees of his office to perform services to

1 his benefit and the benefit of others.

2 Article XVIII, dereliction of duty.

3 While holding office as attorney general,  
 4 Warren Kenneth Paxton violated the Texas Constitution  
 5 his oaths of office, statutes, and public policy against  
 6 public officials acting contrary to the public interest  
 7 by engaging in acts described by one or more articles.

8 Article XIX, unfitness for office.

9 While holding office as attorney general,  
 10 Warren Kenneth Paxton engaged in misconduct, private or  
 11 public, of such character as to indicate his unfitness  
 12 for office as shown by the acts described in one or more  
 13 articles.

14 Abuse of public trust, Article XX.

15 While holding office as attorney general,  
 16 Warren Kenneth Paxton used, misused, or failed to use  
 17 his official powers in a manner calculated to subvert  
 18 the lawful operation of the government of the state of  
 19 Texas and obstruct the fair and impartial administration  
 20 of justice, thereby bringing the Office of the Attorney  
 21 General into scandal and disrepute to the prejudice of  
 22 public confidence in the government of the state as  
 23 shown by the acts of -- described in one or more  
 24 articles.

25 Give us one moment.

1 (Pause)  
 2 PRESIDING OFFICER: Members, will both  
 3 parties come forward for a moment.  
 4 (Bench conference off the record)  
 5 PRESIDING OFFICER: The House Managers  
 6 have decided to open for approximately ten minutes, and  
 7 then the defense will speak for their 60 minutes, then  
 8 the House will come back for the remaining time.  
 9 I will give each -- as we get -- as they  
 10 get to the -- near the end of their hour time, I will  
 11 give each side a ten-minute warning, a five-minute  
 12 warning, and a one-minute warning. And I have told them  
 13 that I'm not going to cut them off in mid-sentence, but  
 14 they'll have to wrap up when I say their time is up.  
 15 Mr. Murr.  
 16 REPRESENTATIVE MURR: Mr. President,  
 17 members of the Senate sitting as Court of Impeachment,  
 18 over the last two weeks, the Senate has faithfully  
 19 carried out its constitutional duty to listen to the  
 20 evidence. The framers of our Constitution placed a  
 21 heavy and solemn responsibility on this chamber.  
 22 The House did not come here lightly. We  
 23 discovered unprecedented abuse in the Texas attorney  
 24 general's office by Mr. Paxton. As elected officials we  
 25 take an oath to protect the citizens of this state and

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1 the sacred public trust.  
 2 The Constitution charges us with policing  
 3 our own. If we don't keep public officials from abusing  
 4 the capacity of their offices, then, frankly, no one  
 5 can.  
 6 Mr. Paxton's attorneys like to remind  
 7 everyone that he was elected by 4.2 million voters, but  
 8 they have blindly ignored the fact that he has  
 9 ultimately ended up serving one person, himself.  
 10 Mr. Bangert explained Mr. Paxton's abuse  
 11 of office in perhaps the most succinct way, and I'll  
 12 direct you to your screen.  
 13 (Video played of the following  
 14 proceedings)  
 15 MR. BANGERT: I was deeply concerned that  
 16 the name and authority and power of our office had been,  
 17 in my view, hijacked to serve the interest of an  
 18 individual against the interest of the broader public.  
 19 (Video ended)  
 20 REPRESENTATIVE MURR: With the help of  
 21 Jeff Mateer, Ken Paxton was able to build an exceptional  
 22 executive management team. Mr. Paxton's top advisers  
 23 were thrilled to go work for him. They came to the  
 24 office because they believed in him and what he stood  
 25 for.

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1 They were unabashedly conservative,  
 2 hardworking experts in their fields with rock-ribbed  
 3 principles. He had hired the best and brightest to help  
 4 run his office.  
 5 Mr. Mateer explained at the beginning of  
 6 trial that these advisers were committed to the rule of  
 7 law and to conservative governance. In this trial, you  
 8 have heard from eight of Mr. Paxton's top and at one  
 9 time most trusted advisers.  
 10 There have been several discussions about  
 11 what the evidence is, but, of course, their testimony is  
 12 evidence.  
 13 Mr. Paxton's advisers were excited about  
 14 what the office was doing for Texas. They circled  
 15 around Mr. Paxton and worked diligently to advance the  
 16 promises that he had made to voters. The travesty is  
 17 that Mr. Paxton's desire to deliver results for Nate  
 18 Paul eventually tore the office apart.  
 19 It metastasized and overwhelmed the  
 20 office. When it came to Nate Paul, Ken Paxton abandoned  
 21 and betrayed his trust in knowledgeable staff, his  
 22 conservative principles, and his commitment to family  
 23 values, the law, and his oath of office.  
 24 He repeatedly demanded that his top  
 25 deputies act as Nate Paul's personal lawyers and not the

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1 state's lawyers.  
 2 He gave the keys to the office.  
 3 His lawyers have come in here and tried to  
 4 normalize his behavior. They are not denying that Ken  
 5 Paxton did any of the acts alleged. Instead, they want  
 6 you to believe there was nothing wrong with Mr. Paxton  
 7 ignoring his senior staff's repeated warnings about Nate  
 8 Paul.  
 9 Hall of Fame Texas Ranger David Maxwell  
 10 did not mince words.  
 11 Your screen, please.  
 12 (Video played of the following  
 13 proceedings)  
 14 MR. MAXWELL: My evaluation of the  
 15 allegations made by Nate Paul is that they were  
 16 absolutely ludicrous, without merit, no probable cause,  
 17 not even reasonable belief that a crime had been  
 18 committed. The nature of the allegations that he was  
 19 making were against the FBI, a investigator with the  
 20 Texas State Securities Board, two U.S. attorneys, the  
 21 federal senior federal magistrate, Mark Lane, and others  
 22 who were involved in the chain of the signing and  
 23 execution of the search warrants on -- that -- on his  
 24 business, his place of storage, and also his home.  
 25 (Video ended)

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1 REPRESENTATIVE MURR: Now, it is clear  
 2 that Mr. Paxton's judgment was completely clouded by his  
 3 distrust of law enforcement. But his failed judgment  
 4 does not excuse his intentional abuse of office.  
 5 Mr. Paxton wants you to find that even  
 6 though Nate's Paul -- Nate Paul's story was ludicrous  
 7 that it was completely fine for him to hire a five-year  
 8 practicing attorney as an outside attorney to do  
 9 Mr. Paul's bidding. He wants you to find that it was  
 10 completely okay for Mr. Paxton and Nate Paul's lawyer to  
 11 direct Mr. Cammack to issue grand jury subpoenas against  
 12 judges, court clerks, police officers, and the spouse of  
 13 a lawyer involved in a civil lawsuit with Nate Paul.  
 14 They even want you to believe that going  
 15 and getting a grand jury subpoena isn't really a big  
 16 deal. This suggestion is absurd.  
 17 The ability to issue a grand jury subpoena  
 18 is a substantial power wielded by our government, and  
 19 allowing a private citizen to take that power to attack  
 20 enemies is truly shocking.  
 21 Mr. Paxton has admitted that he does not  
 22 know much about criminal law. When he asked for money  
 23 from this chamber to settle the lawsuit filed by staff  
 24 members he wrongfully terminated, he wouldn't even  
 25 answer a senator's question about the hiring of

1 Mr. Cammack and instead deflected to his staff member  
 2 that he said was better qualified to answer. But when  
 3 it came to Nate Paul and his requests, all of a sudden  
 4 Mr. Paxton knew best.  
 5 He refused to reply on the expertise of  
 6 his staff. He balked at their warnings. And then he  
 7 hid his actions when he went around them in his attempts  
 8 to move forward in helping Nate Paul. And he is  
 9 continuing to claim he knows best.  
 10 He is sitting here today saying that he  
 11 was completely entitled to do what he did and that these  
 12 witnesses were part of some deep state conspiracy. But,  
 13 once again, Mr. Paxton's claims are divorced from  
 14 reality.  
 15 The fact that every action complained of  
 16 would have benefited Nate Paul is not mere happenstance.  
 17 As Mr. Paxton's counsel has said, there are no  
 18 coincidences in Austin.  
 19 Now, let's be clear about what happened  
 20 here. Mr. Paxton enjoyed the power of his office. He  
 21 enjoyed his relationship with Nate Paul. It facilitated  
 22 the life Mr. Paxton wanted. And Mr. Paxton willingly  
 23 and blindly wielded the power he loved so as to maintain  
 24 the relationship he needed.  
 25 This is wrong.

1 The power of the office of attorney  
 2 general cannot and should not be handed over to a  
 3 private citizen to use to attack their perceived  
 4 enemies.  
 5 Mr. Paxton claims that he wants the truth,  
 6 but he hasn't even bothered to be here for the whole  
 7 trial. He came on the first day, he left at lunch, and  
 8 now he's here for closing. Clearly, he thinks that he  
 9 might just get away with this. Had he been here, he  
 10 could have seen the hundreds of exhibits and the  
 11 thousands of pages that have been presented to you with  
 12 13 witnesses over seven days that the House have  
 13 meticulously laid before you.  
 14 Mr. Paxton put the risk of the citizens of  
 15 Texas, of the businesses of Texas, and the lives of law  
 16 enforcement at stake. As the state's top cop, this  
 17 conduct is and was inexcusable.  
 18 His actions are precisely the type of  
 19 grave official wrongs that our Supreme Court has  
 20 explained merit impeachment.  
 21 He may claim to be one of us, but unlike  
 22 the public servants here today, he has no regard for the  
 23 principles of honor and integrity. He has betrayed us  
 24 and the people of Texas. And if he's given the  
 25 opportunity, he will continue to abuse the power given

1 to him.  
 2 Mr. President, I yield the rest of my time  
 3 for my closing.  
 4 PRESIDING OFFICER: Mr. Buzbee.  
 5 We'll start the clock when he begins  
 6 speaking.  
 7 House, you have 50 minutes and 35 seconds  
 8 remaining.  
 9 MR. BUZBEE: May it please the Court.  
 10 Here we are in the Senate chamber in the  
 11 most historic trial that's been had in this state in the  
 12 last hundred years on this evidence. There is shame  
 13 here, and the shame sits right there that they would  
 14 bring this case in this chamber with no evidence.  
 15 I am proud to represent Attorney General  
 16 Ken Paxton. If this can happen to him, it can happen to  
 17 anyone.  
 18 Now, you heard when we started this case,  
 19 you heard in the media that the evidence is ten times  
 20 worse than the public knows, but what a farce that was.  
 21 What a farce that was.  
 22 What we have seen instead is a bunch of  
 23 supposition, mights, maybes, could have been. That's  
 24 what we've seen in this trial.  
 25 The very first witness they brought to



1 you, the very first witness they brought to you -- it's  
 2 not working -- crumbled under oath. Do you remember?  
 3 Do you remember Jeff Mateer? Crumbled under oath.  
 4 So what is this case about? It's about  
 5 nothing. It's about nothing.  
 6 Think about it. They failed to gather all  
 7 of the evidence. They failed to review their own  
 8 evidence. They failed to talk to all the witnesses.  
 9 Think about this. Brent Webster, the  
 10 first assistant. Did they bring him here? Did they  
 11 even bother to ask him a question? They didn't even ask  
 12 him a question. He is the man who reviewed and  
 13 documented every single thing that occurred. They  
 14 didn't even call him. You know why they didn't call  
 15 him? Because he puts to bed all of their foolishness  
 16 and silliness.  
 17 They didn't take any sworn testimony.  
 18 They let witnesses assume and speculate. They failed to  
 19 even understand the law, and they couldn't even write  
 20 the articles correctly.  
 21 Look at the articles that the Judge just  
 22 read to you. They use words "pro tem." Their own  
 23 witnesses admit there was no attorney pro tem. They use  
 24 words like "the attorney general failed to protect  
 25 charities." That is not the attorney general's job.

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1 And let me make sure we're clear about  
 2 something here. When the House Board of Managers  
 3 brought this case, they made an assumption. They  
 4 assumed that this man would quit. They assumed that  
 5 this man would run and hide. They assumed that Attorney  
 6 General Ken Paxton would resign.  
 7 Well, guess what? He did not resign. He  
 8 is proud and is ready to go back to work. And after  
 9 this is over, I expect he will go back to work.  
 10 He has been a rock. He has been a rock in  
 11 that office, the Office of the Attorney General has  
 12 accomplished more than any attorney general's office in  
 13 the country. You heard it from the witness stand.  
 14 Biden's policies come to die in Texas because Attorney  
 15 General Ken Paxton.  
 16 Now let's talk about the burden of proof.  
 17 We've heard about the burden of proof here and there --  
 18 is this working? Can I have one minute?  
 19 PRESIDING OFFICER: Yeah.  
 20 MR. BUZBEE: Can we get this working?  
 21 (Discussion off the record)  
 22 PRESIDING OFFICER: Yes, I've been  
 23 informed that the PowerPoint connection to your screens  
 24 stopped as soon as he began his --  
 25 MR. BUZBEE: There are no coincidences in

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1 Austin.  
 2 PRESIDING OFFICER: We will stop the clock  
 3 here for a moment.  
 4 MR. BUZBEE: We're going to take just a  
 5 moment. Can we get this going, please? I need it for  
 6 the senators to see the screen.  
 7 (Pause)  
 8 MR. BUZBEE: Okay. Your Honor, I think  
 9 we're ready.  
 10 PRESIDING OFFICER: Do you want to -- do  
 11 you want the screen to catch up to where you are?  
 12 MR. BUZBEE: Yes, sir.  
 13 PRESIDING OFFICER: Okay.  
 14 MR. BUZBEE: They thought he would quit.  
 15 They thought they could bring a bunch of people, 15  
 16 people, not put under oath with a bunch of supposition  
 17 and guesses and might's and maybes, and they thought he  
 18 would quit. The Texas Tribune, The Dallas Morning News,  
 19 The Houston Chronicle, they thought; he would quit. He  
 20 did not quit. And he will not quit.  
 21 Let's talk about the burden of proof.  
 22 That is super important here, and I want you, Senators,  
 23 please, to look at your screen and look at the burden of  
 24 proof. Beyond a reasonable doubt. Beyond a reasonable  
 25 doubt. That means, that means that you have no doubts

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1 that are reasonable. No doubts -- that is an incredibly  
 2 high burden.  
 3 Can you imagine if we were in any criminal  
 4 court in the United States that this case would not have  
 5 already been dismissed based on what we've heard from  
 6 this witness stand. This case would not be -- we would  
 7 not be in final argument. This case would be over, but  
 8 this is not a criminal trial. This is a political  
 9 trial.  
 10 I would suggest to you this is a political  
 11 witch hunt. I would suggest to you that this has --  
 12 this trial has displayed for the country to see a  
 13 partisan fight within the Republican party. Let's just  
 14 call it for what it is. That's what we're seeing here.  
 15 It's being played out on TVs across the country. There  
 16 is a battle for power because there's no doubt that  
 17 these folks did not prove a case. They didn't prove a  
 18 preponderance. They didn't prove anything other than  
 19 they don't like Ken Paxton.  
 20 Remember this fellow Gregg Cox. Do you  
 21 remember that guy? Gregg Cox, maybe, potentially,  
 22 possibly, might have, perhaps, conceivably, could be.  
 23 He thought he testified that the attorney general's  
 24 office was so corrupt they're involved in organized  
 25 crime. But you know what? I want to go work there.

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1 What a joke. What a joke.  
 2 I had texts from my former Marine Corps  
 3 buddies that said that guy is a joke. To come in here  
 4 in the Senate of Texas and to get on the stand and these  
 5 people sponsored this guy, what a joke he was. And in  
 6 my view, that's exactly what their entire case has been,  
 7 a joke. Much ado about nothing.  
 8 The burdens of proof. Look at the burdens  
 9 of proof, Senators. Beyond a reasonable doubt.  
 10 Now, if you decided this case from The  
 11 Houston Chronicle, The Texas Tribune, Texas Monthly, The  
 12 Dallas Morning News, oh, my goodness gracious, Ken  
 13 Paxton's guilty.  
 14 But there ain't no evidence to support it.  
 15 The only evidence we have in this case is they don't  
 16 like Ken Paxton. And there is no doubt there have been  
 17 hundreds upon hundreds upon hundreds of articles about  
 18 Ken Paxton, how bad Ken Paxton is. Everybody has heard  
 19 it. And guess what? The voters heard it too. And  
 20 guess what? Ken Paxton won hands down, resounding  
 21 victory. He beat the latest in line for the Bushes.  
 22 Let it be known. Let it be clear now.  
 23 The Bush era in Texas ends today. We thought it had  
 24 ended in the primary when Ken Paxton beat George P. Bush  
 25 68 to 32. Well, we thought it was over. It wasn't.

1 Well, now we have an impeachment. It ends today.  
 2 They can go back to Maine. This is Texas.  
 3 This case has been nothing more than  
 4 assumptions. And you know what my dad used to tell me?  
 5 Assumptions make an ass out of you and me. And that's  
 6 been this entire case. It's all built on assumptions.  
 7 And jumping to conclusions. Think about  
 8 it. House repairs were paid for by Nate Paul. You know  
 9 how sad this is? I had to come here on behalf of the  
 10 attorney general of the state of Texas and disprove  
 11 their case because he had already been convicted in the  
 12 press. And now we know, I had to prove it to young Drew  
 13 Wicker. That young man believed, oh, you know, I heard  
 14 a stray comment. And I jumped to a conclusion that the  
 15 house repairs were paid for by Nate Paul. We all know  
 16 now that was wrong. We all know now that was wrong, but  
 17 that was in more than a hundred articles across our  
 18 country. Smearing this man's name, smearing his wife's  
 19 name, smearing a member of this body's name. And we all  
 20 saw it when we put this young man under oath and showed  
 21 him the documents. Guess what? Didn't happen. Wasn't  
 22 true. And that is indicative of their entire case.  
 23 We should not be in a position to where we  
 24 have to come in here and prove our innocence, but we  
 25 did. We did.

1 The referral from the DA's office had  
 2 nothing to do with banks. All of his top lieutenants  
 3 had no idea there was a second referral. You know why  
 4 they didn't know? Because the referral went directly to  
 5 Mr. Cammack. They didn't know about the direct referral  
 6 from the DA's office.  
 7 And you remember Margaret Moore? She came  
 8 in here and tried to pretend like she didn't know  
 9 anything about it because she wasn't supervising her  
 10 staff. Her staff knew all about it. Her top lieutenant  
 11 knew all about it.  
 12 They assumed the Cammack contract was  
 13 never executed but now we all have seen that Ken Paxton,  
 14 in fact, signed that contract.  
 15 They assumed that Laura Olson's job was  
 16 not legitimate, but now we have seen her employment  
 17 contract. We've seen her application. We've seen that  
 18 she's still working for World Class properties. And  
 19 still doing real work.  
 20 They assumed, they assumed that Wicker,  
 21 young man Wicker delivered a secret package in the  
 22 middle of the night in a dark alley. Never happened.  
 23 But if you were to watch the news and read the  
 24 newspaper, oh, my goodness, that happened.  
 25 Even a Texas Ranger, a Texas -- think

1 about this for a minute. You have a guy 6 foot 6, wears  
 2 a hat, cloaked with the authority of the state, comes in  
 3 here and says to these folks, I heard from five or six  
 4 people that Drew Wicker delivered a secret package in  
 5 the dark of night in an alleyway on behalf of Nate Paul.  
 6 Totally false. When he was asked, who  
 7 told you that, Ranger?  
 8 I can't even give you one name who told me  
 9 that.  
 10 Totally false. I asked the young man  
 11 directly: Did you ever deliver anything at night? Did  
 12 you ever deliver anything that had anything to do with  
 13 public records?  
 14 No. Never. Didn't happen.  
 15 Look at the position you -- these people  
 16 have put this man in and his wife. Prove your  
 17 innocence, attorney general. You've been convicted in  
 18 the press. Prove your innocence now.  
 19 If it can happen to him, it can happen to  
 20 anyone.  
 21 Foreclosures were stopped. There was a  
 22 press statement that multiple foreclosures were stopped  
 23 because of some informal guidance. Now we know that's  
 24 false too. Presumed, false.  
 25 And these people, these people, got up

1 here and used words like "conspiracy," "crimes,"  
 2 "bribery," all kinds of really loaded words, and all  
 3 were false.

4 And this young man, Vassar, who cried on  
 5 the stand in front of all of you because he had been  
 6 called a rogue employee, at the very time he was called  
 7 a rogue employee, he was joking and laughing and poking  
 8 fun and calling his new boss Brent Webster a jerk. But  
 9 when he came in here at the urging of these people, he  
 10 cried. He cried because he had been called a rogue  
 11 employee.

12 What is a rogue employee? A rogue  
 13 employee is somebody that doesn't do what the boss says.  
 14 You don't do what the boss says -- let me tell you  
 15 something. When I was a captain in the United States  
 16 Marine Corps and my staff sergeant didn't do what I told  
 17 him to do, he can -- he can register his disagreement,  
 18 but when the rubber meets the road, and I tell him,  
 19 we -- this is what we're going to do, he does it or he  
 20 resigns.

21 What he doesn't do, what he should not do,  
 22 what he will and should never do is go behind my back,  
 23 cook up bar complaints, cook up a bunch of foolishness,  
 24 and go to the authorities. That's not how it's supposed  
 25 to work.

1 This guy, Mr. Vassar, Mr. Vassar came  
 2 here, cried on the stand about being a rogue employee.  
 3 But, really, the truth is at the same time he was called  
 4 a rogue employee, he was laughing and joking about it.  
 5 What foolishness is this?

6 It's been three years since these  
 7 so-called whistleblowers -- now, think about what a  
 8 whistleblower means. That means that you have to have  
 9 evidence of a crime, and they admitted they had no  
 10 evidence of a crime.

11 And what have we heard from the FBI with  
 12 regard to Attorney General Ken Paxton? Crickets.  
 13 Nothing. Nothing.

14 If you don't think, if you don't think  
 15 that the Biden administration and its FBI and Department  
 16 of Justice would not love, would not love to indict Ken  
 17 Paxton, then you're not paying attention. They've done  
 18 nothing. You know why they've done nothing? Because  
 19 there's nothing to do.

20 This man did his job. And he should still  
 21 be doing his job.

22 Staffers were not only wrong on their  
 23 assumptions, they were wrong on the law. Can you  
 24 believe that they didn't realize that the only person in  
 25 that office that can actually have the authority to sign

1 an outside counsel contract was Ken Paxton himself, and  
 2 anybody else was designated. He's the only one that can  
 3 do that. They didn't like that.

4 This is a situation where the tail is  
 5 wagging the dog. Imagine if your staffs, one of your  
 6 staff members at some point decided that, you know what?  
 7 I don't think my boss has authority. I know more than  
 8 the boss, so I'm going to be in charge now. That is not  
 9 how it works. 4.2 million people decided who the  
 10 attorney general would be. They didn't elect Jeff  
 11 Mateer, Ryan Vassar, Bangert, none of those people.  
 12 Those are political appointees. Serving at the pleasure  
 13 of the attorney general just as everyone of your staffs  
 14 are as well.

15 They even had the nerve to come here in  
 16 front of you and say, well, I believed that when Ken  
 17 Paxton was in Ohio doing his job and trying to put  
 18 together a group of attorney generals in a case against  
 19 Google, well, he's out of the state now, we're in  
 20 charge.

21 That is not how it works. That is not how  
 22 it works.

23 Let's cook up a bar complaint against Ken  
 24 Paxton. Let's allocate \$50,000 to hire an outside  
 25 lawyer by the name of Johnny Sutton without any approval

1 or telling the boss. They figured out real quickly once  
 2 they talked to Maxwell that, you know what? We don't  
 3 have anything. We need to beef this up. We don't have  
 4 anything. And even though it's been three years, they  
 5 still don't have anything.

6 And 17 lawyers over there working since  
 7 May at \$500 an hour for each of them, hundreds of  
 8 thousands of dollars wasted, taxpayer money wasted, and  
 9 they still don't have anything.

10 Now, how did this happen? Well, they made  
 11 some assumptions. And then they figured out they had no  
 12 evidence, and it was too late to turn back.

13 Recall that one of the witnesses,  
 14 Mr. Mateer, Mr. Bangert said, well, once we went to the  
 15 FBI we were signing our death warrant.

16 Rightly so. You go to the authorities  
 17 with no evidence and accuse your boss of a crime and  
 18 there has been no crime and there's been no evidence of  
 19 any crime and it's all a bunch of supposition and  
 20 guesswork, rightly so.

21 And so they took a long walk on a short  
 22 pier. The House Managers did the same. The House  
 23 Managers did the same. They, in a four hour-hearing,  
 24 decided to impeach the attorney general of the state of  
 25 Texas and, then they spent months and months trying to

1 collect evidence to support it, and they did not. They  
 2 failed.

3 And then the lobbyists got involved. The  
 4 texts of support, TLR, yeah, we were against Ken -- we  
 5 spent \$6 million against Ken Paxton. We couldn't beat  
 6 him at the ballot box, maybe we can beat him, maybe we  
 7 can beat him in an impeachment trial.

8 George P. Bush decided let me re-up my law  
 9 license because maybe I can be the attorney general now.  
 10 I couldn't beat him in a -- in a fair fight. Maybe I  
 11 can beat him here.

12 And everyone of these so-called  
 13 whistleblowers, which are nothing but disgruntled  
 14 ex-staffers, they all hired the same lawyer who just  
 15 happens to be an Ashcroft Law Firm, who just happens to  
 16 be a protege of the Bush regime.

17 The Bush era ends today in the state of  
 18 Texas.

19 Have you ever met a lawyer that works for  
 20 three years for free who's a former U.S. attorney?  
 21 Who's doing legitimate work? Legitimate work?

22 I want to focus the allegations as best as  
 23 I can tell of what Nate Paul provided to our attorney  
 24 general are in three buckets: Campaign donation, house  
 25 renovations, and Olson job.

1 Let's focus on the first one. The  
 2 allegation is there was some sort of quid pro quo. You  
 3 have to have a quid pro quo for bribery. They're  
 4 throwing this word "bribery" around, it has a lot of  
 5 meaning. In this case it has none.

6 Let's focus on the person who supposedly  
 7 bribed our attorney general. This pain in the butt,  
 8 this described pain in the butt, Nate Paul. Entitled,  
 9 insistent, overbearing, manipulative, pushy,  
 10 threatening, presumptuous, brash, assertive, forceful,  
 11 militant. But he really believed that he had been  
 12 abused by the federal authorities.

13 And let me ask you a question: Do we  
 14 really believe that the federal authorities do not  
 15 sometimes abuse people? Do we believe that? Do we  
 16 believe that the FBI is always on the up-and-up? Do we  
 17 really believe that the Department of Justice is all out  
 18 to do the right thing?

19 Or can we all agree that sometimes they  
 20 pick and they choose who they go after? And when the  
 21 federal government comes after you, you better buckle  
 22 down.

23 This guy thought he had been targeted by  
 24 the FBI. And the only thing that this man did was let's  
 25 find out the truth. Let's see if that's really true.

1 That's all he did. Because he knows a little bit about  
 2 people coming after you with no evidence. He can  
 3 identify with that.

4 Heck, we see it here, the very reason I'm  
 5 standing here. He was come after by a group of  
 6 misinformed, ill-advised people with no evidence.

7 That's what -- now, do I know whether that  
 8 search warrant was altered? We will never know. We'll  
 9 never know. Nate Paul thought it was. We'll never  
 10 know.

11 And to suggest that the keys of the  
 12 attorney general's office were turned over to Nate Paul,  
 13 look at his correspondence. He was madder than a  
 14 hornet's nest with the attorney general's office:  
 15 You're not doing your job. You have a conflict of  
 16 interest. You guys are negligent. You're grossly  
 17 negligent.

18 He was mad. He was pissed because the  
 19 attorney general's office would not do what he wanted  
 20 them to do. He wanted them to investigate.

21 If you look at the correspondence from  
 22 Nate Paul, Senators, and you compare it to what you just  
 23 heard from Mr. Murr here, you're going to see two  
 24 different stories. Nate Paul was very unhappy with the  
 25 attorney general's office. That does not sound like

1 somebody who had the keys to the office.

2 He kept accusing the attorney general's  
 3 office of not being neutral. He accused the attorney  
 4 general's office of having bias. He accused the  
 5 attorney general's office of being in the bag for the  
 6 Mitte Foundation. He accused the attorney general's  
 7 office of employing people that were against his  
 8 interest.

9 That does not sound like somebody who's  
 10 running the attorney general's office. There was one  
 11 person running the attorney general's office, and that  
 12 man is sitting right there, and that is the man that  
 13 should be running the attorney general's office at the  
 14 end of this day.

15 But I urge you to look at the  
 16 correspondence and compare it with what you've heard.  
 17 Not only from these people, but in the media.

18 Nate Paul was very, very upset and very,  
 19 very unhappy with the attorney general's office. So  
 20 much so, so much so that he threatened to sue, that he  
 21 sent a letter and said, hold all of your correspondence  
 22 because I am going to sue you guys for your negligence,  
 23 for your bias. When you look at the documents and you  
 24 compare it to the arguments, you see a much different  
 25 picture.

1 Now, the allegation, the first bucket is a  
 2 campaign donation of \$25,000 made in October of 2018.  
 3 Everything that you have heard in this case was in 2020.  
 4 So think about that for a minute. Their entire case, a  
 5 campaign donation, a bribe, if you will, two years  
 6 prior. Complete ridiculousness, especially when you  
 7 look at all the other people that Nate Paul gave money  
 8 to, and especially when you look at the percentage just  
 9 in the year 2018 of the donations received by Attorney  
 10 General Ken Paxton. This man is a fundraiser. There is  
 11 a reason that he raises money politically because the  
 12 people like what he does. The people like Ken Paxton.  
 13 We know that a campaign donation as a  
 14 basis for bribery is complete hogwash. Imagine, imagine  
 15 if a campaign donation were considered to be a bribe two  
 16 years before the acts complained of, line up. We're  
 17 going to be doing a lot of impeachments in the City of  
 18 Austin.  
 19 That bucket has no validity. That bucket  
 20 is empty.  
 21 And let's look at the buckets of what Ken  
 22 Paxton supposedly did for Nate Paul. Foreclosure  
 23 guidance, Cammack retention, public records, and Mitte  
 24 intervention.  
 25 But what you heard from the young man who

1 spent more time with Ken Paxton than anybody, sometimes  
 2 24/7, 365 days a year, is there was never an agreement  
 3 at all, he never agreed to do anything for Nate Paul and  
 4 never got a darn thing from Nate Paul with the exception  
 5 of a lunch. A lunch. A lunch that was public on a  
 6 patio for everybody to see.  
 7 Most of the time you would think when  
 8 people are doing some untoward, they'd want to hide it.  
 9 These were public lunches for everybody to see. And if  
 10 a lunch is a bribe, then boy howdy, we got a problem  
 11 here, do we not?  
 12 That holds no water.  
 13 Let's look at Article I. It fails just in  
 14 its language. These people don't even know the goal --  
 15 the role of the attorney general's office. It is not a  
 16 public protector of charities. It's a public -- it's a  
 17 protector of the public's interest in charities.  
 18 And we know that previously Greg Abbott as  
 19 the attorney general had sued the Mitte Foundation as a  
 20 long and sorted history.  
 21 But it's not just a history of problems,  
 22 there is a recent history. Starting in 2019. And I  
 23 urge you to look at the evidence, at the memo that was  
 24 submitted, at the memo that every one of Ken Paxton's  
 25 subordinates reviewed before they all signed off on the

1 intervention. This was not Ken Paxton causing anybody  
 2 to do anything. This was subordinates who reviewed the  
 3 evidence provided and decided we need to intervene.  
 4 And it goes on and on, people punching  
 5 their spouse, people being indicted for this and that,  
 6 all kinds of problems with -- and the most important  
 7 problem, the thing I think that the subordinates were  
 8 really concerned about, is this charity that was only  
 9 worth \$15 million total is investing \$3 million into a  
 10 speculative land deal.  
 11 The bottom line is, every single -- and  
 12 what's so ironic and what's so egregious is that every  
 13 single person who signed off on the intervention in the  
 14 first article of impeachment came here and testified  
 15 that that's somehow wrong, but they all -- they were  
 16 involved in it. Utter hypocrisy. They not only signed  
 17 off on the intervention, which only lasted three months,  
 18 but they also signed off on an investigation of the  
 19 Mitte Foundation. That article fails. Period.  
 20 Did they prove anything beyond a  
 21 reasonable doubt with regard to that article? The only  
 22 thing that we've -- that we've seen beyond a reasonable  
 23 doubt in that article is the Mitte Foundation has major  
 24 problems and that the AG's office intervened and now the  
 25 Mitte Foundation stands to make millions upon millions

1 upon millions of dollars on their speculative  
 2 investment. And I wish I could get an investment like  
 3 that. 3 million-dollar investment, they stand to make  
 4 almost 20 million. That hurts really good, doesn't it?  
 5 So we know the intervention is hogwash.  
 6 Let's go to the written legal opinions  
 7 under 402, Article II.  
 8 Well, it fails on its face because there  
 9 was no written legal opinion, period. You heard our  
 10 Lieutenant Governor charge you and explain to you that  
 11 they have to prove what is in the article. They cannot  
 12 prove this article because there was never a written  
 13 legal opinion, period. That article is over.  
 14 But -- I mean, it's over. You can see it.  
 15 This is in formal guidance. This is not a legal  
 16 opinion, period.  
 17 But let's go a little further. They tried  
 18 to drag Senator Hughes into this foolishness and put his  
 19 name in this article, for what reason I don't know, and  
 20 act like having a straw requestor was somehow wrong.  
 21 And we all know that people that -- that work in the  
 22 state's business in this city know that straw requestors  
 23 are common. Every one of the House Board of Managers  
 24 has been a, quote, straw requestor at one point or  
 25 another. We know that.

1 And to put that in a public article, to  
2 somehow besmirch Senator Hughes is foolishness.  
3 But what was in Ken Paxton's mind when he  
4 was looking for this informal guidance. Well, if we  
5 want to know, we can look at his text, his text sent  
6 directly to Mr. Bangert who was working on the informal  
7 opinion. Look what he says: I think that it will  
8 impact people's lives in a good way if we do this right.  
9 Hundreds of people will be protected from harm and maybe  
10 devastation.  
11 These are real-time texts. This is not  
12 three years later with a bunch of cooked-up foolishness.  
13 This is the real-time thoughts of our attorney general  
14 as to what he was thinking with regard to the informal  
15 guidance.  
16 And did you hear Drew Wicker when he was  
17 asked about that? He said he knew a little bit about  
18 it. General Paxton says we may prevent a grandmother  
19 from being thrown out of her home.  
20 And now they've turned this upside down.  
21 They cooked it up and made it look somehow bad.  
22 And you know what's most ironic is the  
23 president, the president at the time, Donald Trump, a  
24 month later issued the same guidance.  
25 And we know, of course, Nate Paul put his

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1 entities in bankruptcy, and there was never any  
2 foreclosures anyway.  
3 This is what we have to do. We have to  
4 get up here and prove our innocence. How wrong is that?  
5 And did you hear the financial guy from  
6 the bank get up here and talk about they didn't lose a  
7 penny, that they -- they not only didn't lose a penny,  
8 they made a fortune.  
9 That bucket's empty.  
10 Let's talk about the abuse of the open  
11 records process. Well, we've seen that that is bull.  
12 We've seen that the abuse of -- misuse of official  
13 information, that was bull.  
14 Remember what you heard, that there was a  
15 secret delivery in the dark of night in a sealed package  
16 with top secret information. The problem with all that  
17 was all that information had already been released. It  
18 was already public. It was already public.  
19 And then when young Drew was asked did  
20 you -- you checked out for the general a packet that had  
21 a CD in it. Was that what you gave to Nate Paul?  
22 No, not at all.  
23 Total baloney.  
24 Never delivered any open records to Nate  
25 Paul. Never delivered anything secret.

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1 That bucket's empty.  
2 Article V, the retention of Cammack. They  
3 say he was a prosecutor pro tem. Well, that crumbled on  
4 the stand, did it not? You have to vote on the language  
5 of the articles. That should be 30 to nothing there was  
6 never a prosecutor pro tem, game over. But we still  
7 have to prove our innocence. So ridiculous.  
8 The office of the district attorney made a  
9 referral.  
10 Mindy Montford. I want you to please pay  
11 particular attention to her affidavit. She was one of  
12 the subordinates of the elected DA, and she made it very  
13 clear that it was her idea to do the referral.  
14 And you know what she said? I didn't  
15 think it was appropriate to send it to the Texas  
16 Rangers. I didn't think it was appropriate to send it  
17 to the FBI. So I referred it to the attorney general's  
18 office. But guess what? It went to a Texas Ranger and  
19 a former U.S. attorney, and they didn't want to fool  
20 with it.  
21 We had -- that's what you call a punt. We  
22 don't want to do it. Let's punt it.  
23 And then they try to pretend like they  
24 weren't involved, even though Cammack didn't know how to  
25 do a grand jury subpoena, so he had to rely upon the

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1 DA's office to do it. They were intimately involved.  
2 They were actively involved. They were helping him get  
3 the subpoenas, and they never said this is wrong. In  
4 fact, they thought, I'm glad you're doing it because I  
5 don't want to investigate the people that I have to work  
6 with.  
7 And then when it was over, they tried to  
8 wash their hands of it all. With all due respect,  
9 typical politician.  
10 And then lied about it.  
11 Margaret Moore sent a letter to the --  
12 that she made sure it was in the press that she didn't  
13 have anything to do with this at all.  
14 We all know that's not true. And she  
15 didn't even mention that there had been a second  
16 referral that was referred directly from the DA's office  
17 directly to this young man, Brandon Cammack. And that's  
18 the reason he sent the subpoenas, that the DA's office  
19 helped him to issue. And they want to blame that on Ken  
20 Paxton who had no idea about it.  
21 Cammack admitted: I never told him what I  
22 was -- it was my idea to issue subpoenas, and I never  
23 told him who they were going to be issued to.  
24 And Ken Paxton could not figure out why  
25 the devil will Maxwell and Penley not do their jobs.

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1 Ken Paxton had a chance to investigate the  
 2 feds. He wanted to investigate the feds. He wanted to.  
 3 Because he had seen how they operate, picking and  
 4 choosing who they -- who they convict or who they  
 5 charge. Weaponizing, weaponizing the FBI, abusing their  
 6 authority. He had an opportunity. He could not  
 7 understand why his subordinates would not do their jobs.  
 8 Instead of fighting about it, he got outside counsel.  
 9 And this young man, Mr. Cammack, who had a  
 10 signed contract from the attorney general, the state of  
 11 Texas was dealing with somebody the Texas Ranger had  
 12 decided in his mind on a Google search. Think about  
 13 this. Imagine, I was -- I hope Dave Maxwell never  
 14 Googles me. He had decided before he even looked at it  
 15 that Nate Paul was a criminal. My God, if that's how --  
 16 if that's how criminal work is done, that -- that your  
 17 top cop in the AG's office based on a Google search  
 18 decides somebody's a criminal, therefore I'm not going  
 19 to investigate his allegation of wrongdoing of the feds,  
 20 we've got a problem. We've got a problem. He decided  
 21 on a Google search that he wasn't going to do a darn  
 22 thing. He was never going to investigate his old  
 23 outfit, the Texas Rangers. He was never going to do  
 24 that. He was in the Hall of Fame, for God's sake. And  
 25 Penley's not going to investigate the feds because

1 that's where he spent most of his career.  
 2 And Ken Paxton said, look, there's a --  
 3 there's an allegation, let's look into it. And the only  
 4 thing he ever said was: Just find the truth.  
 5 So look at the points of view. You look  
 6 through the prism. Ken Paxton's prism is sometimes the  
 7 feds screw up.  
 8 Cammack's point of view, as a criminal  
 9 defense lawyer, is sometimes those who are making  
 10 allegations are wrong and screw up.  
 11 Maxwell and Penley, the feds never do  
 12 anything wrong, the Texas Rangers never do anything  
 13 wrong, and anybody that says they do, they're a  
 14 criminal.  
 15 God, that's fear -- that's terrifying.  
 16 That should terrify every one of you.  
 17 And so he issued subpoenas, and he thought  
 18 he was a special prosecutor. He was outside counsel, a  
 19 special prosecutor, whatever he was, he had the  
 20 authority of the AG's office only to investigate, to  
 21 investigate. And that's what the young man was doing.  
 22 And he made it very clear. In his  
 23 testimony, he was young, inexperienced, sincere, and  
 24 energetic. And he was asked point blank: Did you think  
 25 this was baseless?

1 He said: Heck no. I thought it was  
 2 persuasive. I thought it was convincing. And I was  
 3 excited to be involved in it.  
 4 Because if what was being alleged were  
 5 true, that would be a, quote, big deal.  
 6 The only thing that Ken Paxton ever told  
 7 that young man is seek the truth. That's what I suggest  
 8 to you. Seek the truth.  
 9 Nate Paul got nothing, nothing. It's a  
 10 darn shame that we have to come and prove that, but we  
 11 did.  
 12 And these whistleblowers, let's --  
 13 so-called whistleblower -- in order to be a  
 14 whistleblower, in order to be -- let this sink in. In  
 15 order to be a whistleblower, you have to have a  
 16 good-faith belief that a crime has occurred. In order  
 17 to have a good-faith belief that a crime has occurred,  
 18 you have to have evidence.  
 19 And you heard Mr. Vassar admit when he  
 20 went to the FBI, he had none. He had some guesses. He  
 21 had some maybes. He had none. And if these folks would  
 22 have done their job, you wouldn't have had to spend the  
 23 last two weeks of your time doing their job.  
 24 And you can tell from the texts, you can  
 25 tell from the text of these so-called whistleblowers

1 which -- what they really are is disgruntled  
 2 ex-staffers. They were combative, they were  
 3 insubordinate. They called their brand-new boss a joke.  
 4 How long would somebody on your staff last if they were  
 5 texting their sub -- or their colleagues calling you a  
 6 joke? You would fire them on the spot.  
 7 He is a joke. We all know that when you  
 8 bring in a new chief of staff, when you have a  
 9 disagreement with your chief of staff and you bring in  
 10 somebody else, that chief of staff is going to make sure  
 11 that she or he brings in their own people. That's the  
 12 way it works in politics, political appointees. And  
 13 when you go to -- when you come in and you talk to your  
 14 subordinates and they say, I won't work with you, what  
 15 happens then? They leave.  
 16 Nobody was ever mistreated. Nobody was  
 17 ever talked down to. They were treated with respect.  
 18 That's not what Brent Webster, the new  
 19 first assistant got in return. What he got in return is  
 20 screams, shouts, hollers, and talking behind his back  
 21 and calling him a joke.  
 22 And then they joked about being fired.  
 23 They were so torn up that they were joking amongst  
 24 themselves calling themselves the cool kids club.  
 25 The investigative report, I encourage you

1 to read it. It's very lengthy. It's very lengthy.  
 2 That's Article VII. It is documented and detailed. It  
 3 explains everything that happened. It's a full  
 4 investigation, and it's pretty darn good. And it lays  
 5 out in great detail the events. And it's been  
 6 un rebutted.

7 They had a chance to bring Brent Webster,  
 8 who was one of the authors of that report, who made sure  
 9 that everything was documented. It's lengthy. It has  
 10 exhibit after exhibit. It demonstrates that they did,  
 11 in fact, take the attorney general's name off of the  
 12 letterhead. It's there in black and white, the emails  
 13 back and forth when they did that. It's in that report.  
 14 Now they say the report is false.

15 And they throw around bribery. We know  
 16 why they included this, don't we? Because it captures  
 17 headlines. It captures headlines.

18 And you know why they mentioned Laura  
 19 Olson because it captures headlines, and they want to  
 20 shame people. They want to shame people. They want to  
 21 be morally superior to us all. There's no reason to  
 22 have done that. To this family. There's no reason to  
 23 have done that to this family.

24 This woman got a job. She got it on her  
 25 own merit, and she continues to work even today. Is

1 getting checks from her job here in Austin even today.  
 2 She has an apartment. She pays for her own apartment.  
 3 That bucket is empty.  
 4 I'm not going to spend too much time on  
 5 this, but let me say, I'm certainly not perfect, and I'm  
 6 going to assume that all of you feel the same. Because  
 7 we all have sinned and fallen short. The only person  
 8 that cannot be forgiven is somebody who's so cynical  
 9 that they don't ask for forgiveness. But if this  
 10 impeachment is based on a marital impropriety, then line  
 11 up. Line up. We're going to be doing a lot of  
 12 impeaching in this city.

13 You should be ashamed of yourselves.  
 14 Ashamed of yourselves.

15 Bribery. They convinced Drew Wicker based  
 16 on a stray comment that Nate Paul was paying for the  
 17 renovations. It took me about 20 minutes to disprove  
 18 it. They never asked for any of those documents. They  
 19 never ever asked. They never even -- they never even  
 20 talked to Kevin Wood, the contractor. They didn't even  
 21 bother. They assumed it was true, and I had to come  
 22 here on behalf of my client and disprove it. How wrong  
 23 is that? And that was the most serious allegation. It  
 24 wasn't just against the attorney general of our state,  
 25 but it was against a Senator in our state.

1 Did you see young Wicker's face on the  
 2 stand when I disproved it? I had to disprove it even to  
 3 the general's body man.

4 And let me tell you, the press reports  
 5 that again, I'm going to be lining up a lot of lawsuits  
 6 because that is absolute defamation. Because now we all  
 7 know it's absolutely untrue. That was the entire basis  
 8 of this case, supposition, and it can happen to you.

9 Not even going to go through it, no burner  
 10 phones, no secret email address, no promise to help  
 11 Nate, no agreement with Nate, nothing. Nothing. You  
 12 should be ashamed of what you've done here.

13 We showed you the transaction from front  
 14 to back.

15 Now, there was some suggestion that, well,  
 16 he decided to pay because he knew they went to the FBI.  
 17 Total baloney. The documents show something completely  
 18 different.

19 I urge you to look at Mateer's text and  
 20 look at the text to Chip Loper on the payment. Look at  
 21 the USAA docs that show that he was fighting with his  
 22 insurance company trying to get paid for these very  
 23 renovations and repairs that we have in evidence now.

24 Every bucket of what General Paxton  
 25 supposedly received, every bucket of what Nate Paul

1 supposedly received, empty. Empty.  
 2 So what do they do now? Well, you settle  
 3 a lawsuit. A lawsuit was brought against the attorney  
 4 general office, and you went to the legislature, which  
 5 is what you're required to do to get it funded. And the  
 6 reason we decided to settle it and the reason they were  
 7 begging to settle the case is because they didn't know  
 8 what the Supreme Court was going to do. And Ken Paxton  
 9 delegated that to one of his subordinates and said, hey,  
 10 settle it if you think it's appropriate. And that was  
 11 put before the legislature, and the legislature says,  
 12 no, we're not going to pay it. And they were begging.  
 13 The very people that came here to testify were the very  
 14 people begging to get paid. That makes me mad.

15 PRESIDING OFFICER: You have ten minutes  
 16 remaining in your time.

17 MR. BUZBEE: So the Hail Mary, that's  
 18 Roger Staubach. Remember him? That's a Hail -- the  
 19 Hail Mary is, well, let's just throw in a bunch of  
 20 malarkey at the end. Conspiracy, although there's no  
 21 agreement and no furtherance of a conspiracy,  
 22 misappropriation never happened, dereliction of duty.  
 23 Boy, when you're accused as a Marine officer of being  
 24 derelict of duty, that's bad. Let's throw unfit for  
 25 office, abuse of the public -- there's no evidence to



1 support any of the articles. That means there's no  
 2 evidence to support any of these articles.  
 3           These are thrown in later because as you  
 4 deliberate there's going to be somebody say, okay,  
 5 you're right, there's no proof of that, but we got this  
 6 article, we're just going to -- we'll use this to get  
 7 him. We got to get him. We got to get him. Don't do  
 8 that. That's not based on evidence.  
 9           That ain't the way it works.  
 10           Just throw it at the wall and hope  
 11 something sticks, that ain't the way it works in court,  
 12 and that should not be the way it works in a historic  
 13 impeachment proceeding. It holds no water.  
 14           So why are we here? We're here because  
 15 Dade Phelan got his feelings hurt. He was so drunk, so  
 16 drunk handling the House business knowing full well that  
 17 they had no evidence to support an impeachment, and they  
 18 hadn't done their homework when Ken Paxton says, hey,  
 19 man, you embarrassed the devil out of yourself, you  
 20 should resign, they sped up the process and impeached  
 21 this man.  
 22           You've seen the video. It's all over the  
 23 Internet. You know, my favorite author said justice  
 24 limps along, but gets there all the same. You should  
 25 have never had to do any of this. Because this case is

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1 a case about nothing. It's a case about nothing.  
 2           And people are watching. It's not just  
 3 these people. There are thousands upon thousands of  
 4 people watching at home who will sit in judgment, who  
 5 have watched the evidence, who have been shown what has  
 6 been alleged and what is actually been proven and have  
 7 seen that they don't match up.  
 8           For me, as a son of a butcher and the son  
 9 of a woman who worked in our high school cafeteria who  
 10 had the -- just the gift from God to go to Texas A&M and  
 11 then go into our United States Marine Corps and then be  
 12 able to become a lawyer, a member of the bar of our  
 13 state, to be called to defend the sitting attorney  
 14 general of the state of Texas is a great honor, and it's  
 15 a great honor to stand here in front of you. I know in  
 16 the fiber of my being that all of this foolishness that  
 17 they've accused this man of is false. But the only  
 18 question I have in my mind is whether there is courage  
 19 in this room, whether there is courage in this room to  
 20 vote the way you know the evidence requires. I think  
 21 there is. I hope there is. I pray there is.  
 22           I'm asking you to agree with the  
 23 4.2 million Texans who put this man in office as  
 24 attorney general to put this man back to work and vote  
 25 not guilty.

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1           MR. COGDELL: Mr. President, how much time  
 2 do I have?  
 3           PRESIDING OFFICER: You have five minutes.  
 4           MR. COGDELL: Morning. I had planned on  
 5 30 minutes, but I have five. So I guess there really  
 6 are no coincidences in Austin.  
 7           It may or may not surprise you that I'm  
 8 going to go in a different way from my colleague,  
 9 Mr. Buzbee. He's a fine lawyer. But I'm not going to  
 10 yell at you. I'm not going to scream at you. I'm not  
 11 going to point my finger and shake my fist. I just  
 12 think, first off, no offense, but you're politicians.  
 13 Y'all can probably get that faux -- rage quicker than  
 14 most mammals. That's -- it's a skill set you got.  
 15           I'm not going to attack my colleagues on  
 16 the other side. I don't think they are good lawyers; I  
 17 think they are great lawyers. They are living legends,  
 18 but here's the point about that. Mr. DeGuerin, it is --  
 19 Mr. Hardin, Ms. Epley, Mr. Donnelly, some of the  
 20 greatest lawyers in Texas literally could not put  
 21 together a coagent case that could convince anyone that  
 22 these things occurred beyond a reasonable doubt. These  
 23 aren't second-chair misdemeanor prosecutors. They're  
 24 the best of the best. They did the best they could, but  
 25 the evidence simply wasn't there.

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1           And my friends on the committee, here's  
 2 a -- here's a pro tip: If you're doing this  
 3 investigation that will literally cost millions and  
 4 millions of dollars and take weeks and weeks out of our  
 5 Senators' lives, you know one person you might have  
 6 talked to, me.  
 7           I've been representing Ken Paxton for  
 8 eight years. Do you think they could have called me and  
 9 said, hey, Dan, we got a problem with Paxton. What  
 10 about this dark of night? What about this kitchen  
 11 cabinets? What about this -- this Brandon Cammack?  
 12           I was literally -- sorry. I said I wasn't  
 13 going to scream -- I was literally having lunch with  
 14 Mr. Donnelly when this was going on. Do you think  
 15 before we wrote that check he could have said, hey,  
 16 Cogdell, buddy, let's talk.  
 17           They didn't do that. I'm not the world's  
 18 greatest lawyer, but I'm pretty easy to find. The fact  
 19 that they wouldn't literally pick up the phone and call  
 20 me, that's a clue that they were more -- more invested  
 21 in the conclusion that they wanted than they were  
 22 invested into the investigation.  
 23           How much time, Your Honor?  
 24           PRESIDING OFFICER: One and a half  
 25 minutes.

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1 MR. COGDELL: I would make a joke about my  
2 personal life, but I won't.  
3 Can I see the picture of Brandon Cammack?  
4 One of the things that's really harder  
5 than it looks when you are a criminal defense lawyer is  
6 to argue to a jury, I need the picture, not the  
7 statement.  
8 There we go. Thank you.  
9 And thank you, Erick, for everything.  
10 One of the things that's harder than it  
11 looks is trying to explain to a jury what reasonable  
12 doubt looks like. That, ladies and gentlemen, is what  
13 reasonable doubt looks like in this case.  
14 PRESIDING OFFICER: One minute left.  
15 MR. COGDELL: Mr. Cammack told you this  
16 wasn't a baseless investigation. This was a legitimate  
17 investigation.  
18 Look, I respect David Maxwell. I've known  
19 him for a long time, but with respect to that legacy,  
20 his milk carton has expired. It's over. When he gets  
21 up there and looks you in a straight face and says it's  
22 a crime to investigate whether or not something is a  
23 crime. Come on. We were born at night, but not last  
24 night. That is dumber than a bucket of hair for a Texas  
25 Ranger to say it's a crime to investigate the legality

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1 of the search.  
2 By the way, that's how my friends  
3 Mr. DeGuerin and Mr. Hardin and I make a living. It's  
4 not a crime. It's not.  
5 But Cammack said not a crime, legitimate,  
6 I believed in it. I thought that was something there.  
7 Paxton never asked me to lie, cheat, or steal, and I was  
8 doing the best that I could.  
9 That is game, set, match. I think that's  
10 the phrase. I don't play tennis. It's game over.  
11 The whole case was around this illegal  
12 relationship with Mr. Paul and Mr. Wynne, who they  
13 didn't call, and -- and my friend Ken Paxton.  
14 PRESIDING OFFICER: Mr. Cogdell, you're  
15 going to have to wrap up. I'm sorry.  
16 MR. COGDELL: Let me just say this: It  
17 was an honor to be here. Never thought I would. Thank  
18 you. But this is not about me. It's not about Ken  
19 Paxton. It's about whether or not you have a reasonable  
20 doubt.  
21 I suspect he did some things that you  
22 probably didn't like. I get that. I understand that.  
23 But that's not the issue. The issue is whether the  
24 proof is there that is so convincing that it convinces  
25 you beyond a reasonable doubt. The same standard of

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1 proof that's in a death penalty case, it's not. It's  
2 not. It's not.  
3 Two words. Two words. Not guilty.  
4 Thank you.  
5 PRESIDING OFFICER: Mr. Murr, he went over  
6 about a minute, so I'll give you an additional minute.  
7 You have 51 minutes.  
8 Yes, would you remove your easels?  
9 And we're not going to take a long break.  
10 They have a chance to come right back up, but I will  
11 give you five minutes while they're taking down to  
12 stretch, but do not leave the chamber.  
13 (Recess: 10:50 a.m. to 10:57 a.m.)  
14 PRESIDING OFFICER: Waiting -- we have one  
15 juror missing. Wait a moment.  
16 (Pause)  
17 PRESIDING OFFICER: Mr. Murr, we did add a  
18 minute to your time because they went a minute over, so  
19 you have 51 minutes and a few seconds.  
20 REPRESENTATIVE MURR: Thank you,  
21 Mr. President.  
22 When I gave the opening statement on  
23 behalf of the House Managers, we told you that we wanted  
24 you to hear from the witnesses and see the documents,  
25 and so we're going to continue to do this.

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1 On your screen, we're going to start with  
2 Article I.  
3 Now, we don't have enough time to go  
4 through every piece of paper that was introduced at  
5 trial and every word that was uttered under oath, but we  
6 suggest that you look at these key exhibits related to  
7 Article I. To summarize, the Texas attorney general  
8 wields astonishing power and is required to use that  
9 power to protect charities.  
10 In fact, the Fifth Circuit Court of Appeal  
11 has called it the public protector of charities. But  
12 instead of protecting the Mitte Foundation, Paxton  
13 forced his office into the Mitte lawsuit over the  
14 objections of the charitable trust division solely to  
15 help Nate Paul and his companies.  
16 Mr. Paxton's obsession with helping Nate  
17 Paul manifested itself in the Mitte litigation when he  
18 demanded his deputies try to halt the lawsuit and force  
19 the charity to accept Mr. Paul's lowball settlement  
20 offer.  
21 Mr. Paxton claimed that the office needed  
22 to intervene to save the Mitte Foundation from excessive  
23 attorneys' fees, but in reality, his actions harmed the  
24 charity by causing it to respond to frivolous motions  
25 and demands.

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1 Instead of protecting charities,  
 2 Mr. Paxton harmed the Mitte Foundation only because he  
 3 wanted to help Nate Paul.  
 4 Now, in addition to exhibits, you will  
 5 hear -- you heard testimony proving evidence in  
 6 Article I. Here is just one of the highlights from  
 7 Mr. Bangert.  
 8 (Video played of the following  
 9 proceedings)  
 10 MR. BANGERT: -- or that he -- that he  
 11 directed us to intervene. It was clear to me the  
 12 intervention would benefit World Class Holdings and Nate  
 13 Paul.  
 14 (Video ended)  
 15 REPRESENTATIVE MURR: Article II, same  
 16 thing, trying to be compressed on time, but I want to  
 17 give you a highlight of some of the exhibits that we  
 18 want to direct you to. You can write these down and  
 19 look at them later during deliberations.  
 20 To summarize, Mr. Paxton abused his office  
 21 forcing his employees to draft the midnight opinion to  
 22 help Nate Paul avoid impending foreclosure sales.  
 23 He became involved in the drafting of an  
 24 opinion for the first time ever. He covered up his  
 25 misdeeds by creating a straw requestor, a Senate

1 chairman, to hide the fact that he had no valid  
 2 requester as required by Chapter 402 of the Government  
 3 Code.  
 4 The letter was clearly a 402 opinion, and  
 5 the Office of the Attorney General knew that, why else  
 6 go to all the trouble to find an authorized requester?  
 7 It doesn't make sense.  
 8 Even though the attorney general's office  
 9 had been promoted as Texas is open for business during  
 10 COVID, and Governor Abbott's emergency COVID order had  
 11 expressly permitted real estate transactions to continue  
 12 without limitation, Mr. Paxton forced his employees to  
 13 stop foreclosure sales based on the phony claim that  
 14 COVID made these outdoor sales on the courthouse steps  
 15 dangerous.  
 16 To accomplish this purpose, he forced his  
 17 employees to reverse their legal conclusions, and they  
 18 told you that, so that Nate Paul could benefit from a  
 19 legal opinion published at 1:00 o'clock on a Sunday  
 20 morning.  
 21 The very next day, Nate Paul attempted to  
 22 use the opinion letter to halt foreclosures in his  
 23 properties.  
 24 On your screen is Exhibit 657.  
 25 Articles III and IV, same thing. We have

1 listed some of the top exhibits that we suggest you look  
 2 at when you deliberate. To summarize, Mr. Paxton does  
 3 not dispute that the law enforcement exception is  
 4 designed to protect victims, law enforcement,  
 5 informants, and practices.  
 6 It is also undisputed that Mr. Paxton  
 7 directed his employees to act contrary to the law  
 8 enforcement exception and release confidential  
 9 information related to an ongoing investigation.  
 10 It is not a coincidence that Nate Paul had  
 11 pending lawsuits concerning the open records request and  
 12 the AG's no opinion -- no position opinion endorsed  
 13 disclosing sealed documents.  
 14 It is not a coincidence that even though  
 15 there are over 40,000 open records rulings each year  
 16 that Nate's request is the first and the only time that  
 17 Mr. Paxton ever cared about anything in the open records  
 18 division.  
 19 Now, after his advisers warned him  
 20 repeatedly not to release law enforcement records  
 21 relating to an ongoing investigation, Mr. Paxton  
 22 insisted that the office issue the no position letter.  
 23 The House has also established that  
 24 Mr. Paxton provided Nate Paul with confidential  
 25 information. It would be impossible for Nate Paul to

1 know the specific details of who signed the sealed  
 2 probable cause affidavit in connection with the  
 3 application for the search warrant without being  
 4 improperly provided that information by Paxton.  
 5 In May, Mr. Paxton obtained a copy of the  
 6 DPS file. That information was in there. He had the  
 7 file for seven to ten days. The DPS file was in a  
 8 manila envelope. Testified it was a quarter inch or  
 9 less in thickness. According to Mr. Wicker in May or  
 10 June of 2020, he handed off a manila envelope to Nate  
 11 Paul at Nate Paul's office.  
 12 In a meeting on August 5, 2020, with  
 13 Penley and Maxwell, Nate Paul and his lawyer presented a  
 14 presentation titled Operation Longhorn, revealing that  
 15 he knew the identity of the affiant and the probable  
 16 cause affidavit that still remains sealed.  
 17 There was also witness testimony  
 18 explaining that Mr. Paxton asked that the information  
 19 related to the ongoing law enforcement investigation be  
 20 released.  
 21 Listen to Mr. Vassar.  
 22 (Video played of the following  
 23 proceedings)  
 24 MR. HARDIN: Was there a clear clash here  
 25 between what the judicial system had decided somebody

1 that should -- that should be sealed versus a man under  
 2 investigation seeking the sealed information?  
 3 MR. VASSAR: Yes, that was my opinion.  
 4 MR. HARDIN: And was the information he  
 5 was seeking potentially harmful and dangerous to other  
 6 people, if disclosed?  
 7 MR. VASSAR: I believe so, to the extent  
 8 it revealed the -- the law enforcement information  
 9 within the probable cause affidavit, the investigators  
 10 that were involved, and other government officials that  
 11 participated in the decision.  
 12 (Video ended)  
 13 REPRESENTATIVE MURR: And still more.  
 14 (Video played of the following  
 15 proceedings)  
 16 MR. HARDIN: What did the attorney general  
 17 say in this meeting?  
 18 MR. VASSAR: He asked us to review the  
 19 file. He asked us what our interpretation of the file  
 20 was. He told us that he had spoken personally with  
 21 Mr. Paul. He said that he believed that something bad  
 22 had happened to Mr. Paul. He felt that Mr. Paul was  
 23 being railroaded by the FBI and by DPS. And General  
 24 Paxton said that he didn't trust law enforcement. He  
 25 asked us to find a way to release the information that

1 had been requested to be withheld.  
 2 (Video ended)  
 3 REPRESENTATIVE MURR: So despite his staff  
 4 telling him you can't release this type of information,  
 5 despite Mr. Paxton's claim that the decision did not  
 6 release any documents, the no position letter, that  
 7 opinion still created precedent that could help Nate  
 8 Paul and could help others obtain confidential  
 9 information.  
 10 Listen to Mr. Bangert about precedent.  
 11 (Video played of the following  
 12 proceedings)  
 13 MR. BANGERT: If our office refuses to  
 14 take a position on an issue like that and the Court sees  
 15 that, that is a strong signal, I believe, to the  
 16 Court -- and I've been a lawyer for over a decade, well,  
 17 getting close to -- that's a strong signal to the Court  
 18 about the attorney general's view of that file that we  
 19 would have gone out of our way to render a vastly  
 20 uncharacteristic decision.  
 21 (Video ended)  
 22 REPRESENTATIVE MURR: Let's talk about  
 23 Article V. Here's a summary of some of the key exhibits  
 24 that we direct you to in your deliberations.  
 25 Highlights, Mr. Paxton secretly signed a

1 contract to hire Brandon Cammack, a five-year lawyer  
 2 with no prosecutorial experience, to commence a criminal  
 3 investigation into Nate Paul's enemies. Mr. Paxton  
 4 hired Cammack September 4, 2020. And unbeknownst to his  
 5 deputies, fully executed the contract three weeks later  
 6 on September 28.  
 7 Paxton alone supervised Cammack's work in  
 8 which Nate Paul and his attorney Michael Wynne directed.  
 9 Paxton thought it would be a good idea for  
 10 Cammack to obtain grand jury subpoenas that would have  
 11 allowed Nate Paul to get the private email and telephone  
 12 records of law enforcement agents who investigated Nate  
 13 Paul, lenders, and opposing counsel.  
 14 Now, pursuant to the Texas Code of  
 15 Criminal Procedure, Article 20A -- I ask you to write  
 16 that down, Texas Code of Criminal Procedure Article 20A,  
 17 big capital A: The ability to obtain grand jury  
 18 subpoenas is a prosecutorial act. It is not a tool  
 19 available to outside counsel hired by the Office of the  
 20 Attorney General who has not been appointed an attorney  
 21 pro tem.  
 22 Now, let's talk about what that is. An  
 23 attorney pro tem is appointed when a DA, when a DA  
 24 recuses herself and it is a formal process in which that  
 25 district attorney goes to the court and asks for

1 permission to be recused.  
 2 Cammack was not an attorney pro tem, but  
 3 Paxton still permitted Cammack to obtain grand jury  
 4 subpoenas just like he was.  
 5 Thus, Paxton was illegally attempting to  
 6 use Cammack as an attorney pro tem when under the law,  
 7 which this legislature writes, says that cannot be.  
 8 Paxton communicated with Cammack using  
 9 only private encrypted communications like signal and  
 10 Proton Mail and extra phones.  
 11 The two talked several times a week, and  
 12 Cammack updated him about his work as a special  
 13 prosecutor.  
 14 Let's talk about that real quick.  
 15 Even though Mr. Paxton called Cammack a  
 16 special prosecutor, a term "special prosecutor" didn't  
 17 exist. He clearly wasn't one. A special prosecutor is  
 18 when a DA appoints someone to assist with their cases.  
 19 And that person is not on the payroll at the district  
 20 attorney's office but is sworn in by the district  
 21 attorney and becomes an assistant DA and a special  
 22 prosecutor, the DA continues to supervise the handling  
 23 of their case.  
 24 Cammack was not sworn in and was not  
 25 supervised by the Travis County District Attorney's

1 Office.  
 2 Let's listen to the testimony of former DA  
 3 Margaret Moore.  
 4 (Video played of the following  
 5 proceedings)  
 6 MR. HARDIN: In what way?  
 7 MS. MOORE: It is astonishingly  
 8 untruthful. There is no way that anyone could interpret  
 9 the facts as my appointing Mr. Cammack as a special  
 10 prosecutor. I couldn't pick him out of a lineup today.  
 11 I don't know him.  
 12 (Video ended)  
 13 REPRESENTATIVE MURR: So he wasn't a  
 14 special prosecutor, and he wasn't an attorney pro tem.  
 15 Let's hear from --  
 16 (Video played of the following  
 17 proceedings)  
 18 MR. MATEER: By that time, the 29th,  
 19 because the next day is when we go to the FBI and DOJ --  
 20 by that time, I had include -- I concluded that, you  
 21 know, Mr. Paxton was engaged in -- in conduct that was  
 22 immoral, unethical, and I had a good-faith belief that  
 23 it was illegal.  
 24 (Video ended)  
 25 REPRESENTATIVE MURR: This entire

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1 investigation by Mr. Cammack was illegal.  
 2 Let's listen to Ranger Maxwell.  
 3 (Video played of the following  
 4 proceedings)  
 5 MR. COGDELL: Now, would you agree with  
 6 me, Ranger, that despite your concern or belief or hope  
 7 that Mr. Wynne or Mr. Paul would say something  
 8 incriminating or say something that would cause them  
 9 exposure criminally, neither Mr. Wynne nor Mr. Paul ever  
 10 asked you to do anything illegal?  
 11 MR. MAXWELL: Yes. They asked me to  
 12 interfere with a federal investigation, which is  
 13 absolutely illegal. It's also obstruction of justice.  
 14 MR. COGDELL: Show me, Ranger, in the  
 15 first hour or the second two hours on the investigation  
 16 or the interview of July 21st or August 5th.  
 17 You've got the transcript there for both  
 18 of those --  
 19 MR. MAXWELL: Counselor, you are showing  
 20 me the evidence right here. This is -- it's a map of  
 21 how he wanted the investigation to be done and to have  
 22 the AG's office follow how this was to be investigated  
 23 along with targeting six individuals.  
 24 MR. COGDELL: Where they say -- you say  
 25 you reviewed the transcripts of the July 12th interview,

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1 and you have reviewed the transcripts of the August 5th  
 2 interview. Show me the language where in either one of  
 3 those interviews, Ranger, that they asked you to commit  
 4 a crime?  
 5 MR. MAXWELL: They're not in the  
 6 interviews, Counselor. They are in the documents you  
 7 are looking at right now. He lists six people as a  
 8 person of interest to be targeted in this investigation.  
 9 MR. COGDELL: Where does -- I'm sorry --  
 10 MR. MAXWELL: It's in Operation Longhorn.  
 11 MR. COGDELL: Now, what crime is Mr. Wynne  
 12 or Mr. Paul asking you to commit by tendering this  
 13 PowerPoint to you?  
 14 MR. MAXWELL: They entered the PowerPoint  
 15 and gave it to us to map out how they felt our  
 16 investigation that they wanted to be created should go.  
 17 MR. COGDELL: What crime is committed,  
 18 Ranger, by them asking you to investigate the legality  
 19 of a search warrant? What crime is that?  
 20 MR. MAXWELL: In my professional opinion,  
 21 to create this investigation and follow through, it will  
 22 be obstruction of justice and interfering with a federal  
 23 investigation.  
 24 (Video ended)  
 25 REPRESENTATIVE MURR: And finally, I ask

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1 you also listen or recall testimony of Mr. McCarty.  
 2 (Video played of the following  
 3 proceedings)  
 4 MR. DeGUERIN: And did you learn or see  
 5 subpoenas, the grand jury subpoenas, that had been  
 6 issued to players in the Mitte Foundation case?  
 7 MR. McCARTY: I saw a grand -- a criminal  
 8 grand jury subpoena that had been issued to a bank.  
 9 MR. DeGUERIN: What was your reaction to  
 10 that?  
 11 MR. McCARTY: I was stunned.  
 12 MR. DeGUERIN: What do you mean? Explain  
 13 it.  
 14 MR. McCARTY: I saw a criminal grand jury  
 15 subpoena directed to a bank that was clearly seeking  
 16 information that would have aided World Class Nate  
 17 Paul's efforts against the Mitte Foundation.  
 18 MR. DeGUERIN: Why is that bad?  
 19 MR. McCARTY: Well, it's lawyer -- one  
 20 thing is it's lawyer ethics 101. So that was the first  
 21 thing that came to my mind. We are weaponizing the  
 22 criminal process to aid a civil litigant, and that is a  
 23 big no-no.  
 24 (Video ended)  
 25 REPRESENTATIVE MURR: Ethics 101. And

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1 Mr. Paxton has not disputed the testimony of  
 2 Mr. McCarty.  
 3 Now, Brent Webster, on behalf of  
 4 Mr. Paxton, misled the Senate finance committee by  
 5 stating that he had proof that Mr. Cammack was an  
 6 attorney pro tem. Because he was allegedly being  
 7 supervised by the Travis County DA's office. I remind  
 8 you of this testimony. This is --  
 9 (Video played of the following  
 10 proceedings)  
 11 SENATOR HUFFMAN: I want to talk about the  
 12 appointment of special prosecutors, and I don't know if  
 13 you or the general need to answer this, is it rare for  
 14 your office to appoint a special prosecutor?  
 15 MR. WEBSTER: So is this a general  
 16 question about special prosecutors, is that --  
 17 SENATOR HUFFMAN: Just for the AG's office  
 18 in general.  
 19 MR. WEBSTER: Okay.  
 20 SENATOR HUFFMAN: Yeah.  
 21 MR. WEBSTER: I'm happy to address that.  
 22 So --  
 23 SENATOR HUFFMAN: I would actually rather  
 24 General Paxton would address it, but if --  
 25 ATTORNEY GENERAL PAXTON: He knows this,

1 like, backwards and forwards. He was a prosecutor, so  
 2 he knows this issue very well.  
 3 SENATOR HUFFMAN: Well, I'm wondering who  
 4 hired Brandon Cammack? Was that you?  
 5 MR. WEBSTER: Right. So if I can address  
 6 that.  
 7 SENATOR HUFFMAN: Sure.  
 8 MR. WEBSTER: So our office entered into a  
 9 contract for Brandon -- with Brandon Cammack to be  
 10 outside counsel, and so he was serving as outside  
 11 counsel for the AG's office.  
 12 Now, I have through the process of -- I  
 13 started, as you know, in October after this happened. I  
 14 have interviewed ADAs from Travis County, and I have  
 15 seen documents from Travis County that prove the fact  
 16 that the Travis County's DA's office made Brandon  
 17 Cammack a special prosecutor. We did not make Brandon  
 18 Cammack a special prosecutor. That was within the  
 19 purview of the Travis County DA's office.  
 20 So the "special prosecution" word gets  
 21 confusing at times because there's two types. One type  
 22 of a prosecutor is a pro tem prosecutor, and a pro tem  
 23 prosecutor can only be put in place when an -- when a  
 24 DA's office recuses themselves from the case.  
 25 And that's not what happened with the

1 Brandon Cammack situation. We hired him to be outside  
 2 counsel. That contract was signed by the general. And  
 3 then he went to go work because he was hired on to  
 4 assist the Travis County DA's office.  
 5 And the news glosses this over. No one  
 6 ever goes and looks at the Travis County DA's office's  
 7 files. They don't give really deep interviews on these  
 8 things. But the fact is he went and said, I'm the guy  
 9 that's going to be the outside counsel for the AG's  
 10 office, and I'm here to assist on your investigation.  
 11 And then through that process, he worked  
 12 with them to get grand jury subpoenas, and that's how he  
 13 became a special prosecutor.  
 14 SENATOR HUFFMAN: Hmm. And I'm aware of  
 15 the differences. I actually wrote the legislation that  
 16 determined on pro tem who could actually be appointed,  
 17 so, yes, I'm familiar with it.  
 18 (Video ended)  
 19 REPRESENTATIVE MURR: This body knows the  
 20 law.  
 21 On September 29th of 2020, Jeff Mateer was  
 22 leading a Zoom meeting about opioid litigation when he  
 23 received an urgent message that there was an emergency.  
 24 Mateer knew it was something important. He learned that  
 25 an individual representing himself as a special

1 prosecutor for the Office of the Attorney General and  
 2 Nate Paul's personal attorney had served a grand jury  
 3 subpoena on a bank seeking information relating to Nate  
 4 Paul and his activities.  
 5 This was a crisis moment. Mateer called  
 6 Bangert, Brickman, and other deputies who were in  
 7 meetings at the Capitol. They assembled, shared the  
 8 grand jury subpoena from the bank, and they were stunned  
 9 and outraged.  
 10 They realized that Mr. Paxton was using  
 11 criminal grand jury subpoenas to aid Nate Paul's civil  
 12 lawsuit against the Mitte Foundation.  
 13 In that room, Bangert, Mase, McCarty,  
 14 Penley, Vassar, and Brickman for the first time started  
 15 to share from their puzzle pieces what their office was  
 16 doing to benefit Nate Paul, not realizing how it all  
 17 connected.  
 18 The puzzle pieces came together that day,  
 19 and they realized they had a massive problem. Concerns  
 20 of bribery were raised. Mr. Paxton had allowed Nate  
 21 Paul to infect the office at the highest level.  
 22 Despite all their efforts, Mr. Paxton's  
 23 senior staff realized they could not stop him. They  
 24 believed that he had committed crimes and abused his  
 25 office. And that he had attempted to involve them.

1 They knew that I had no choice but to report them.  
 2 Mr. Paxton's counsel has argued with each  
 3 witness, save one, claiming that they should have spoken  
 4 to Ken Paxton before they went to the FBI. However,  
 5 this line of questioning ignored the months and months  
 6 of warnings, conversations, and pleas from senior staff  
 7 imploring that Mr. Paxton stop asking his office to do  
 8 work for Nate Paul. Here's a video.  
 9 (Video played of the following  
 10 proceedings)  
 11 MR. BANGERT: We were protecting the  
 12 interest of the state and ultimately I believe  
 13 protecting the interest of the attorney general, and in  
 14 my view, signing our professional death warrant at the  
 15 same time.  
 16 (Video ended)  
 17 REPRESENTATIVE MURR: Let's hear what  
 18 Mr. -- what Ranger Maxwell had to say.  
 19 (Video played of the following  
 20 proceedings)  
 21 MR. MAXWELL: I told him that Nate Paul  
 22 was a criminal, he was running a Ponzi scheme that would  
 23 rival Billie Sol Estes, and that if he didn't get away  
 24 from this individual and stop doing what he was doing,  
 25 he was going to get himself indicted.

1 (Video ended)  
 2 REPRESENTATIVE MURR: And Mr. Mateer.  
 3 (Video played of the following  
 4 proceedings)  
 5 MR. MATEER: I felt like we had been  
 6 trying to protect Mr. Paxton. On several occasions I  
 7 had gone to him -- and really my -- he had -- I mean, he  
 8 was my boss. He'd become a friend. I cared for him. I  
 9 cared for Senator Paxton. And I wanted him -- I wanted  
 10 him -- I mean, I think in one of the memos I say "come  
 11 clean." I mean, I wanted to help --  
 12 (Video ended)  
 13 REPRESENTATIVE MURR: And Mr. Penley.  
 14 (Video played of the following  
 15 proceedings)  
 16 MR. PENLEY: I told him that I was trying  
 17 to be a loyal subordinate and a friend, and I still  
 18 considered myself a friend even up to that very day.  
 19 And I was trying to walk him back from what I thought  
 20 was a dangerous line he was trying to cross. And I told  
 21 him all my reasons, that he could face criminal charges,  
 22 bribery, other things. It could be a media scandal. He  
 23 could get himself in a lot of trouble. He needed to  
 24 leave this alone, to back away from it.  
 25 I explained all the practical

1 investigation difficulties, that we shouldn't be trying  
 2 to investigate the feds. And there were many things we  
 3 couldn't investigate. We didn't have the power. We  
 4 didn't have a way to get at those sealed search  
 5 warrants?  
 6 (Video ended)  
 7 REPRESENTATIVE MURR: That's the testimony  
 8 that you've heard during this trial.  
 9 Now, Mr. Paxton's response was swift,  
 10 vicious and wrongful. He followed the classic playbook  
 11 of guilty: Deflect, deceive, and demonize.  
 12 Articles VI, VII, VIII, and XV detail  
 13 Mr. Paxton's attempts to misuse state resources to  
 14 conceal his bad conduct. By lying and smearing the  
 15 otherwise stellar representations of his loyal staff.  
 16 Again, we list out some of the exhibits  
 17 that we would direct you to during your deliberations.  
 18 Please write them down, if you can.  
 19 He used state resources to issue an  
 20 internal OAG report before this last election that  
 21 contained blatantly false statements and personal smears  
 22 against the whistleblowers.  
 23 Let me remind you of what Mr. Brickman  
 24 said.  
 25 (Video played of the following

1 proceedings)  
 2 MR. HARDIN: If in this report, if I asked  
 3 you just to take several four -- three or four examples  
 4 of things that you disagree with, have I asked you to do  
 5 that?  
 6 MR. BRICKMAN: Yes.  
 7 MR. HARDIN: All right. What I was --  
 8 what I wanted to ask you is, in this report, how would  
 9 you describe your reaction to it as accuracy as the  
 10 terms of what happened in these matters involving Nate  
 11 Paul?  
 12 MR. BRICKMAN: I would call this report a  
 13 whitewash full of lies.  
 14 MR. HARDIN: Now, if I may, let's just go  
 15 over to Page 5 and do this real quickly.  
 16 If I asked you to pick four or five  
 17 samples, can you just do that for me? And would you  
 18 look on Page 5 and see as to the first claim, what is --  
 19 what is untrue about that claim?  
 20 Do you see where I'm at?  
 21 MR. BRICKMAN: It says on two prior  
 22 occasions involving Nate Paul's interests, the open  
 23 records division sided with the government agency  
 24 against disclosing to Nate Paul. That is not true.  
 25 There was an open records decision that took no opinion

1 as to the release of the documents.  
 2 MR. HARDIN: On this Number 2 here, where  
 3 it says AG Paxton's involvement is consistent with his  
 4 predecessors and in line with his required duties and  
 5 legal obligations as attorney general of Texas, most  
 6 relevant here, the position taken by the AG in this  
 7 litigation was adverse to Nate Paul and in support of a  
 8 higher settlement amount to be paid by Nate Paul to the  
 9 Mitte Foundation, as opposed to the prospect of  
 10 continued and costly litigation that would  
 11 disproportionately benefit the charity's court-appointed  
 12 receiver and its lawyer.  
 13 All right. The third claim: This  
 14 informal guidance letter regarding foreclosure sales  
 15 written by Bangert was made in response to requests for  
 16 disaster counsel advice from Texas Senator Bryan Hughes  
 17 during the height of the pandemic and not for the  
 18 benefit of Nate Paul.  
 19 Is that a true or untrue statement? Is  
 20 that a true or untrue statement?  
 21 MR. BRICKMAN: It is an untrue statement.  
 22 The foreclosure opinion was for Nate Paul's benefit.  
 23 MR. HARDIN: Can we go to Page 6, please.  
 24 Look at the top.  
 25 Cammack legally -- Cammack -- Cammack

1 legally and properly exercised authority delegated to  
 2 him by both AG Paxton and the TCDAO. Cammack was  
 3 designated as outside counsel for OAG by AG Paxton, and  
 4 he was also knowingly appointed as a special prosecutor  
 5 by the Travis County DA's office.  
 6 Is that a true or untrue statement?  
 7 MR. BRICKMAN: It is false.  
 8 (Video ended)  
 9 REPRESENTATIVE MURR: Mr. Paxton did not  
 10 examine or cross-examine a single thing said by Blake  
 11 Brickman. Every word he said is unrefuted.  
 12 Let's look at a quick timeline. I want to  
 13 remind you that the whistleblowers were all  
 14 constructively terminated within 45 days of making their  
 15 report to the Trump FBI.  
 16 Mr. Paxton last attempted to silence those  
 17 whistleblowers with his request to the taxpayers that  
 18 the taxpayers pay \$3.3 million in hush money. Even when  
 19 he was specifically asked to justify the use of the  
 20 money, he declined and refused. And that is why we are  
 21 here.  
 22 Mr. Paxton refuses to take any  
 23 responsibility for abusing the esteemed office that he  
 24 holds.  
 25 Let's look at Articles IX and X: In

1 exchange for abusing his office to help Nate Paul,  
 2 Mr. Paxton reaped tangible benefits. What we know is  
 3 that Nate Paul gave Mr. Paxton's mistress a job so that  
 4 she could move from San Antonio to Austin to be closer,  
 5 provided free Uber rides to her apartment. And Nate  
 6 Paul provided renovations, free renovations to  
 7 Mr. Paxton's Austin home until he was caught.  
 8 And I'll show you that in just a minute.  
 9 Look at this next chart. It has a lot of  
 10 data on it, but just look at the colors for me.  
 11 This chart is a demonstrative based on  
 12 Exhibit 700, Exhibit 700.  
 13 Marked in orange are trips to and from  
 14 Ms. Olson's residence, which is shown as Exhibit 699.  
 15 Marked in blue are trips to Nate Paul's  
 16 residence.  
 17 Exhibit 700 shows that Nate Paul set up an  
 18 Uber account for Dave P. The account facilitated a  
 19 covert means for Paxton to maintain his affair. The  
 20 ride chart in this exhibit contains the latitude and  
 21 longitude for each pick-up and drop-off for Dave P.  
 22 Focus on the rides between July 30th, 2020  
 23 and October 2nd, 2020, when the rides suddenly stop.  
 24 October 2nd.  
 25 Next, I show you -- this Uber exhibit also

1 shows that the rides are paid for with a credit card  
 2 linked to Nate Paul's billing address in Austin and not  
 3 Ken Paxton's in Collin County. Not Ken Paxton's in  
 4 Collin County.  
 5 Next, I show you Exhibit 699, which shows  
 6 that Laura Olson was hired by World Class Property  
 7 company July 6th, 2020, and reports to Nate Paul.  
 8 Let's talk about a timeline that's really  
 9 important. You've seen a lot of documents, but let's  
 10 take a moment. I'm going to show you this timeline.  
 11 It's important.  
 12 This shows when Paxton found out about the  
 13 whistleblower report to the FBI and the actions that he  
 14 took immediately after that.  
 15 Now, Penley emails Cammack to tell him to  
 16 cease and desist at 9:18 on September 30th, 9:18 in the  
 17 morning.  
 18 At 10:35 that morning, Cammack forwards  
 19 the email to Paxton's Proton Mail address. Cammack  
 20 relentlessly calls Paxton that morning as well. Only  
 21 four hours later, Paxton decides to pay the Cupertino  
 22 Builders for renovation work completed in July,  
 23 completed in July, but were paying them now,  
 24 September 30th.  
 25 He returns to Austin and arrives at the



1 airport at 10:00 p.m.  
 2 At 10:57 p.m., Dave P. takes an Uber to  
 3 Nate Paul's house. Dave P. was picked up one block from  
 4 Paxton's residence.  
 5 The next day, October 1st, that was the  
 6 30th, next day, October 1st, Cupertino Builders creates  
 7 an invoice for Paxton at 7:50 p.m. The records show  
 8 that this invoice was never sent to Mr. Paxton.  
 9 That night, October 1st, Dave P. takes his  
 10 last ride to the Pearl Lantana apartments where Laura  
 11 Olson lives. We've tried to call her as a witness. The  
 12 Court announced that she was present but unable to  
 13 testify.  
 14 Next, this is an invoice from Nate Paul's  
 15 garage never sent to Paxton. He created it after it was  
 16 due, and the metadata tells us. So the metadata tells  
 17 us it was created on October 1, yet Mr. Paxton decided  
 18 to make payment on September 30th for work that had been  
 19 completed in July.  
 20 This is Exhibit 703. These are emails.  
 21 Why does Nate Paul need to know the schedule for the  
 22 renovations at the Paxton's home in Austin? Why does  
 23 Nate Paul need 20 photos of the new flooring in the  
 24 Paxton's home in Austin?  
 25 Mr. Wicker testified that he heard Kevin

1 Wood tell Mr. Paxton I will have to check with Nate at  
 2 least three times. Kevin Wood, who avoided being served  
 3 multiple times with subpoenas in this matter.  
 4 There are no coincidences in Austin. Nate  
 5 Paul was paying for these home renovations until it all  
 6 got found out.  
 7 Articles XVI through XX. They charge that  
 8 Mr. Paxton and Nate Paul's scheme to use the powers of  
 9 the Office of the Attorney General constituted  
 10 dereliction of duty, made him unfit for office, and  
 11 abused the public trust.  
 12 These articles asked the Senate to do  
 13 exactly what Mr. Paxton's counsel is begging you not to  
 14 do. To look at the entirety of Mr. Paxton's conduct.  
 15 And when the Senate does so, there is no  
 16 reasonable doubt that Mr. Paxton committed the acts set  
 17 forth in these articles and that these acts were an  
 18 abuse of office and a breach of public trust.  
 19 The witnesses have explained to you that  
 20 Mr. Paxton conspired with Nate Paul and others to harass  
 21 and intimidate their perceived enemies.  
 22 While Mr. Paxton's attorneys suggest that  
 23 there must be some time of overtly stated agreement if  
 24 people are going to conspire, he also knows there are no  
 25 coincidences in Austin. Mr. Paxton was using an

1 inordinate amount of the OAG's resources for Nate Paul.  
 2 Listen in.  
 3 (Video played of the following  
 4 proceedings)  
 5 MR. HARDIN: When the attorney general  
 6 kept raising Nate Paul issues of the ones that we've  
 7 gone through so far and later in the future, you have  
 8 any idea what kind of -- how much time or resources were  
 9 devoted to dealing with Nate Paul instead of real  
 10 concerns?  
 11 MR. BANGERT: We were devoting far more  
 12 resources to Nate Paul than we ever should have, given  
 13 the importance of those issues.  
 14 (Video ended)  
 15 REPRESENTATIVE MURR: The burden of proof  
 16 in this case is beyond a reasonable doubt. But what  
 17 does that mean? It means exactly what the words say, is  
 18 there doubt and is it reasonable?  
 19 Even though this isn't a criminal trial,  
 20 every day in this country criminal defendants are  
 21 convicted of crimes beyond a reasonable doubt with much  
 22 less evidence than you have seen in this trial.  
 23 We admitted over 3,000 pages of documents  
 24 in seven days' worth of testimony, and that will all be  
 25 accessible to you in your deliberations.

1 When we first started our case, it might  
 2 have been unclear what all the evidence was, and that  
 3 doubt was reasonable since Mr. Paxton was presumed  
 4 innocent. But as more evidence came in, the picture  
 5 became clearer, and the doubt faded. The puzzle pieces  
 6 came together.  
 7 The law does not require that we exclude  
 8 all doubt. When we have shown you enough evidence that  
 9 you can see what the puzzle is showing, that you know  
 10 what the picture is, then we have met our burden.  
 11 Now, Mr. Paxton's counsel would urge you  
 12 that we have to put every piece in the puzzle there for  
 13 it to be a picture, but that is not what our burden is.  
 14 The burden is satisfied.  
 15 Is it a coincidence that Paxton ordered  
 16 his people to intervene in the Mitte lawsuit when they  
 17 had already waived intervention?  
 18 Is it a coincidence that Nate Paul used  
 19 the midnight opinion to stop a foreclosure sale one day  
 20 after the opinion was issued?  
 21 Is it a coincidence that while discussing  
 22 the Paxton home renovations, Mr. Paxton's contractor  
 23 told him at least three times: I will have to check  
 24 with Nate?  
 25 Is it a coincidence that Nate Paul gave

1 Ken Paxton's mistress, Laura Olson, a job while  
 2 Mr. Paxton was doing Nate's bidding?  
 3 Is it a coincidence that within 45 days of  
 4 reporting to the Trump FBI, every whistleblower was  
 5 terminated or constructively discharged?  
 6 My counsel talked about a 25,000-dollar  
 7 campaign contribution from Nate Paul in 2018. And he  
 8 told you that Mr. Paxton is a fundraising machine.  
 9 Well, in our world, that is a good  
 10 campaign donor. That is a donor that you have a race,  
 11 the next year you pick up the phone and you call.  
 12 That's -- there should be a campaign donation in 2019.  
 13 Where is that? There should be a campaign donation in  
 14 2020. That is a good donor. Is it a coincidence that  
 15 there is no longer campaign contributions?  
 16 There are no coincidences in Austin.  
 17 Members of the jury, this is the most  
 18 important choice you have ever faced. In a hundred  
 19 years, it's probably the only vote that anyone will ever  
 20 talk about in your careers. It will also decide what  
 21 Texas politics look like, not just to the way cynical  
 22 people outside this chamber think, but this is about  
 23 what does public service mean. Public service.  
 24 To Mr. Paxton, it meant serving himself  
 25 and his friend Nate Paul. Mr. Paul brought incredible

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1 wealth and a lavish lifestyle to the partnership. And  
 2 Mr. Paxton brought the incredible power of the state.  
 3 And the defense here isn't that he didn't  
 4 do it. It's that it doesn't matter because he won the  
 5 election.  
 6 No, Mr. Kinghorn summed it up in his  
 7 testimony yesterday. The Office of the Attorney General  
 8 of the state of Texas is Mr. Paxton's law firm, and he  
 9 is the firm's only client. He directs it to serve  
 10 himself, not the people of Texas. If you vote to  
 11 condone that, then high office will simply be the most  
 12 profitable choice for any self-serving crook, and it  
 13 won't even have to be hidden.  
 14 You're here despite political pressure  
 15 because you believe that public service is a calling  
 16 that you put people first. You have everything in  
 17 common with the whistleblowers. Each a faithful servant  
 18 who spent years fighting for their values with great  
 19 integrity.  
 20 Look at what Mr. Paxton did to them.  
 21 Think of Ranger Maxwell. In September of  
 22 2020, he was a Hall of Fame hero with 40 years of  
 23 experience, a man of honor above reproach, one month  
 24 later, that lifetime of service meant nothing. When he  
 25 was an obstacle to Mr. Paxton he was suddenly a liar, a

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1 rogue, a liability that had to be fired.  
 2 We say we back the blue in this building,  
 3 but Mr. Paxton tossed him out with the others like the  
 4 garbage.  
 5 If you don't hold Mr. Paxton accountable,  
 6 that could happen to any of us. Your entire legacy  
 7 could be erased and rewritten on the whim of whoever  
 8 wins the next election.  
 9 That is a Godless, rudderless morality.  
 10 And it cannot be the new normal for Texas.  
 11 We must have a shared standard of  
 12 integrity, honesty, and service that transcends any  
 13 election. Your vote will set that standard.  
 14 PRESIDING OFFICER: Mr. Murr, you have ten  
 15 minutes left.  
 16 REPRESENTATIVE MURR: Now, at the  
 17 beginning of trial, we watched all of you place your  
 18 hand on Sam Houston's Bible and take your oath.  
 19 Sam Houston's Bible.  
 20 At that time, I reminded you that  
 21 Sam Houston told Texans, do right and risk the  
 22 consequences.  
 23 Now is your time to do right.  
 24 Mr. President.  
 25 PRESIDING OFFICER: Mr. Leach, you have

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1 about nine minutes.  
 2 REPRESENTATIVE LEACH: Thank you,  
 3 Lieutenant Governor.  
 4 Distinguished members of the Senate, my  
 5 fellow House members, General Paxton, and to the people  
 6 of Texas. Let's be very clear. None of us want to be  
 7 here today. I don't. And I'm confident that you don't  
 8 either. But here we are with a heavy and historic  
 9 moment in front of us.  
 10 I stand before you today humbly on behalf  
 11 of the House Board of Managers to offer a few brief  
 12 closing remarks. These remarks have not been reviewed  
 13 by anyone. I didn't go to dinner with TLR last night.  
 14 George P. Bush didn't have a speech writer draft this  
 15 for me. Karl Rove is not sitting in my office right  
 16 now. This is me and me alone.  
 17 Ten days ago as these proceedings  
 18 commenced, I watched each of you, I sat right over here  
 19 and I watched each of you, Senators, place your hand one  
 20 by one on Sam Houston's Bible swearing to impartially  
 21 render a verdict based on the law and the evidence. And  
 22 as Chairman Murr has just articulately outlined for you,  
 23 the House Board of Managers believed that that evidence  
 24 meets the high standard of beyond a reasonable doubt.  
 25 And as strong as we believe the evidence

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1 to be, make no mistake, this is not an easy vote for  
 2 you. It's not. It shouldn't be, and I trust that it's  
 3 not. It wasn't for me.  
 4 This will, if you're like me, be the  
 5 hardest vote, the most difficult vote, the heaviest vote  
 6 that you will ever cast in your time in the legislature.  
 7 This proceeding, we've had a lot of  
 8 discussion about whether this proceeding is civil or  
 9 criminal in nature, and as we've learned, it's been a  
 10 unique mix of both. But it's also very personal.  
 11 The vote that each of you will cast, I  
 12 should say the 16 votes that each of you will cast, will  
 13 be very personal, and they should be. We should treat  
 14 the heaviness and the historic nature of this moment  
 15 with the weight that it deserves.  
 16 Members, Senators, I certainly have done  
 17 so. In voting to impeach General Ken Paxton, my dear  
 18 friend, a political mentor, a brother in Christ, and a  
 19 once trusted adviser, this has not just been a hard  
 20 vote. This has been one of the most difficult things  
 21 I've ever had to do in my life.  
 22 Mr. Buzbee, you said in your closing that  
 23 we're here because we hate Ken Paxton, and you could not  
 24 be more wrong. I have loved Ken Paxton for a long time.  
 25 I've done life with Ken Paxton. We've traveled

1 together, attend church together, attended countless  
 2 Cowboys and Baylor football games. Heck, we're both  
 3 former Baylor student body presidents.  
 4 PRESIDING OFFICER: You have five minutes.  
 5 REPRESENTATIVE LEACH: I've block walked  
 6 for Ken. I've donated to Ken, supported Ken. I've  
 7 asked others to do the same.  
 8 The first bill that I ever passed in the  
 9 legislature in 2013, the only bill I passed that  
 10 session, was sponsored by then Senator Ken Paxton.  
 11 Which is one of the reasons that this is so difficult  
 12 for me and many of our House members and I know for many  
 13 of you it will be as well.  
 14 Over the years, Ken and I have spent hours  
 15 on the phone together. We've texted. We've called.  
 16 For the first years when he -- after he was elected  
 17 attorney general when he took office, I had an open door  
 18 to the attorney general's office. I could go up to the  
 19 eighth floor any time and visit with my friend. We  
 20 talked politics and policy. We talked life.  
 21 Members, I know as I look across this  
 22 floor, many of you had the same.  
 23 But a few years ago, those calls stopped,  
 24 and that open door was closed. And I became  
 25 increasingly concerned and alarmed at what I saw.

1 MR. BUZBEE: Your Honor, he's testifying,  
 2 and this is not proper. This is not based on any  
 3 evidence in this case. It's improper.  
 4 REPRESENTATIVE LEACH: Mr. Buzbee, this is  
 5 closing argument.  
 6 MR. BUZBEE: I understand what it is, but  
 7 I'm just saying, he's talking about personal things that  
 8 were not put into evidence.  
 9 PRESIDING OFFICER: Mr. Buzbee and  
 10 Mr. Leach, the jury will decide what is evidence.  
 11 REPRESENTATIVE LEACH: Thank you,  
 12 Lieutenant Governor.  
 13 Members, Senators, this has been -- the  
 14 point is I know it's not lost on you, Senators. This is  
 15 difficult for me. It's been difficult for many of us,  
 16 and I know it will be difficult for you, and it should  
 17 be.  
 18 While the law and the evidence is clear,  
 19 this is a personal vote for you, and it should be.  
 20 But make no mistake, we shouldn't have to  
 21 be here. I, like many of you in response to those  
 22 concerns, attempted to get answers, to have  
 23 conversations, to schedule meetings. I called  
 24 senator -- or General Paxton in front of our committee  
 25 12 times this session, and not once did he appear in

1 front of our committee for answers.  
 2 And with all due respect to my friend,  
 3 Mr. Cogdell, we do not as legislators have to go through  
 4 private counsel to have access to a statewide official.  
 5 Senator Huffman, if you wanted to meet and  
 6 have Comptroller Hegar come in front of your committee,  
 7 you don't have to go to his private counsel.  
 8 Senator Creighton, you don't have to  
 9 contact Mike Morath's private lawyer for him to come in  
 10 front of your committee.  
 11 Not once did he come answer questions in  
 12 public or in private. Which is largely one of the  
 13 reasons that we're here today. Because the people of  
 14 Texas deserve answers, and the legislature, the Senate,  
 15 and the House expected to get those answers.  
 16 Members, in closing, I see some of the  
 17 whistleblowers are here in the gallery this morning.  
 18 These are men and women of high esteem, character,  
 19 conservative to the core. And you courageously spoke  
 20 out knowing the consequences and taking the risk, much  
 21 like all of us have had to do and will have to do with  
 22 this vote. I want you to know that the House has seen  
 23 you and heard you.  
 24 Mr. Maxwell, I see you. You deserve more  
 25 than to be ridiculed and mocked on the floor of the

1 Texas Senate.

2 We hear you, and we see you. The House

3 has, and I'm confident that the Senate will as well.

4 In closing, one of my favorite quotes is a

5 quote of Martin Luther king. He says, that, quote,

6 cowardice asks the question: Is it safe? Expedience

7 asks the question: Is it politic? And vanity asks the

8 question: Is it popular? But conscience asks the

9 question: Is it right?

10 And there comes a time for each of us,

11 there will come a time for you, I believe this is it,

12 not to ask yourself what is safe or popular or politic

13 but what is right. And I believe that it is right, as

14 painful as it might be for us and for you, to vote to

15 sustain the articles of impeachment commended to you by

16 the Texas House of Representatives.

17 It's an honor to serve with each of you.

18 I pray God's grace and favor and his wisdom and

19 discernment over you as you deliberate and vote on this

20 historic matter. May God bless you, Senators, and may

21 God bless the people of Texas.

22 Thank you.

23 PRESIDING OFFICER: Thank you, Mr. Leach.

24 Thank you, Counselors, from both sides.

25 Under the rules passed by the Senate,

1 written and passed by the Senate 25 to 3, rule 27 says

2 that I shall give you the following instruction to the

3 Senators before deliberations begin.

4 And as a reminder to everyone who may have

5 tuned in late, we have no idea how long deliberations

6 will take, but we will try to notify you once every

7 member has decided they are ready to come to the floor

8 and vote. And we will alert the media, and we will put

9 it up on the website 30 minutes or a little bit more so

10 that you can be aware of when the Senators will be back

11 on the floor to vote individually on all 16 articles.

12 These are the instructions as you have

13 written:

14 Sustaining an article of impeachment means

15 that the impeached officer is removed from office for

16 the term the officer was last elected.

17 You are instructed that the rules adopted

18 by the Court of Impeachment establish that the burden of

19 proof rests on the House Board of Managers to prove an

20 article of impeachment beyond a reasonable doubt.

21 You are to determine if the allegation in

22 each article presented to you has been proven beyond a

23 reasonable doubt, and if so, shall the article of

24 impeachment be sustained, which would result in removal

25 from office.

1 The final question to be put to you after

2 each article is: Shall this article of impeachment be

3 sustained?

4 Members, we will adjourn for this day very

5 shortly. You will go to deliberate. I want to repeat

6 that if deliberations last until the night when you

7 leave here, you're not to talk to anyone about this

8 trial. You're not to talk or watch anything on

9 television about this trial, go online and surf any

10 news.

11 You have serious work to do, and I believe

12 that you will do it in a serious and responsible

13 fashion.

14 I'm going to order you to work till at

15 least 8:00 tonight in deliberations. You can work

16 longer if you wish. To be back here if you have not

17 come to a decision today on all 16 articles, to come

18 back tomorrow morning at 9:00 a.m. and work until 8:00

19 tomorrow night. If a decision is still not reached, to

20 be here at noon on Sunday. And if a decision is not

21 reached by late Sunday night, I may take the option of

22 sequestering you in the building. We all have slept

23 overnight in our office once or twice. I know I have.

24 If -- take as much time as you need to come to a

25 decision that you believe is the right decision.

1 God bless all of you. Thank you for your

2 service to Texas.

3 We stand adjourned until the members

4 notify my office that they are ready to return and vote

5 on all 16 articles.

6 (Proceedings recessed at 11:53 a.m.)

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CERTIFICATE

STATE OF TEXAS )  
COUNTY OF TRAVIS )

I, Lorrie A. Schnoor, Certified Shorthand Reporter in and for the State of Texas, Registered Diplomat Reporter and Certified Realtime Reporter, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Certified to by me this 15th day of September, 2023.

**/s/ Lorrie A. Schnoor**

-----  
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1 THE SENATE OF THE STATE OF TEXAS  
 2 SITTING AS A HIGH COURT OF IMPEACHMENT  
 3 IN THE MATTER OF §  
 4 WARREN KENNETH §  
 5 PAXTON, JR. §

12 TRIAL  
 13 VOLUME 10  
 14 SEPTEMBER 16, 2023

24 Stenographically Reported by  
 25 Tami Lewis, CSR, RDR, CRR, CRC

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- 22 Representative Briscoe Cain
- 23 Representative Terry Canales
- 24 Representative Erin Gamez
- 25 Representative Charlie Geren
- Representative Jeff Leach
- Representative Oscar Longoria
- Representative Morgan Meyer
- Representative Joe Moody
- Representative David Spiller
- Representative Cody Vasut

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|                                |    | 7   |
| 11:11:00                       | 1  | all that you have done.                                   |
| 11:11:01                       | 2  | And, finally, to our staff, oh, my                        |
| 11:11:04                       | 3  | goodness, thank you-all. I know that we've thanked the    |
| 11:11:08                       | 4  | Senate staff, but thank you to our staffs that have       |
| 11:11:10                       | 5  | prepared us for this. Please give them a...               |
|                                | 6  | (Applause)  |
| 11:11:16                       | 7  | Let us go to the Lord in prayer. Dear                     |
| 11:11:20                       | 8  | Lord, we come to you today with our hearts and minds      |
| 11:11:24                       | 9  | turned to you and what is written in Isaiah: For the      |
| 11:11:31                       | 10 | Lord is our judge. The Lord is our lawgiver. The Lord     |
| 11:11:34                       | 11 | is our King. We have so much to be thankful for, all      |
| 11:11:40                       | 12 | that you have given us, bestowed upon us, and the         |
| 11:11:44                       | 13 | responsibilities that you have placed upon us. Give us    |
| 11:11:49                       | 14 | wisdom, discernment, and most of all peace as decisions   |
| 11:11:55                       | 15 | are made today. And no matter the outcome, we know that   |
| 11:12:01                       | 16 | you are the alpha and the omega, the beginning and end    |
| 11:12:07                       | 17 | who is and who was and who is to come, the Almighty.      |
| 11:12:15                       | 18 | Amen.   |
| 11:12:16                       | 19 | PRESIDING OFFICER: And thank you, Senator.                |
| 11:12:17                       | 20 | You may be seated.  |
| 11:12:26                       | 21 | To those in the gallery and those watching,               |
| 11:12:29                       | 22 | many of you aren't familiar with the Senate regular       |
| 11:12:31                       | 23 | sessions, but a lot of denominations, a lot of beliefs on |
| 11:12:34                       | 24 | our Senate floor, but we pray before every session. And   |
| 11:12:36                       | 25 | during the last week of session when we're here that      |
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| 1                              | <u>P R O C E E D I N G S</u>        |   |
| 2                              | <u>SATURDAY, SEPTEMBER 16, 2023</u> |   |
| 3                              | (11:08 a.m.)                        |   |
| 11:08:45                       | 4                                   | THE BAILIFF: All rise. The Court of                       |
| 11:08:47                       | 5                                   | Impeachment of the Texas Senate is now in session. Your   |
| 11:08:50                       | 6                                   | Honor Lieutenant Governor and President of the Senate Dan |
| 11:08:52                       | 7                                   | Patrick now presiding.                                    |
| 11:09:04                       | 8                                   | PRESIDING OFFICER: Bailiff, please bring                  |
| 11:09:05                       | 9                                   | in the jury.  |
| 11:09:34                       | 10                                  | (Jury enters the courtroom at 11:09 a.m.)                 |
| 11:10:09                       | 11                                  | PRESIDING OFFICER: Good morning, everyone.                |
| 11:10:12                       | 12                                  | We will be led in prayer, as we do every day when we're   |
| 11:10:15                       | 13                                  | in session. Today is Senator Lois Kolkhorst.              |
| 11:10:22                       | 14                                  | SENATOR KOLKHORST: Thank you,                             |
| 11:10:22                       | 15                                  | Mr. President. I -- I want to take just one moment to     |
| 11:10:24                       | 16                                  | say a word to you on behalf of this body for the          |
| 11:10:29                       | 17                                  | leadership in presiding over this Court of Impeachment.   |
| 11:10:32                       | 18                                  | The seriousness, the gravity, the constitutional duty     |
| 11:10:37                       | 19                                  | that we had, you have done a marvelous job, and it truly  |
| 11:10:42                       | 20                                  | has been remarkable your dedication to the people of the  |
| 11:10:44                       | 21                                  | State of Texas. Thank you.                                |
|                                | 22                                  | (Applause)  |
| 11:10:55                       | 23                                  | Chairman Birdwell, for all of us, thank you               |
| 11:10:56                       | 24                                  | for your work group, your rules work group. And those     |
| 11:11:00                       | 25                                  | that were on the rules work group, thank you so much for  |
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|                                |    | 8  |
| 11:12:40                       | 1  | Sunday, we have a -- we have a Bible study back there    |
| 11:12:43                       | 2  | that most of the Senators attend. Then we come out here, |
| 11:12:45                       | 3  | as we did this year. We stand in a circle, and we hold   |
| 11:12:48                       | 4  | each others' hands, and we pray because we know who we   |
| 11:12:51                       | 5  | answer to ultimately in all the things we do, all 31     |
| 11:12:55                       | 6  | members on this floor. And it helps bring us together    |
| 11:12:58                       | 7  | when we deal with difficult issues.                      |
| 11:13:01                       | 8  | Members, I've been informed by Senator                   |
| 11:13:05                       | 9  | Birdwell, the chairman of the rules committee, that you  |
| 11:13:09                       | 10 | are now prepared to vote on 16 Articles of Impeachment.  |
| 11:13:15                       | 11 | As you recall, during the pretrial motions, you will     |
| 11:13:20                       | 12 | write your vote down on a piece of paper. It'll be       |
| 11:13:23                       | 13 | collected by the bailiffs. Our clerk, Patsy Spaw, our -- |
| 11:13:29                       | 14 | Secretary of the Senate is her official title, but Clerk |
| 11:13:32                       | 15 | of this Court, she'll read those at random. That's       |
| 11:13:35                       | 16 | different than we normally vote, for everyone to know,   |
| 11:13:38                       | 17 | because we normally vote in alphabetical order. And this |
| 11:13:41                       | 18 | way, there's -- there's no pressure on someone at the    |
| 11:13:45                       | 19 | front, the middle, or the back of the alphabet. So this  |
| 11:13:47                       | 20 | way, it's pulled out at random, and then I will confirm  |
| 11:13:50                       | 21 | your vote as we go through each article.                 |
| 11:13:53                       | 22 | Members, you will now vote on Article I. I               |
| 11:13:59                       | 23 | will read the article for you each time.                 |
| 11:14:02                       | 24 | Disregard of official duty, protection of                |
| 11:14:05                       | 25 | charitable organization.                                 |
| TAMI LEWIS, CSR, RDR, CRR, CRC |    |  |

9

11:14:06 **1** While holding office as attorney general,  
 11:14:09 **2** Warren Kenneth Paxton violated the duties of his office  
 11:14:11 **3** by failing to act as public protector of charitable  
 11:14:15 **4** organizations as required by Chapter 123 of the property  
 11:14:18 **5** code.  
 11:14:19 **6** Specifically, Paxton caused employees of  
 11:14:21 **7** his office to intervene in a lawsuit brought by the Roy  
 11:14:25 **8** F. And JoAnn Cole Mitte Foundation against several  
 11:14:29 **9** corporate entities controlled by Nate Paul. Paxton  
 11:14:31 **10** harmed the Mitte Foundation in an effort to benefit Paul.  
 11:14:34 **11** A yea vote is to convict; a nay vote is to  
 11:14:38 **12** acquit. Please mark your ballots on the voting form.  
 11:14:41 **13** And, again, for everyone watching, of the  
 11:14:44 **14** 16 articles, if he is convicted on one article, he is  
 11:14:46 **15** removed from office.  
 11:14:54 **16** Looks like everyone has finished writing.  
 11:14:58 **17** Bailiffs, please collect the ballots.  
 11:15:52 **18** All of the ballots in, bailiffs? Thank  
 11:15:55 **19** you.  
 11:15:56 **20** THE CLERK: Gutierrez, yea; Johnson, yea;  
 11:16:20 **21** Springer, nay; Schwertner, nay; Campbell, nay; Nichols,  
 11:16:38 **22** yea; Blanco, yea; La Mantia, yea; Parker, nay; Hughes,  
 11:17:00 **23** nay; Miles, yea; West, yea; Whitmire, yea; Huffman, nay;  
 11:17:22 **24** Hinojosa, yea; Zaffirini, yea; Hancock, yea; Eckhardt,  
 11:17:43 **25** yea; King, nay; Sparks, nay; Flores, nay; Menendez, yea;  
 TAMI LEWIS, CSR, RDR, CRR, CRC

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**1** PRESIDING OFFICER: Senator Gutierrez?  
 11:19:34 **2** SENATOR GUTIERREZ: Yea.  
 11:19:34 **3** PRESIDING OFFICER: Senator Hall?  
 11:19:36 **4** SENATOR HALL: Nay.  
 11:19:36 **5** PRESIDING OFFICER: Senator Hancock?  
**6** SENATOR HANCOCK: Yea.  
**7** PRESIDING OFFICER: Senator Hinojosa?  
**8** SENATOR HINOJOSA: Yea.  
 11:19:40 **9** PRESIDING OFFICER: Senator Huffman?  
**10** SENATOR HUFFMAN: Nay.  
**11** PRESIDING OFFICER: Senator Hughes?  
**12** SENATOR HUGHES: Nay.  
**13** PRESIDING OFFICER: Senator Johnson?  
**14** SENATOR JOHNSON: Yea.  
 11:19:45 **15** PRESIDING OFFICER: Senator King?  
**16** SENATOR KING: Nay.  
 11:19:47 **17** PRESIDING OFFICER: Senator Kolkhorst?  
**18** SENATOR KOLKHORST: Nay.  
 11:19:50 **19** PRESIDING OFFICER: Senator La Mantia?  
 11:19:52 **20** SENATOR LA MANTIA: Yea.  
 11:19:52 **21** PRESIDING OFFICER: Senator Menendez?  
**22** SENATOR MENENDEZ: Yea.  
**23** PRESIDING OFFICER: Senator Middleton?  
**24** SENATOR MIDDLETON: Nay.  
 11:19:55 **25** PRESIDING OFFICER: Senator Miles?  
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11:18:06 **1** Birdwell, nay; Hall, nay; Perry, nay; Kolkhorst, nay;  
 11:18:29 **2** Bettencourt, nay; Creighton, nay; Middleton, nay;  
 11:18:44 **3** Alvarado, yea.  
 11:18:49 **4** PRESIDING OFFICER: Reminding the people in  
 11:18:52 **5** the gallery and watching, it takes 21 votes to convict on  
 11:18:57 **6** any one article.  
 11:19:06 **7** THE CLERK: 14 yeas; 16 nays.  
 11:19:10 **8** PRESIDING OFFICER: I will now confirm the  
 11:19:12 **9** votes.  
 11:19:13 **10** Alvarado?  
 11:19:15 **11** SENATOR ALVARADO: Yea.  
 11:19:15 **12** PRESIDING OFFICER: Senator Bettencourt?  
 11:19:19 **13** SENATOR BETTENCOURT: Nay.  
 11:19:19 **14** PRESIDING OFFICER: Senator Birdwell?  
**15** SENATOR BIRDWELL: Nay.  
 11:19:20 **16** PRESIDING OFFICER: Senator Blanco?  
 11:19:22 **17** SENATOR BLANCO: Yea.  
 11:19:22 **18** PRESIDING OFFICER: Senator Campbell?  
**19** SENATOR CAMPBELL: Nay.  
 11:19:24 **20** PRESIDING OFFICER: Senator Creighton?  
**21** SENATOR CREIGHTON: Nay.  
 11:19:27 **22** PRESIDING OFFICER: Senator Eckhardt?  
 11:19:27 **23** SENATOR ECKHARDT: Yea.  
**24** PRESIDING OFFICER: Senator Flores?  
 11:19:27 **25** SENATOR FLORES: Nay.  
 TAMI LEWIS, CSR, RDR, CRR, CRC

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11:19:56 **1** SENATOR MILES: Yea.  
 11:19:57 **2** PRESIDING OFFICER: Senator Nichols?  
 11:19:58 **3** SENATOR NICHOLS: Yea.  
 11:19:58 **4** PRESIDING OFFICER: Senator Parker?  
 11:20:00 **5** SENATOR PARKER: Yea.  
 11:20:00 **6** PRESIDING OFFICER: Senator Perry?  
 11:20:01 **7** SENATOR PERRY: Nay.  
 11:20:01 **8** PRESIDING OFFICER: Senator Schwertner?  
 11:20:02 **9** SENATOR SCHWERTNER: Nay.  
 11:20:03 **10** PRESIDING OFFICER: Senator Sparks?  
 11:20:05 **11** SENATOR SPARKS: Nay.  
 11:20:05 **12** PRESIDING OFFICER: Senator Springer?  
 11:20:06 **13** SENATOR SPRINGER: Nay.  
 11:20:07 **14** PRESIDING OFFICER: Senator West?  
 11:20:09 **15** SENATOR WEST: Yea.  
 11:20:09 **16** PRESIDING OFFICER: Senator Whitmire?  
**17** SENATOR WHITMIRE: Yea.  
 11:20:11 **18** PRESIDING OFFICER: Senator Zaffirini?  
 11:20:13 **19** SENATOR ZAFFIRINI: Yea.  
 11:20:14 **20** PRESIDING OFFICER: Total 14 yeas, 16 nays.  
 11:20:17 **21** A finding of acquittal is entered as to Article I.  
 11:20:23 **22** Members, you will now vote on Article II,  
 11:20:35 **23** disregard of official duty, abuse of the opinion process.  
 11:20:40 **24** While holding office as attorney general,  
 11:20:43 **25** Warren Kenneth Paxton misused his official power to issue  
 TAMI LEWIS, CSR, RDR, CRR, CRC



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|          |           |  |
|----------|-----------|--|
| 11:20:46 | <b>1</b>  | written legal opinions under Supchapter C, Chapter 402                   |
| 11:20:50 | <b>2</b>  | Government Code.   |
| 11:20:51 | <b>3</b>  | Specifically, Paxton caused employees of                                 |
| 11:20:53 | <b>4</b>  | his office to prepare an opinion in an attempt to avoid                  |
| 11:20:57 | <b>5</b>  | the impending foreclosure sales of properties belonging                  |
| 11:21:00 | <b>6</b>  | to Nate Paul or business entities controlled by Paul.                    |
| 11:21:04 | <b>7</b>  | Paxton concealed his actions by soliciting the chair of a                |
| 11:21:07 | <b>8</b>  | Senate committee to serve as a straw requester.                          |
| 11:21:10 | <b>9</b>  | Furthermore, Paxton directed employees of his office to                  |
| 11:21:13 | <b>10</b> | reverse their legal conclusion for the benefit of Paul.                  |
| 11:21:16 | <b>11</b> | Please fill out your forms.  |
| 11:21:36 | <b>12</b> | I believe you can collect the ballots,                                   |
| 11:21:40 | <b>13</b> | bailiff. All the ballots are turned in. The clerk will                   |
| 11:22:30 | <b>14</b> | read when ready.   |
| 11:22:33 | <b>15</b> | THE CLERK: La Mantia, yea; Parker, nay;                                  |
| 11:22:54 | <b>16</b> | Hughes, nay; Miles, yea; Gutierrez, yea; Johnson, yea;                   |
| 11:23:10 | <b>17</b> | Springer, nay; Schwertner, nay; Campbell, nay; Eckhardt,                 |
| 11:23:26 | <b>18</b> | yea; King, nay; Sparks, nay; Flores, nay; Blanco, yea;                   |
| 11:23:56 | <b>19</b> | Nichols, yea; West, yea; Whitmire, yea; Huffman, nay;                    |
| 11:24:10 | <b>20</b> | Hinojosa, yea; Zaffirini, yea; Kolkhorst, nay; Hancock,                  |
| 11:24:29 | <b>21</b> | yea; Menendez, yea; Birdwell, nay; Hall, nay; Perry, nay;                |
| 11:24:55 | <b>22</b> | Bettencourt, nay; Creighton, nay; Middleton, nay;                        |
| 11:25:07 | <b>23</b> | Alvarado, yea.   |
| 11:25:13 | <b>24</b> | 14 yeas; 16 nays.  |
| 11:25:29 | <b>25</b> | PRESIDING OFFICER: I will now poll the<br>TAMI LEWIS, CSR, RDR, CRR, CRC |

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|          |           |  |
|----------|-----------|--|
| 11:25:33 | <b>1</b>  | jury to confirm the votes.                               |
|          | <b>2</b>  | Senator Alvarado?  |
|          | <b>3</b>  | SENATOR ALVARADO: Yea.                                   |
| 11:25:36 | <b>4</b>  | PRESIDING OFFICER: Senator Bettencourt?                  |
| 11:25:37 | <b>5</b>  | SENATOR BETTENCOURT: Nay.                                |
| 11:25:38 | <b>6</b>  | PRESIDING OFFICER: Senator Birdwell?                     |
| 11:25:39 | <b>7</b>  | SENATOR BIRDWELL: Nay.                                   |
| 11:25:39 | <b>8</b>  | PRESIDING OFFICER: Senator Blanco?                       |
|          | <b>9</b>  | SENATOR BLANCO: Yea.                                     |
| 11:25:41 | <b>10</b> | PRESIDING OFFICER: Senator Campbell?                     |
| 11:25:43 | <b>11</b> | SENATOR CAMPBELL: Nay.                                   |
| 11:25:43 | <b>12</b> | PRESIDING OFFICER: Senator Creighton?                    |
| 11:25:44 | <b>13</b> | SENATOR CREIGHTON: Nay.                                  |
| 11:25:44 | <b>14</b> | PRESIDING OFFICER: Senator Eckhardt?                     |
|          | <b>15</b> | SENATOR ECKHARDT: Yea.                                   |
| 11:25:47 | <b>16</b> | PRESIDING OFFICER: Senator Flores?                       |
| 11:25:49 | <b>17</b> | SENATOR FLORES: Nay.                                     |
| 11:25:49 | <b>18</b> | PRESIDING OFFICER: Senator Gutierrez?                    |
| 11:25:51 | <b>19</b> | SENATOR GUTIERREZ: Yea.                                  |
| 11:25:51 | <b>20</b> | PRESIDING OFFICER: Senator Hall?                         |
|          | <b>21</b> | SENATOR HALL: Nay.                                       |
| 11:25:53 | <b>22</b> | PRESIDING OFFICER: Senator Hancock?                      |
| 11:25:54 | <b>23</b> | SENATOR HANCOCK: Yea.                                    |
| 11:25:54 | <b>24</b> | THE COURT: Senator Hinojosa?                             |
| 11:25:55 | <b>25</b> | SENATOR HINOJOSA: Yea.<br>TAMI LEWIS, CSR, RDR, CRR, CRC |

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|          |           |  |
|----------|-----------|--|
| 11:25:55 | <b>1</b>  | PRESIDING OFFICER: Senator Huffman?                                      |
| 11:25:57 | <b>2</b>  | SENATOR HUFFMAN: Nay.  |
| 11:25:57 | <b>3</b>  | PRESIDING OFFICER: Senator Hughes?                                       |
| 11:25:58 | <b>4</b>  | SENATOR HUGHES: Nay.   |
| 11:25:59 | <b>5</b>  | PRESIDING OFFICER: Senator Johnson?                                      |
| 11:26:00 | <b>6</b>  | SENATOR JOHNSON: Yea.  |
| 11:26:00 | <b>7</b>  | PRESIDING OFFICER: Senator King?   |
|          | <b>8</b>  | SENATOR KING: Nay.   |
| 11:26:02 | <b>9</b>  | PRESIDING OFFICER: Senator Kolkhorst?                                    |
|          | <b>10</b> | SENATOR KOLKHORST: Nay.  |
| 11:26:05 | <b>11</b> | PRESIDING OFFICER: Senator La Mantia?                                    |
| 11:26:07 | <b>12</b> | SENATOR LA MANTIA: Yea.  |
| 11:26:07 | <b>13</b> | PRESIDING OFFICER: Senator Menendez?                                     |
| 11:26:09 | <b>14</b> | SENATOR MENENDEZ: Yea.   |
| 11:26:09 | <b>15</b> | THE COURT: Senator Middleton?  |
| 11:26:10 | <b>16</b> | SENATOR MIDDLETON: Nay.  |
| 11:26:10 | <b>17</b> | PRESIDING OFFICER: Senator Miles?  |
| 11:26:12 | <b>18</b> | SENATOR MILES: Yea.  |
| 11:26:12 | <b>19</b> | THE COURT: Senator Nichols?  |
| 11:26:14 | <b>20</b> | SENATOR NICHOLS: Nay.  |
| 11:26:14 | <b>21</b> | THE COURT: Senator Parker?   |
|          | <b>22</b> | SENATOR PARKER: Nay.   |
| 11:26:16 | <b>23</b> | PRESIDING OFFICER: Senator Perry?  |
| 11:26:17 | <b>24</b> | SENATOR PERRY: Nay.  |
| 11:26:17 | <b>25</b> | PRESIDING OFFICER: Senator Schwertner?<br>TAMI LEWIS, CSR, RDR, CRR, CRC |

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|          |           |  |
|----------|-----------|--|
|          | <b>1</b>  | SENATOR SCHWERTNER: Nay.   |
| 11:26:19 | <b>2</b>  | PRESIDING OFFICER: Senator Sparks?   |
|          | <b>3</b>  | SENATOR SPARKS: Nay.   |
| 11:26:21 | <b>4</b>  | PRESIDING OFFICER: Senator Springer?   |
|          | <b>5</b>  | SENATOR SPRINGER: Nay.   |
|          | <b>6</b>  | PRESIDING OFFICER: Senator West?   |
| 11:26:24 | <b>7</b>  | SENATOR WEST: Yea.   |
| 11:26:24 | <b>8</b>  | PRESIDING OFFICER: Senator Whitmire?   |
|          | <b>9</b>  | SENATOR WHITMIRE: Yea.   |
|          | <b>10</b> | PRESIDING OFFICER: Senator Zaffirini?  |
|          | <b>11</b> | SENATOR ZAFFIRINI: Yea.  |
| 11:26:27 | <b>12</b> | PRESIDING OFFICER: There being 14 yeas, 16                                       |
| 11:26:29 | <b>13</b> | nays, a finding of acquittal is entered for Article II.                          |
| 11:26:42 | <b>14</b> | Members, you will now be voting on Article                                       |
| 11:26:45 | <b>15</b> | III, disregard of official duty, abuse of the open                               |
| 11:26:47 | <b>16</b> | records process.   |
| 11:26:48 | <b>17</b> | While holding office as attorney general,  |
| 11:26:50 | <b>18</b> | Warren Kenneth Paxton misused his official power to                              |
| 11:26:52 | <b>19</b> | administer the public information law, Chapter 552 of the                        |
| 11:26:56 | <b>20</b> | Government Code.   |
| 11:26:57 | <b>21</b> | Specifically, Paxton directed employees of                                       |
| 11:26:59 | <b>22</b> | his office to act contrary to law by refusing to render a                        |
| 11:27:03 | <b>23</b> | proper decision relating to a public information request                         |
| 11:27:06 | <b>24</b> | for records held by the Department of Public Safety and                          |
| 11:27:09 | <b>25</b> | by issuing a decision involving another public<br>TAMI LEWIS, CSR, RDR, CRR, CRC |

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11:27:11 **1** information request that was contrary to law and  
 11:27:14 **2** applicable to legal precedent.  
 11:27:17 **3** A yea vote is to convict; a nay vote is to  
 11:27:20 **4** acquit. Please mark your ballot.  
 11:27:59 **5** You may collect the ballots. They've  
 11:28:47 **6** collected all the ballots. Thank you. Secretary -- the  
 11:28:50 **7** clerk will read them when ready.  
 11:28:53 **8** THE CLERK: La Mantia, yea; Parker, nay;  
 11:29:06 **9** Hughes, nay; Miles, yea; Gutierrez, yea; Johnson, yea;  
 11:29:21 **10** Springer, nay; Schwertner, nay; Blanco, yea; Campbell,  
 11:29:40 **11** nay; Nichols, yea; West, yea; Whitmire, yea; Huffman,  
 11:29:55 **12** nay; Hinojosa, yea; Zaffirini, yea; Hancock, yea;  
 11:30:16 **13** Menendez, yea; Birdwell, nay; Hall, nay; Perry, nay;  
 11:30:34 **14** Kolkhorst, nay; Bettencourt, nay; Creighton, nay;  
 11:30:45 **15** Middleton, nay; Alvarado, yea; Eckhardt, yea; King, nay;  
 11:31:05 **16** Sparks, nay; Flores, nay.  
 11:31:16 **17** 14 yeas; 16 nays.  
 11:31:34 **18** PRESIDING OFFICER: I'll now confirm the  
 11:31:37 **19** voting.  
 11:31:38 **20** Senator Alvarado?  
 11:31:39 **21** SENATOR ALVARADO: Yea.  
 11:31:39 **22** PRESIDING OFFICER: Senator Bettencourt?  
 11:31:41 **23** SENATOR BETTENCOURT: Nay.  
 11:31:41 **24** PRESIDING OFFICER: Senator Birdwell?  
**25** SENATOR BIRDWELL: Nay.  
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11:31:43 **1** PRESIDING OFFICER: Senator Blanco?  
**2** SENATOR BLANCO: Yea.  
 11:31:44 **3** PRESIDING OFFICER: Senator Campbell?  
**4** SENATOR CAMPBELL: Nay.  
 11:31:46 **5** PRESIDING OFFICER: Senator Creighton?  
**6** SENATOR CREIGHTON: Nay.  
 11:31:48 **7** PRESIDING OFFICER: Senator Eckhardt?  
**8** SENATOR ECKHARDT: Yea.  
 11:31:49 **9** PRESIDING OFFICER: Senator Flores?  
**10** SENATOR FLORES: Nay.  
 11:31:51 **11** PRESIDING OFFICER: Senator Gutierrez?  
 11:31:52 **12** SENATOR GUTIERREZ: Yea.  
 11:31:52 **13** PRESIDING OFFICER: Senator Hall?  
**14** SENATOR HALL: Nay.  
 11:31:54 **15** PRESIDING OFFICER: Senator Hancock?  
**16** SENATOR HANCOCK: Yea.  
 11:31:56 **17** PRESIDING OFFICER: Senator Hinojosa?  
**18** SENATOR HINOJOSA: Yea.  
 11:31:58 **19** PRESIDING OFFICER: Senator Huffman?  
**20** SENATOR HUFFMAN: Nay.  
 11:31:59 **21** PRESIDING OFFICER: Senator Hughes?  
 11:32:03 **22** SENATOR HUGHES: Nay.  
 11:32:03 **23** PRESIDING OFFICER: Please speak up.  
**24** SENATOR HUGHES: Nay.  
 11:32:06 **25** PRESIDING OFFICER: Okay. I can barely  
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11:32:07 **1** hear you.  
 11:32:08 **2** Senator Johnson?  
**3** SENATOR JOHNSON: Yea.  
 11:32:10 **4** PRESIDING OFFICER: Senator King?  
**5** SENATOR KING: Nay.  
 11:32:12 **6** PRESIDING OFFICER: Senator Kolkhorst?  
 11:32:15 **7** SENATOR KOLKHORST: Nay.  
 11:32:15 **8** PRESIDING OFFICER: Senator La Mantia?  
**9** SENATOR LA MANTIA: Yea.  
 11:32:17 **10** PRESIDING OFFICER: Senator Menendez?  
**11** SENATOR MENENDEZ: Yea.  
**12** PRESIDING OFFICER: Senator Middleton?  
**13** SENATOR MIDDLETON: Nay.  
 11:32:20 **14** PRESIDING OFFICER: Senator Miles?  
**15** SENATOR MILES: Yea.  
**16** PRESIDING OFFICER: Senator Nichols?  
 11:32:23 **17** SENATOR NICHOLS: Yea.  
 11:32:23 **18** PRESIDING OFFICER: Senator Parker?  
**19** SENATOR PARKER: Nay.  
 11:32:25 **20** PRESIDING OFFICER: Senator Perry?  
 11:32:26 **21** SENATOR PERRY: Nay.  
 11:32:26 **22** PRESIDING OFFICER: Senator Schwertner?  
**23** SENATOR SCHWERTNER: Nay.  
 11:32:28 **24** PRESIDING OFFICER: Senator Sparks?  
**25** SENATOR PARKER: Nay.  
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11:32:29 **1** PRESIDING OFFICER: Senator Springer?  
**2** SENATOR SPRINGER: Nay.  
 11:32:31 **3** PRESIDING OFFICER: Senator West?  
 11:32:32 **4** SENATOR WEST: Yea.  
 11:32:33 **5** PRESIDING OFFICER: Senator Whitmire?  
**6** SENATOR WHITMIRE: Yea.  
 11:32:34 **7** PRESIDING OFFICER: Senator Zaffirini?  
 11:32:36 **8** SENATOR ZAFFIRINI: Yea.  
 11:32:36 **9** PRESIDING OFFICER: There being 14 ayes, 16  
 11:32:38 **10** nays, the finding of acquittal is entered for Article  
 11:32:43 **11** III.  
 11:32:51 **12** Members, you are now voting on Article IV,  
 11:32:53 **13** disregard of official duty, misuse of official  
 11:32:57 **14** information.  
 11:32:58 **15** While holding office as attorney general,  
 11:33:00 **16** Warren Kenneth Paxton misused his official power to  
 11:33:03 **17** administer the public information law, Chapter 552 of the  
 11:33:07 **18** Government Code. Specifically, Paxton improperly  
 11:33:09 **19** obtained access to information held by his office that  
 11:33:12 **20** had not been publicly disclosed for the purpose of  
 11:33:14 **21** providing information to the benefit of Nate Paul.  
 11:33:18 **22** Shall this article of impeachment be  
 11:33:20 **23** sustained? A yea vote is to convict; a nay vote is to  
 11:33:22 **24** acquit. Please mark your ballots.  
 11:34:09 **25** Please collect the ballots. All the  
 TAMI LEWIS, CSR, RDR, CRR, CRC

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11:35:01 **1** ballots are in. Clerk will read at random the votes.

11:35:09 **2** THE CLERK: Hancock, nay; Menendez, nay;

11:35:25 **3** Birdwell, nay; Hall, nay; Perry, nay; Kolkhorst, nay;

11:35:46 **4** Bettencourt, nay; Creighton, nay; Middleton, nay;

11:35:59 **5** Alvarado, nay; Eckhardt, nay; King, nay; Sparks, nay;

11:36:20 **6** Flores, nay; Blanco, nay; La Mantia, nay; Parker, nay;

11:36:43 **7** Hughes, nay; Miles, yea; Gutierrez, yea; Johnson, nay;

11:37:01 **8** Springer, nay; Schwertner, nay; Campbell, nay; Nichols,

11:37:13 **9** nay; West, nay; Whitmire, nay; Huffman, nay; Hinojosa,

11:37:31 **10** nay; Zaffirini, nay.

11:37:41 **11** Two yeas, 28 nays.

11:37:49 **12** PRESIDING OFFICER: Let me confirm the

11:37:54 **13** votes.

11:37:55 **14** Senator Alvarado?

11:37:56 **15** SENATOR ALVARADO: Nay.

11:37:56 **16** PRESIDING OFFICER: Senator Bettencourt?

**17** SENATOR BETTENCOURT: Nay.

11:37:58 **18** PRESIDING OFFICER: Senator Birdwell?

**19** SENATOR BIRDWELL: Nay.

11:38:00 **20** PRESIDING OFFICER: Senator Blanco?

**21** SENATOR BLANCO: Nay.

11:38:01 **22** PRESIDING OFFICER: Senator Campbell?

**23** SENATOR CAMPBELL: Nay.

11:38:02 **24** PRESIDING OFFICER: Senator Creighton?

**25** SENATOR CREIGHTON: Nay.

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11:38:05 **1** PRESIDING OFFICER: Senator Eckhardt?

**2** SENATOR ECKHARDT: Nay.

11:38:06 **3** PRESIDING OFFICER: Senator Flores?

**4** SENATOR FLORES: Nay.

11:38:07 **5** PRESIDING OFFICER: Senator Gutierrez?

**6** SENATOR GUTIERREZ: Yea.

11:38:08 **7** PRESIDING OFFICER: Senator Hall?

**8** SENATOR HALL: Nay.

11:38:10 **9** PRESIDING OFFICER: Senator Hancock?

**10** SENATOR HANCOCK: Nay.

11:38:11 **11** PRESIDING OFFICER: Senator Hinojosa?

**12** SENATOR HINOJOSA: Nay.

11:38:13 **13** PRESIDING OFFICER: Senator Huffman?

**14** SENATOR HUFFMAN: Nay.

**15** PRESIDING OFFICER: Senator Hughes?

**16** SENATOR HUGHES: Nay.

11:38:15 **17** PRESIDING OFFICER: Senator Johnson?

**18** SENATOR JOHNSON: Nay.

11:38:17 **19** PRESIDING OFFICER: Senator King?

**20** SENATOR KING: Nay.

11:38:18 **21** PRESIDING OFFICER: Senator Kolkhorst?

**22** SENATOR KOLKHORST: Nay.

11:38:21 **23** PRESIDING OFFICER: Senator La Mantia?

**24** SENATOR LA MANTIA: Nay.

11:38:22 **25** PRESIDING OFFICER: Senator Menendez?

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**1** SENATOR MENENDEZ: Nay.

11:38:23 **2** PRESIDING OFFICER: Senator Middleton?

**3** SENATOR MIDDLETON: Nay.

11:38:25 **4** PRESIDING OFFICER: Senate Miles?

**5** SENATOR MILES: Nay.

11:38:26 **6** PRESIDING OFFICER: Senator Nichols?

11:38:29 **7** SENATOR NICHOLS: Nay.

11:38:29 **8** PRESIDING OFFICER: Senator Miles, did you

11:38:31 **9** say "nay"?

11:38:33 **10** SENATOR MILES: Nay.

11:38:33 **11** PRESIDING OFFICER: Nay, okay. You said

11:38:38 **12** "yea"? Okay. I just wanted to confirm that. Okay. It

11:38:44 **13** is yea. Okay.

11:38:45 **14** Senator Nichols? Senator Nichols, nay, did

**15** you say?

**16** SENATOR NICHOLS: Nay.

**17** PRESIDING OFFICER: Okay. Sorry. I

**18** couldn't hear you.

11:38:54 **19** Senator Parker?

11:38:54 **20** SENATOR PARKER: Nay.

11:38:54 **21** PRESIDING OFFICER: Senator Perry?

**22** SENATOR PERRY: Nay.

11:38:55 **23** PRESIDING OFFICER: Senator Schwertner?

**24** SENATOR SCHWERTNER: Nay.

11:38:56 **25** PRESIDING OFFICER: Senator Sparks?

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**1** SENATOR SPARKS: Nay.

11:38:58 **2** PRESIDING OFFICER: Senator Springer?

11:38:59 **3** SENATOR SPRINGER: Nay.

11:39:01 **4** PRESIDING OFFICER: Senator Springer?

**5** SENATOR SPRINGER: Nay.

11:39:02 **6** PRESIDING OFFICER: Senator West?

**7** SENATOR WEST: Nay.

11:39:03 **8** PRESIDING OFFICER: Senator Whitmire?

**9** SENATOR WHITMIRE: Nay.

11:39:05 **10** PRESIDING OFFICER: Senator Zaffirini?

**11** SENATOR ZAFFIRINI: Nay.

11:39:08 **12** PRESIDING OFFICER: 28 nays; 2 yeas. A

11:39:10 **13** finding of acquittal is entered for Article IV.

11:39:22 **14** Members, you will now vote on Article V,

11:39:26 **15** disregard of official duty, engagement of Cammack.

11:39:29 **16** While holding office as attorney general,

11:39:30 **17** Warren Kenneth Paxton misused his official powers by

11:39:32 **18** violating the laws governing the appointment of

11:39:35 **19** prosecuting attorneys pro tem.

11:39:37 **20** Specifically, Paxton engaged Brandon

11:39:40 **21** Cammack, a licensed attorney, to conduct an investigation

11:39:42 **22** into a baseless complaint during which Cammack issued

11:39:45 **23** more than 30 grand jury subpoenas in an effort to benefit

11:39:49 **24** Nate Paul or Paul's business entities.

11:39:51 **25** Shall this article of impeachment be

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| 11:39:53 | <b>1</b>  | sustained? A yea vote is to convict; a nay vote is to     |
| 11:39:55 | <b>2</b>  | acquit. Please mark your ballots.                         |
| 11:39:59 | <b>3</b>  | I think they are marked. Bailiffs may pick                |
| 11:40:13 | <b>4</b>  | up. All the ballots are in. The clerk will read them at   |
| 11:41:03 | <b>5</b>  | random.   |
| 11:41:04 | <b>6</b>  | THE CLERK: Campbell, nay; Nichols, nay;                   |
| 11:41:27 | <b>7</b>  | West, yea; Whitmire, yea; Huffman, nay; Hinojosa, yea;    |
| 11:41:45 | <b>8</b>  | Zaffirini, yea; La Mantia, yea; Parker, nay; Hughes, nay; |
| 11:42:02 | <b>9</b>  | Miles, yea; Gutierrez, yea; Johnson, yea; Springer, nay;  |
| 11:42:19 | <b>10</b> | Schwertner, nay; Hancock, yea; Menendez, yea; Birdwell,   |
| 11:42:42 | <b>11</b> | nay; Hall, nay; Perry, nay; Kolkhorst, nay; Bettencourt,  |
| 11:42:59 | <b>12</b> | nay; Creighton, nay; Middleton, nay; Alvarado, yea;       |
| 11:43:17 | <b>13</b> | Eckhardt, yea; King, nay; Sparks, nay; Flores, nay;       |
| 11:43:38 | <b>14</b> | Blanco, yea.  |
| 11:43:40 | <b>15</b> | 13 yeas; 17 nays.   |
| 11:44:09 | <b>16</b> | PRESIDING OFFICER: I'll confirm the votes.                |
|          | <b>17</b> | Senator Alvarado?   |
| 11:44:10 | <b>18</b> | SENATOR ALVARADO: Yea.                                    |
| 11:44:12 | <b>19</b> | PRESIDING OFFICER: Senator Bettencourt?                   |
|          | <b>20</b> | SENATOR BETTENCOURT: Nay.                                 |
| 11:44:13 | <b>21</b> | PRESIDING OFFICER: Senator Birdwell?                      |
|          | <b>22</b> | SENATOR BIRDWELL: Nay.                                    |
| 11:44:14 | <b>23</b> | PRESIDING OFFICER: Senator Blanco.                        |
| 11:44:15 | <b>24</b> | SENATOR BLANCO: Yea.                                      |
| 11:44:15 | <b>25</b> | PRESIDING OFFICER: Senator Campbell?                      |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC                            |

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| 11:44:17 | <b>1</b>  | SENATOR CAMPBELL: Nay.                     |
| 11:44:17 | <b>2</b>  | PRESIDING OFFICER: Senator Creighton?      |
|          | <b>3</b>  | SENATOR CREIGHTON: Nay.                    |
| 11:44:18 | <b>4</b>  | PRESIDING OFFICER: Senator Eckhardt?       |
|          | <b>5</b>  | SENATOR ECKHARDT: Yea.                     |
| 11:44:20 | <b>6</b>  | PRESIDING OFFICER: Senator Flores?         |
|          | <b>7</b>  | SENATOR FLORES: Nay.                       |
| 11:44:21 | <b>8</b>  | PRESIDING OFFICER: Senator Gutierrez?      |
|          | <b>9</b>  | SENATOR GUTIERREZ: Yea.                    |
| 11:44:23 | <b>10</b> | PRESIDING OFFICER: Senator Hall?           |
|          | <b>11</b> | SENATOR HALL: Nay.                         |
| 11:44:24 | <b>12</b> | PRESIDING OFFICER: Senator Hancock?        |
|          | <b>13</b> | SENATOR HANCOCK: Yea.                      |
| 11:44:25 | <b>14</b> | PRESIDING OFFICER: Senator Hinojosa?       |
|          | <b>15</b> | SENATOR HINOJOSA: Yea.                     |
| 11:44:27 | <b>16</b> | PRESIDING OFFICER: Senator Huffman?        |
|          | <b>17</b> | SENATOR HUFFMAN: Nay.                      |
| 11:44:28 | <b>18</b> | PRESIDING OFFICER: Senator Huff -- Hughes? |
|          | <b>19</b> | SENATOR HUGHES: Nay.                       |
| 11:44:30 | <b>20</b> | PRESIDING OFFICER: Senator Johnson?        |
|          | <b>21</b> | SENATOR JOHNSON: Yea.                      |
| 11:44:31 | <b>22</b> | PRESIDING OFFICER: Senator King? Senator   |
|          | <b>23</b> | King?                                      |
|          | <b>24</b> | SENATOR KING: Nay.                         |
| 11:44:35 | <b>25</b> | PRESIDING OFFICER: Senator Kolkhorst?      |
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| 11:44:37 | <b>1</b>  | SENATOR KOLKHORST: Nay.                |
| 11:44:37 | <b>2</b>  | PRESIDING OFFICER: Senator La Mantia?  |
|          | <b>3</b>  | SENATOR LA MANTIA: Yea.                |
| 11:44:39 | <b>4</b>  | PRESIDING OFFICER: Senator Menendez?   |
|          | <b>5</b>  | SENATOR MENENDEZ: Yea.                 |
| 11:44:41 | <b>6</b>  | PRESIDING OFFICER: Senator Middleton?  |
|          | <b>7</b>  | SENATOR MIDDLETON: Nay.                |
|          | <b>8</b>  | PRESIDING OFFICER: Senator Miles?      |
|          | <b>9</b>  | SENATOR MILES: Yea.                    |
| 11:44:44 | <b>10</b> | PRESIDING OFFICER: Senator Nichols?    |
|          | <b>11</b> | SENATOR NICHOLS: Nay.                  |
| 11:44:46 | <b>12</b> | PRESIDING OFFICER: Senator Parker?     |
|          | <b>13</b> | SENATOR PARKER: Nay.                   |
| 11:44:47 | <b>14</b> | PRESIDING OFFICER: Senator Perry?      |
|          | <b>15</b> | SENATOR PERRY: Nay.                    |
| 11:44:49 | <b>16</b> | PRESIDING OFFICER: Senator Schwertner? |
|          | <b>17</b> | SENATOR SCHWERTNER: Nay.               |
| 11:44:51 | <b>18</b> | PRESIDING OFFICER: Senator Sparks?     |
|          | <b>19</b> | SENATOR SPARKS: Nay.                   |
| 11:44:52 | <b>20</b> | PRESIDING OFFICER: Senator Springer?   |
|          | <b>21</b> | SENATOR SPRINGER: Nay.                 |
| 11:44:55 | <b>22</b> | PRESIDING OFFICER: Senator West?       |
|          | <b>23</b> | SENATOR WEST: Yea.                     |
| 11:44:56 | <b>24</b> | PRESIDING OFFICER: Senator Whitmire?   |
|          | <b>25</b> | SENATOR WHITMIRE: Yea.                 |
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|          | <b>1</b>  | PRESIDING OFFICER: Senator Zaffirini?                     |
|          | <b>2</b>  | SENATOR ZAFFIRINI: Yea.                                   |
| 11:44:57 | <b>3</b>  | PRESIDING OFFICER: 13 yeas; 17 nays. A                    |
| 11:45:00 | <b>4</b>  | finding of acquittal is entered for Article V.            |
| 11:45:14 | <b>5</b>  | Members, you will now be voting on Article                |
| 11:45:17 | <b>6</b>  | VI, disregard of official duty, termination of            |
| 11:45:19 | <b>7</b>  | whistleblowers.   |
| 11:45:20 | <b>8</b>  | While holding office as attorney general,                 |
| 11:45:22 | <b>9</b>  | Warren Kenneth Paxton violated the duties of his office   |
| 11:45:24 | <b>10</b> | by terminating and taking adverse personal action against |
| 11:45:28 | <b>11</b> | employees of his office in violation of this state's      |
| 11:45:31 | <b>12</b> | whistleblower law, Chapter 554 of the Government Code.    |
| 11:45:36 | <b>13</b> | Specifically, Paxton terminated employees                 |
| 11:45:38 | <b>14</b> | of his office who made good-faith reports of his unlawful |
| 11:45:41 | <b>15</b> | actions to law enforcement authorities. Paxton            |
| 11:45:43 | <b>16</b> | terminated the employees without good cause or due        |
| 11:45:45 | <b>17</b> | process and in retaliation for reporting his illegal acts |
| 11:45:48 | <b>18</b> | and improper conduct. Furthermore, Paxton engaged in a    |
| 11:45:52 | <b>19</b> | public and private campaign to impugn the employees'      |
| 11:45:55 | <b>20</b> | professional reputations or prejudice their future        |
| 11:45:58 | <b>21</b> | employment.   |
| 11:45:58 | <b>22</b> | Shall this article of impeachment be                      |
| 11:46:00 | <b>23</b> | sustained? A yea vote is to convict; a nay vote is to     |
| 11:46:03 | <b>24</b> | acquit. Please mark your ballots.                         |
| 11:46:59 | <b>25</b> | Austin and Matt, you've collected all the                 |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC                            |

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| 11:47:03 | <b>1</b>  | ballots. Secretary will read them at random. The clerk   |
| 11:47:09 | <b>2</b>  | will read them at random.                                |
| 11:47:12 | <b>3</b>  | THE CLERK: Campbell, nay; Schwertner, nay;               |
| 11:47:25 | <b>4</b>  | Springer, nay; Johnson, yea; Gutierrez, yea; Miles, yea; |
| 11:47:39 | <b>5</b>  | Hughes, nay; Parker, nay; La Mantia, yea; Blanco, yea;   |
| 11:47:56 | <b>6</b>  | Zaffirini, yea; Hinojosa, yea; Huffman, nay; Whitmire,   |
| 11:48:09 | <b>7</b>  | yea; West, yea; Nichols, yea; Hancock, yea; Menendez,    |
| 11:48:32 | <b>8</b>  | yea; Birdwell, nay; Hall, nay; Perry, nay; Kolkhorst,    |
| 11:48:50 | <b>9</b>  | na; Bettencourt, nay; Creighton, nay; Middleton, nay;    |
| 11:49:08 | <b>10</b> | Alvarado, yea; Eckhardt, yea; King, nay; Sparks, nay;    |
| 11:49:27 | <b>11</b> | Flores, nay.   |
| 11:49:30 | <b>12</b> | 14 yeas; 16 nays.  |
| 11:49:52 | <b>13</b> | PRESIDING OFFICER: I'll confirm the votes.               |
| 11:49:55 | <b>14</b> | Senator Alvarado?  |
|          | <b>15</b> | SENATOR ALVARADO: Yea.                                   |
| 11:49:56 | <b>16</b> | PRESIDING OFFICER: Senator Bettencourt?                  |
|          | <b>17</b> | SENATOR BETTENCOURT: Nay.                                |
| 11:49:58 | <b>18</b> | PRESIDING OFFICER: Senator Birdwell?                     |
|          | <b>19</b> | SENATOR BIRDWELL: Nay.                                   |
| 11:49:59 | <b>20</b> | PRESIDING OFFICER: Senator Blanco?                       |
|          | <b>21</b> | SENATOR BLANCO: Yea.                                     |
| 11:50:00 | <b>22</b> | PRESIDING OFFICER: Senator Campbell?                     |
|          | <b>23</b> | SENATOR CAMPBELL: Nay.                                   |
| 11:50:02 | <b>24</b> | PRESIDING OFFICER: Senator Creighton?                    |
|          | <b>25</b> | SENATOR CREIGHTON: Nay.                                  |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC                           |

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|          | <b>1</b>  | SENATOR MENENDEZ: Yea.                                 |
| 11:50:24 | <b>2</b>  | PRESIDING OFFICER: Senator Middleton?                  |
|          | <b>3</b>  | SENATOR MIDDLETON: Nay.                                |
|          | <b>4</b>  | PRESIDING OFFICER: Senator Miles?                      |
|          | <b>5</b>  | SENATOR MILES: Yea.                                    |
| 11:50:26 | <b>6</b>  | PRESIDING OFFICER: Senator Nichols?                    |
|          | <b>7</b>  | SENATOR NICHOLS: Yea.                                  |
| 11:50:28 | <b>8</b>  | PRESIDING OFFICER: Senator Parker?                     |
| 11:50:29 | <b>9</b>  | SENATOR PARKER: Nay.                                   |
| 11:50:29 | <b>10</b> | PRESIDING OFFICER: Senator Perry?                      |
|          | <b>11</b> | SENATOR PERRY: Nay.                                    |
| 11:50:31 | <b>12</b> | PRESIDING OFFICER: Senator Schwertner?                 |
| 11:50:32 | <b>13</b> | SENATOR SCHWERTNER: Nay.                               |
| 11:50:32 | <b>14</b> | PRESIDING OFFICER: Senator Sparks?                     |
|          | <b>15</b> | SENATOR SPARKS: Nay.                                   |
| 11:50:34 | <b>16</b> | PRESIDING OFFICER: Senator Springer?                   |
|          | <b>17</b> | SENATOR SPRINGER: Nay.                                 |
| 11:50:35 | <b>18</b> | PRESIDING OFFICER: Senator West?                       |
|          | <b>19</b> | SENATOR WEST: Yea.                                     |
| 11:50:36 | <b>20</b> | PRESIDING OFFICER: Senator Whitmire?                   |
|          | <b>21</b> | SENATOR WHITMIRE: Yea.                                 |
| 11:50:38 | <b>22</b> | PRESIDING OFFICER: Senator Zaffirini?                  |
|          | <b>23</b> | SENATOR ZAFFIRINI: Yea.                                |
| 11:50:39 | <b>24</b> | PRESIDING OFFICER: There being 14 yeas and             |
| 11:50:40 | <b>25</b> | 16 nays, a finding of acquittal is entered for Article |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC                         |

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|          |           |                                       |
|----------|-----------|---------------------------------------|
|          | <b>1</b>  | PRESIDING OFFICER: Senator Eckhardt?  |
|          | <b>2</b>  | SENATOR ECKHARDT: Yea.                |
| 11:50:05 | <b>3</b>  | PRESIDING OFFICER: Senator Flores?    |
|          | <b>4</b>  | SENATOR FLORES: Nay.                  |
| 11:50:07 | <b>5</b>  | PRESIDING OFFICER: Senator Gutierrez? |
|          | <b>6</b>  | SENATOR GUTIERREZ: Yea.               |
| 11:50:09 | <b>7</b>  | PRESIDING OFFICER: Senator Hall?      |
|          | <b>8</b>  | SENATOR HALL: Nay.                    |
| 11:50:10 | <b>9</b>  | PRESIDING OFFICER: Senator Hancock?   |
|          | <b>10</b> | SENATOR HANCOCK: Yea.                 |
| 11:50:12 | <b>11</b> | PRESIDING OFFICER: Senator Hinojosa?  |
|          | <b>12</b> | SENATOR HINOJOSA: Yea.                |
| 11:50:14 | <b>13</b> | PRESIDING OFFICER: Senator Huffman?   |
|          | <b>14</b> | SENATOR HUFFMAN: Nay.                 |
| 11:50:15 | <b>15</b> | PRESIDING OFFICER: Senator Hughes?    |
|          | <b>16</b> | SENATOR HUGHES: Nay.                  |
| 11:50:16 | <b>17</b> | PRESIDING OFFICER: Senator Johnson?   |
|          | <b>18</b> | SENATOR JOHNSON: Yea.                 |
| 11:50:18 | <b>19</b> | PRESIDING OFFICER: Senator King?      |
|          | <b>20</b> | SENATOR KING: Nay.                    |
| 11:50:20 | <b>21</b> | PRESIDING OFFICER: Senator Kolkhorst? |
|          | <b>22</b> | SENATOR KOLKHORST: Nay.               |
| 11:50:21 | <b>23</b> | PRESIDING OFFICER: Senator La Mantia? |
|          | <b>24</b> | SENATOR LA MANTIA: Yea.               |
| 11:50:23 | <b>25</b> | PRESIDING OFFICER: Senator Menendez?  |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC        |

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|----------|-----------|---|
| 11:50:45 | <b>1</b>  | VI.   |
| 11:50:55 | <b>2</b>  | Members, we will now move on to -- for you                |
| 11:50:58 | <b>3</b>  | to vote on Article VII, misapplication of public          |
| 11:51:01 | <b>4</b>  | resources, whistleblower investigation and report. While  |
| 11:51:03 | <b>5</b>  | holding office as attorney general, Warren Kenneth Paxton |
| 11:51:06 | <b>6</b>  | misused public resources entrusted to him.                |
| 11:51:08 | <b>7</b>  | Specifically, Paxton directed employees of                |
| 11:51:08 | <b>8</b>  | his office to conduct a sham investigation into           |
| 11:51:12 | <b>9</b>  | whistleblower complaints made by employees whom Paxton    |
| 11:51:14 | <b>10</b> | had terminated and to create and publish a lengthy        |
| 11:51:17 | <b>11</b> | written report containing false and misleading statements |
| 11:51:20 | <b>12</b> | in Paxton's defense.                                      |
| 11:51:22 | <b>13</b> | Shall this article of impeachment be                      |
| 11:51:24 | <b>14</b> | sustained? A yea vote is to convict; a nay vote is to     |
| 11:51:27 | <b>15</b> | acquit. Please mark your ballots.                         |
| 11:51:40 | <b>16</b> | You may collect the ballots. I see all the                |
| 11:52:28 | <b>17</b> | ballots collected. Secretary will read them at random.    |
| 11:52:32 | <b>18</b> | THE CLERK: Senator Springer, nay; Senator                 |
| 11:52:46 | <b>19</b> | Schwertner, nay; Senator Campbell, nay; Senator Nichols,  |
| 11:52:54 | <b>20</b> | yea; Senator West, yea; Senator Whitmire, yea; Senator    |
| 11:53:04 | <b>21</b> | Huffman, nay; Senator Hinojosa, yea; Senator Zaffirini,   |
| 11:53:13 | <b>22</b> | yea; Senator Blanco, yea; Senator La Mantia, yea; Senator |
| 11:53:24 | <b>23</b> | Parker, nay; Senator Hughes, nay; Senator Miles, yea;     |
| 11:53:36 | <b>24</b> | Senator Gutierrez, yea; Senator Johnson, yea; Senator     |
| 11:53:53 | <b>25</b> | Menendez, yea; Senator Birdwell, nay; Senator Hall, nay;  |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC                            |

|          |           | 33   |
|----------|-----------|--|
| 11:54:09 | <b>1</b>  | Senator Perry, nay; Senator Kolkhorst, nay; Senator      |
| 11:54:20 | <b>2</b>  | Bettencourt, nay; Senator Creighton, nay; Senator        |
| 11:54:29 | <b>3</b>  | Middleton, nay; Senator Alvarado, yea; Senator Eckhardt, |
| 11:54:37 | <b>4</b>  | yea; Senator King, nay; Senator Sparks, nay; Senator     |
| 11:54:52 | <b>5</b>  | Flores, nay; Senator Hancock, yea.                       |
| 11:55:06 | <b>6</b>  | 14 yeas; 16 nays.  |
| 11:55:22 | <b>7</b>  | PRESIDING OFFICER: I'll poll the jury to                 |
| 11:55:28 | <b>8</b>  | be sure to confirm the votes.                            |
| 11:55:29 | <b>9</b>  | Senator Alvarado?  |
|          | <b>10</b> | SENATOR ALVARADO: Yea.                                   |
| 11:55:31 | <b>11</b> | PRESIDING OFFICER: Senator Bettencourt?                  |
| 11:55:33 | <b>12</b> | SENATOR BETTENCOURT: Nay.                                |
| 11:55:33 | <b>13</b> | PRESIDING OFFICER: Senator Birdwell?                     |
|          | <b>14</b> | SENATOR BIRDWELL: Nay.                                   |
|          | <b>15</b> | PRESIDING OFFICER: Senator Blanco?                       |
|          | <b>16</b> | SENATOR BLANCO: Yea.                                     |
| 11:55:34 | <b>17</b> | PRESIDING OFFICER: Senator Campbell?                     |
|          | <b>18</b> | SENATOR CAMPBELL: Nay.                                   |
| 11:55:35 | <b>19</b> | PRESIDING OFFICER: Senator Creighton?                    |
|          | <b>20</b> | SENATOR CREIGHTON: Nay.                                  |
| 11:55:37 | <b>21</b> | PRESIDING OFFICER: Senator Eckhardt?                     |
|          | <b>22</b> | SENATOR ECKHARDT: Yea.                                   |
| 11:55:39 | <b>23</b> | PRESIDING OFFICER: Senator Flores?                       |
|          | <b>24</b> | SENATOR FLORES: Nay.                                     |
| 11:55:39 | <b>25</b> | PRESIDING OFFICER: Senator Gutierrez?                    |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC                           |

|          |           | 34                                    |
|----------|-----------|---------------------------------------|
|          | <b>1</b>  | SENATOR GUTIERREZ: Yea.               |
| 11:55:41 | <b>2</b>  | PRESIDING OFFICER: Senator Hall?      |
|          | <b>3</b>  | SENATOR HALL: Nay.                    |
| 11:55:42 | <b>4</b>  | PRESIDING OFFICER: Senator Hancock?   |
|          | <b>5</b>  | SENATOR HANCOCK: Yea.                 |
| 11:55:43 | <b>6</b>  | PRESIDING OFFICER: Senator Hinojosa?  |
|          | <b>7</b>  | SENATOR HINOJOSA: Yea.                |
| 11:55:45 | <b>8</b>  | PRESIDING OFFICER: Senator Huffman?   |
|          | <b>9</b>  | SENATOR HUFFMAN: Nay.                 |
| 11:55:46 | <b>10</b> | PRESIDING OFFICER: Senator Hughes?    |
|          | <b>11</b> | SENATOR HUGHES: Nay.                  |
| 11:55:48 | <b>12</b> | PRESIDING OFFICER: Senator Johnson?   |
|          | <b>13</b> | SENATOR JOHNSON: Yea.                 |
| 11:55:49 | <b>14</b> | PRESIDING OFFICER: Senator King?      |
|          | <b>15</b> | SENATOR KING: Nay.                    |
| 11:55:50 | <b>16</b> | PRESIDING OFFICER: Senator Kolkhorst? |
|          | <b>17</b> | SENATOR KOLKHORST: Nay.               |
| 11:55:52 | <b>18</b> | PRESIDING OFFICER: Senator La Mantia? |
|          | <b>19</b> | SENATOR LA MANTIA: Yea.               |
| 11:55:54 | <b>20</b> | PRESIDING OFFICER: Senator Menendez?  |
|          | <b>21</b> | SENATOR MENENDEZ: Yea.                |
| 11:55:56 | <b>22</b> | PRESIDING OFFICER: Senator Middleton? |
|          | <b>23</b> | SENATOR MIDDLETON: Nay.               |
| 11:55:57 | <b>24</b> | PRESIDING OFFICER: Senator Miles?     |
|          | <b>25</b> | SENATOR MILES: Yea.                   |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC        |

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|----------|-----------|--|
| 11:55:58 | <b>1</b>  | PRESIDING OFFICER: Senator Nichols?                  |
| 11:56:00 | <b>2</b>  | SENATOR NICHOLS: Yea.                                |
| 11:56:00 | <b>3</b>  | PRESIDING OFFICER: Senator Parker?                   |
|          | <b>4</b>  | SENATOR PARKER: Nay.                                 |
| 11:56:02 | <b>5</b>  | PRESIDING OFFICER: Senator Perry?                    |
|          | <b>6</b>  | SENATOR PERRY: Nay.                                  |
| 11:56:03 | <b>7</b>  | PRESIDING OFFICER: Senator Schwertner?               |
|          | <b>8</b>  | SENATOR SCHWERTNER: Nay.                             |
| 11:56:05 | <b>9</b>  | PRESIDING OFFICER: Senator Sparks?                   |
|          | <b>10</b> | SENATOR SPARKS: Nay.                                 |
|          | <b>11</b> | PRESIDING OFFICER: Senator Springer?                 |
|          | <b>12</b> | SENATOR SPRINGER: Nay.                               |
| 11:56:07 | <b>13</b> | PRESIDING OFFICER: Senator West?                     |
|          | <b>14</b> | SENATOR WEST: Yea.                                   |
| 11:56:09 | <b>15</b> | PRESIDING OFFICER: Senator Whitmire?                 |
|          | <b>16</b> | SENATOR WHITMIRE: Yea.                               |
| 11:56:10 | <b>17</b> | PRESIDING OFFICER: Senator Zaffirini?                |
| 11:56:11 | <b>18</b> | SENATOR ZAFFIRINI: Yea.                              |
| 11:56:11 | <b>19</b> | PRESIDING OFFICER: 14 ayes; 16 nays. A               |
| 11:56:15 | <b>20</b> | finding of acquittal is entered as to Article VII.   |
| 11:56:29 | <b>21</b> | Members, you will vote on Article VIII,              |
| 11:56:32 | <b>22</b> | disregard of official duty, settlement agreement.    |
| 11:56:35 | <b>23</b> | While holding office as attorney general,            |
| 11:56:37 | <b>24</b> | Warren Kenneth Paxton misused his official powers by |
| 11:56:39 | <b>25</b> | concealing his wrongful acts in connection with      |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC                       |

|          |           | 36  |
|----------|-----------|---|
| 11:56:42 | <b>1</b>  | whistleblower complaints made by employees whom Paxton    |
| 11:56:44 | <b>2</b>  | had terminated.   |
| 11:56:46 | <b>3</b>  | Specifically, Paxton entered into a                       |
| 11:56:47 | <b>4</b>  | settlement agreement with the whistleblowers that         |
| 11:56:49 | <b>5</b>  | provides for payment of the settlement from public funds. |
| 11:56:52 | <b>6</b>  | The settlement agreement stayed the wrongful termination  |
| 11:56:56 | <b>7</b>  | suit and conspicuously delayed the discovery of facts and |
| 11:57:00 | <b>8</b>  | testimony at trial, to Paxton's advantage, which deprived |
| 11:57:02 | <b>9</b>  | the electorate of its opportunity to make an informed     |
| 11:57:05 | <b>10</b> | decision when voting for attorney general.                |
| 11:57:07 | <b>11</b> | Shall this article of impeachment be                      |
| 11:57:09 | <b>12</b> | sustained? A yea vote is to convict; a nay vote is to     |
| 11:57:12 | <b>13</b> | acquit. Please mark your ballots.                         |
| 11:57:51 | <b>14</b> | You may pick up the ballots. Ballots are                  |
| 11:58:14 | <b>15</b> | collected. Clerk will read them at random.                |
| 11:58:19 | <b>16</b> | THE CLERK: Senator Gutierrez, yea; Senator                |
| 11:58:35 | <b>17</b> | Johnson, nay; Senator Springer, nay; Senator Schwertner,  |
| 11:58:45 | <b>18</b> | nay; Senator Campbell, nay; Senator Nichols, yea; Senator |
| 11:58:56 | <b>19</b> | West, yea; Senator Whitmire, yea; Senator Huffman, nay;   |
| 11:59:08 | <b>20</b> | Senator Hinojosa, yea; Senator Zaffirini, nay; Senator    |
| 11:59:18 | <b>21</b> | Blanco, yea; Senator La Mantia, nay; Senator Parker, nay; |
| 11:59:29 | <b>22</b> | Senator Hughes, nay; Senator Miles, nay; Senator          |
| 11:59:47 | <b>23</b> | Eckhardt, nay; Senator Hancock, nay; Senator Menendez,    |
| 11:59:57 | <b>24</b> | yea; Senator Birdwell, nay; Senator Hall, nay; Senator    |
| 12:00:10 | <b>25</b> | Perry, nay; Senator Kolkhorst, nay; Senator Bettencourt,  |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC                            |

|                                |           | 37  |
|--------------------------------|-----------|---|
| 12:00:21                       | <b>1</b>  | nay; Senator Creighton, nay; Senator Middleton, nay;      |
| 12:00:32                       | <b>2</b>  | Senator Alvarado, yea; Senator King, nay; Senator Sparks, |
| 12:00:44                       | <b>3</b>  | nay; Senator Flores, nay.                                 |
| 12:00:54                       | <b>4</b>  | 8 yeas; 22 nays.  |
| 12:01:09                       | <b>5</b>  | PRESIDING OFFICER: Confirming the votes.                  |
| 12:01:17                       | <b>6</b>  | Senator Alvarado?   |
|                                | <b>7</b>  | SENATOR ALVARADO: Yea.                                    |
| 12:01:20                       | <b>8</b>  | PRESIDING OFFICER: Senator Bettencourt?                   |
|                                | <b>9</b>  | SENATOR BETTENCOURT: Nay.                                 |
| 12:01:21                       | <b>10</b> | PRESIDING OFFICER: Senator Birdwell?                      |
|                                | <b>11</b> | SENATOR BIRDWELL: Nay.                                    |
| 12:01:23                       | <b>12</b> | PRESIDING OFFICER: Senator Blanco?                        |
|                                | <b>13</b> | SENATOR BLANCO: Yea.                                      |
| 12:01:24                       | <b>14</b> | PRESIDING OFFICER: Senator Campbell?                      |
|                                | <b>15</b> | SENATOR CAMPBELL: Nay.                                    |
| 12:01:25                       | <b>16</b> | PRESIDING OFFICER: Senator Creighton?                     |
|                                | <b>17</b> | SENATOR CREIGHTON: Nay.                                   |
| 12:01:27                       | <b>18</b> | PRESIDING OFFICER: Senator Eckhardt?                      |
|                                | <b>19</b> | SENATOR ECKHARDT: Nay.                                    |
| 12:01:28                       | <b>20</b> | PRESIDING OFFICER: Senator Flores?                        |
|                                | <b>21</b> | SENATOR FLORES: Nay.                                      |
| 12:01:30                       | <b>22</b> | PRESIDING OFFICER: Senator Gutierrez?                     |
| 12:01:31                       | <b>23</b> | SENATOR GUTIERREZ: Yea.                                   |
| 12:01:32                       | <b>24</b> | PRESIDING OFFICER: Senator Hall?                          |
|                                | <b>25</b> | SENATOR HALL: Nay.  |
| TAMI LEWIS, CSR, RDR, CRR, CRC |           |   |

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|--------------------------------|-----------|--|
| 12:01:32                       | <b>1</b>  | PRESIDING OFFICER: Senator Hancock?        |
|                                | <b>2</b>  | SENATOR HANCOCK: Nay.                      |
|                                | <b>3</b>  | PRESIDING OFFICER: Senator Hinojosa?       |
|                                | <b>4</b>  | SENATOR HINOJOSA: Yea.                     |
|                                | <b>5</b>  | PRESIDING OFFICER: Senator Huffman?        |
|                                | <b>6</b>  | SENATOR HUFFMAN: Nay.                      |
| 12:01:37                       | <b>7</b>  | PRESIDING OFFICER: Senator Hughes?         |
| 12:01:37                       | <b>8</b>  | SENATOR HUGHES: Nay.                       |
| 12:01:37                       | <b>9</b>  | PRESIDING OFFICER: Senator Johnson?        |
|                                | <b>10</b> | SENATOR JOHNSON: Nay.                      |
| 12:01:39                       | <b>11</b> | PRESIDING OFFICER: Senator King?           |
|                                | <b>12</b> | SENATOR KING: Nay.                         |
| 12:01:40                       | <b>13</b> | PRESIDING OFFICER: Senator Kolkhorst?      |
|                                | <b>14</b> | SENATOR KOLKHORST: Nay.                    |
| 12:01:42                       | <b>15</b> | PRESIDING OFFICER: Senator La Mantia?      |
| 12:01:43                       | <b>16</b> | SENATOR LA MANTIA: Nay.                    |
| 12:01:43                       | <b>17</b> | PRESIDING OFFICER: Senator Menendez?       |
| 12:01:45                       | <b>18</b> | SENATOR MENENDEZ: Yea.                     |
| 12:01:46                       | <b>19</b> | PRESIDING OFFICER: Senator Middleton?      |
|                                | <b>20</b> | SENATOR MIDDLETON: Nay.                    |
|                                | <b>21</b> | PRESIDING OFFICER: Senator Miles?          |
| 12:01:50                       | <b>22</b> | SENATOR MILES: Yea.                        |
| 12:01:50                       | <b>23</b> | PRESIDING OFFICER: We have you marked as a |
| 12:01:51                       | <b>24</b> | nay on here. Did you say "yea" or "nay"?   |
| 12:01:53                       | <b>25</b> | SENATOR MILES: I'm sorry. Number 9, nay.   |
| TAMI LEWIS, CSR, RDR, CRR, CRC |           |  |

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|--------------------------------|-----------|--|
| 12:01:55                       | <b>1</b>  | PRESIDING OFFICER: You're nay. Okay.                   |
| 12:01:56                       | <b>2</b>  | Senator Nichols?                                       |
| 12:01:58                       | <b>3</b>  | SENATOR NICHOLS: Yea.                                  |
| 12:01:58                       | <b>4</b>  | THE COURT: Senator Parker?                             |
|                                | <b>5</b>  | SENATOR PARKER: Nay.                                   |
| 12:02:00                       | <b>6</b>  | PRESIDING OFFICER: Senator Perry? Senator              |
|                                | <b>7</b>  | Perry?   |
|                                | <b>8</b>  | SENATOR PERRY: Nay.                                    |
|                                | <b>9</b>  | PRESIDING OFFICER: Senator Schwertner?                 |
|                                | <b>10</b> | SENATOR SCHWERTNER: Nay.                               |
| 12:02:06                       | <b>11</b> | PRESIDING OFFICER: Senator Sparks?                     |
|                                | <b>12</b> | SENATOR SPARKS: Nay.                                   |
| 12:02:07                       | <b>13</b> | PRESIDING OFFICER: Senator Springer?                   |
| 12:02:08                       | <b>14</b> | SENATOR SPRINGER: Nay.                                 |
| 12:02:08                       | <b>15</b> | PRESIDING OFFICER: Senator West?                       |
| 12:02:09                       | <b>16</b> | SENATOR WEST: Yea.                                     |
| 12:02:10                       | <b>17</b> | PRESIDING OFFICER: Senator Whitmire?                   |
|                                | <b>18</b> | SENATOR WHITMIRE: Nay.                                 |
| 12:02:11                       | <b>19</b> | PRESIDING OFFICER: Senator Zaffirini?                  |
| 12:02:13                       | <b>20</b> | SENATOR ZAFFIRINI: Nay.                                |
| 12:02:13                       | <b>21</b> | PRESIDING OFFICER: There being 8 yeas and              |
| 12:02:15                       | <b>22</b> | 22 nays, a finding of acquittal is entered for Article |
| 12:02:18                       | <b>23</b> | VIII.  |
| 12:02:32                       | <b>24</b> | Members, you will now vote on Article IX,              |
| 12:02:34                       | <b>25</b> | constitutional bribery, Paul's employment of mistress. |
| TAMI LEWIS, CSR, RDR, CRR, CRC |           |  |

|                                |           | 40   |
|--------------------------------|-----------|--|
| 12:02:37                       | <b>1</b>  | While holding office as attorney general,                |
| 12:02:39                       | <b>2</b>  | Warren Kenneth Paxton engaged in bribery in violation of |
| 12:02:41                       | <b>3</b>  | Section 41, Article XVI, Texas Constitution.             |
| 12:02:45                       | <b>4</b>  | Specifically, Paxton benefitted from Nate                |
| 12:02:46                       | <b>5</b>  | Paul's employment of a woman with whom Paxton was having |
| 12:02:50                       | <b>6</b>  | an extramarital affair. Paul received favorable legal    |
| 12:02:52                       | <b>7</b>  | assistance from or specialized access to the Office of   |
| 12:02:56                       | <b>8</b>  | the Attorney General.                                    |
| 12:02:56                       | <b>9</b>  | Shall this article of impeachment be                     |
| 12:02:58                       | <b>10</b> | sustained? A yea vote is to convict; a nay vote is to    |
| 12:03:04                       | <b>11</b> | acquit. Please mark your voting form.                    |
| 12:03:15                       | <b>12</b> | I believe you can collect. All ballots                   |
| 12:04:03                       | <b>13</b> | collected. Secretary -- clerk of the court will read at  |
| 12:04:08                       | <b>14</b> | random.  |
| 12:04:12                       | <b>15</b> | THE CLERK: Menendez, yea; Birdwell, nay;                 |
| 12:04:26                       | <b>16</b> | Hall, nay; Perry, nay; Kolkhorst, nay; Bettencourt, nay; |
| 12:04:45                       | <b>17</b> | Creighton, nay; Middleton, nay; Alvarado, yea; Eckhardt, |
| 12:04:56                       | <b>18</b> | yea; King, nay; Sparks, nay; Flores, nay; Hancock, nay;  |
| 12:05:29                       | <b>19</b> | Blanco, yea; La Mantia, yea; Parker, nay; Hughes, nay;   |
| 12:05:44                       | <b>20</b> | Miles, yea; Gutierrez, yea; Johnson, yea; Springer, nay; |
| 12:06:04                       | <b>21</b> | Schwertner, nay; Campbell, nay, Nichols, nay; West, yea; |
| 12:06:17                       | <b>22</b> | Whitmire, yea; Huffman, nay; Hinojosa, yea; Zaffirini,   |
| 12:06:27                       | <b>23</b> | yea.   |
| 12:06:35                       | <b>24</b> | 12 yeas; 18 nays.  |
| 12:06:51                       | <b>25</b> | PRESIDING OFFICER: Confirming the vote.                  |
| TAMI LEWIS, CSR, RDR, CRR, CRC |           |  |

|          |           |   |
|----------|-----------|---|
|          |           | 41                                      |
| 12:06:55 | <b>1</b>  | Senator Alvarado?                       |
|          | <b>2</b>  | SENATOR ALVARADO: Yea.                  |
| 12:06:56 | <b>3</b>  | PRESIDING OFFICER: Senator Bettencourt? |
|          | <b>4</b>  | SENATOR BETTENCOURT: Nay.               |
| 12:06:57 | <b>5</b>  | PRESIDING OFFICER: Senator Birdwell?    |
|          | <b>6</b>  | SENATOR BIRDWELL: Nay.                  |
| 12:06:59 | <b>7</b>  | PRESIDING OFFICER: Senator Blanco?      |
|          | <b>8</b>  | SENATOR BLANCO: Yea.                    |
| 12:07:00 | <b>9</b>  | PRESIDING OFFICER: Senator Campbell?    |
|          | <b>10</b> | SENATOR CAMPBELL: Nay.                  |
| 12:07:01 | <b>11</b> | PRESIDING OFFICER: Senator Creighton?   |
|          | <b>12</b> | SENATOR CREIGHTON: Nay.                 |
| 12:07:03 | <b>13</b> | PRESIDING OFFICER: Senator Eckhardt?    |
|          | <b>14</b> | SENATOR ECKHARDT: Yea.                  |
| 12:07:04 | <b>15</b> | PRESIDING OFFICER: Senator Flores?      |
|          | <b>16</b> | SENATOR FLORES: Nay.                    |
| 12:07:05 | <b>17</b> | PRESIDING OFFICER: Senator Gutierrez?   |
|          | <b>18</b> | SENATOR GUTIERREZ: Yea.                 |
| 12:07:06 | <b>19</b> | PRESIDING OFFICER: Senator Hall?        |
|          | <b>20</b> | SENATOR HALL: Nay.                      |
| 12:07:08 | <b>21</b> | PRESIDING OFFICER: Senator Hancock?     |
|          | <b>22</b> | SENATOR HANCOCK: Nay.                   |
| 12:07:10 | <b>23</b> | PRESIDING OFFICER: Senator Hinojosa?    |
|          | <b>24</b> | SENATOR HINOJOSA: Yea.                  |
| 12:07:10 | <b>25</b> | PRESIDING OFFICER: Senator Huffman?     |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC          |

|          |           |  |
|----------|-----------|--|
|          |           | 42                                     |
|          | <b>1</b>  | SENATOR HUFFMAN: Nay.                  |
| 12:07:12 | <b>2</b>  | PRESIDING OFFICER: Senator Hughes?     |
|          | <b>3</b>  | SENATOR HUGHES: Nay.                   |
| 12:07:13 | <b>4</b>  | PRESIDING OFFICER: Senator Johnson?    |
|          | <b>5</b>  | SENATOR JOHNSON: Yea.                  |
| 12:07:14 | <b>6</b>  | PRESIDING OFFICER: Senator King?       |
|          | <b>7</b>  | SENATOR KING: Nay.                     |
| 12:07:17 | <b>8</b>  | PRESIDING OFFICER: Senator Kolkhorst?  |
|          | <b>9</b>  | SENATOR KOLKHORST: Nay.                |
| 12:07:19 | <b>10</b> | PRESIDING OFFICER: Senator La Mantia?  |
|          | <b>11</b> | SENATOR LA MANTIA: Yea.                |
| 12:07:19 | <b>12</b> | PRESIDING OFFICER: Senator Menendez?   |
|          | <b>13</b> | SENATOR MENENDEZ: Yea.                 |
| 12:07:21 | <b>14</b> | PRESIDING OFFICER: Senator Middleton?  |
|          | <b>15</b> | SENATOR MIDDLETON: Nay.                |
|          | <b>16</b> | PRESIDING OFFICER: Senator Miles?      |
|          | <b>17</b> | SENATOR MIDDLETON: Yea.                |
| 12:07:24 | <b>18</b> | PRESIDING OFFICER: Senator Nichols?    |
|          | <b>19</b> | SENATOR NICHOLS: Nay.                  |
| 12:07:26 | <b>20</b> | PRESIDING OFFICER: Senator Parker?     |
|          | <b>21</b> | SENATOR PARKER: Nay.                   |
| 12:07:27 | <b>22</b> | PRESIDING OFFICER: Senator Perry?      |
|          | <b>23</b> | SENATOR PERRY: Nay.                    |
| 12:07:28 | <b>24</b> | PRESIDING OFFICER: Senator Schwertner? |
|          | <b>25</b> | SENATOR SCHWERTNER: Nay.               |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC         |

|          |           |  |
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|          |           | 43   |
|          | <b>1</b>  | PRESIDING OFFICER: Senator Sparks?                       |
|          | <b>2</b>  | SENATOR SPARKS: Nay.                                     |
| 12:07:31 | <b>3</b>  | PRESIDING OFFICER: Senator Springer?                     |
|          | <b>4</b>  | SENATOR SPRINGER: Nay.                                   |
| 12:07:33 | <b>5</b>  | PRESIDING OFFICER: Senator West?                         |
|          | <b>6</b>  | SENATOR WEST: Yea.                                       |
|          | <b>7</b>  | PRESIDING OFFICER: Senator Whitmire?                     |
|          | <b>8</b>  | SENATOR WHITMIRE: Yea.                                   |
| 12:07:35 | <b>9</b>  | PRESIDING OFFICER: Senator Zaffirini?                    |
|          | <b>10</b> | SENATOR ZAFFIRINI: Yea.                                  |
| 12:07:38 | <b>11</b> | PRESIDING OFFICER: There being 12 yeas and               |
| 12:07:40 | <b>12</b> | 18 nays, a finding of acquittal is entered for Article   |
| 12:07:46 | <b>13</b> | IX.  |
| 12:07:47 | <b>14</b> | We have 16 total articles to vote on. We                 |
| 12:07:58 | <b>15</b> | are now on Article Number X, constitutional bribery,     |
| 12:08:01 | <b>16</b> | Paul's providing renovations to the Paxton home.         |
| 12:08:04 | <b>17</b> | While holding office as attorney general,                |
| 12:08:06 | <b>18</b> | Warren Kenneth Paxton engaged in bribery in violation of |
| 12:08:08 | <b>19</b> | Section 41, Article XVI, Texas Constitution.             |
| 12:08:12 | <b>20</b> | Specifically, Paxton benefitted from Nate                |
| 12:08:15 | <b>21</b> | Paul providing renovations to Paxton's home. Paul        |
| 12:08:17 | <b>22</b> | received favorable legal assistance from or specialized  |
| 12:08:21 | <b>23</b> | access to the Office of the Attorney General.            |
| 12:08:23 | <b>24</b> | Shall this article of impeachment be                     |
| 12:08:25 | <b>25</b> | sustained? A yeas vote is to convict; a nay vote is to   |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC                           |

|          |           |   |
|----------|-----------|---|
|          |           | 44  |
| 12:08:28 | <b>1</b>  | acquitt. Please mark your ballots.                        |
| 12:08:36 | <b>2</b>  | You may collect the ballots. All ballots                  |
| 12:09:31 | <b>3</b>  | are collected. Clerk will read them at random.            |
| 12:09:35 | <b>4</b>  | THE CLERK: Senator Springer, nay; Senator                 |
| 12:09:51 | <b>5</b>  | Schwertner, nay; Senator Campbell, nay; Senator Nichols,  |
| 12:09:58 | <b>6</b>  | yea; Senator West, yea; Senator Whitmire, yea; Senator    |
| 12:10:10 | <b>7</b>  | Huffman, nay; Senator Hinojosa, yea.                      |
| 12:10:33 | <b>8</b>  | PRESIDING OFFICER: Matt, can you come                     |
| 12:10:34 | <b>9</b>  | forward, please?  |
| 12:10:46 | <b>10</b> | This ballot was not marked, Senator                       |
| 12:10:49 | <b>11</b> | Zaffirini, so we're going to return it to you. This is    |
| 12:10:52 | <b>12</b> | Article X. Since you have recorded 72,000 consecutive     |
| 12:11:06 | <b>13</b> | ballots and votes since the mid '80s as a Senator, I      |
| 12:11:10 | <b>14</b> | didn't want you to miss one. I'm looking out for you.     |
| 12:11:16 | <b>15</b> | THE CLERK: Senator Zaffirini, yea; Senator                |
| 12:11:20 | <b>16</b> | Blanco, yea; Senator La Mantia, yea; Senator Parker, nay; |
| 12:11:33 | <b>17</b> | Senator Hughes, nay; Senator Miles, yea; Senator          |
| 12:11:42 | <b>18</b> | Gutierrez, yea; Senator Johnson, yea; Senator Kolkhorst,  |
| 12:12:02 | <b>19</b> | nay; Senator Bettencourt, nay; Senator Creighton, nay;    |
| 12:12:19 | <b>20</b> | Senator Middleton, nay; Senator Alvarado, yea; Senator    |
| 12:12:29 | <b>21</b> | Eckhardt, yea; Senator King, nay; Senator Sparks, nay;    |
| 12:12:45 | <b>22</b> | Senator Flores, nay; Senator Hancock, yea; Senator        |
| 12:12:54 | <b>23</b> | Menendez, yea; Senator Birdwell, nay; Senator Hall, nay;  |
| 12:13:09 | <b>24</b> | Senator Perry, nay.                                       |
| 12:13:11 | <b>25</b> | 14 yeas; 16 nays.   |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC                            |



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|--------------------------------|-----------|--|
| 12:13:31                       | <b>1</b>  | PRESIDING OFFICER: I'll confirm the votes. |
| 12:13:37                       | <b>2</b>  | Senator Alvarado?                          |
|                                | <b>3</b>  | SENATOR ALVARADO: Yea.                     |
| 12:13:38                       | <b>4</b>  | PRESIDING OFFICER: Senator Bettencourt?    |
|                                | <b>5</b>  | SENATOR BETTENCOURT: Nay.                  |
| 12:13:40                       | <b>6</b>  | PRESIDING OFFICER: Senator Birdwell?       |
|                                | <b>7</b>  | SENATOR BIRDWELL: Nay.                     |
| 12:13:41                       | <b>8</b>  | PRESIDING OFFICER: Senator Blanco?         |
|                                | <b>9</b>  | SENATOR BLANCO: Yea.                       |
| 12:13:42                       | <b>10</b> | PRESIDING OFFICER: Senator Campbell?       |
|                                | <b>11</b> | SENATOR CAMPBELL: Nay.                     |
| 12:13:43                       | <b>12</b> | PRESIDING OFFICER: Senator Creighton?      |
|                                | <b>13</b> | SENATOR CREIGHTON: Nay.                    |
| 12:13:44                       | <b>14</b> | PRESIDING OFFICER: Senator Eckhardt?       |
|                                | <b>15</b> | SENATOR ECKHARDT: Yea.                     |
| 12:13:45                       | <b>16</b> | PRESIDING OFFICER: Senator Flores?         |
|                                | <b>17</b> | SENATOR FLORES: Nay.                       |
| 12:13:47                       | <b>18</b> | PRESIDING OFFICER: Senator Gutierrez?      |
|                                | <b>19</b> | SENATOR GUTIERREZ: Yea.                    |
| 12:13:49                       | <b>20</b> | PRESIDING OFFICER: Senator Hall?           |
|                                | <b>21</b> | SENATOR HALL: Nay.                         |
| 12:13:50                       | <b>22</b> | PRESIDING OFFICER: Senator Hancock?        |
|                                | <b>23</b> | SENATOR HANCOCK: Yea.                      |
| 12:13:51                       | <b>24</b> | PRESIDING OFFICER: Senator Hinojosa?       |
|                                | <b>25</b> | SENATOR HINOJOSA: Yea.                     |
| TAMI LEWIS, CSR, RDR, CRR, CRC |           |  |

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|--------------------------------|-----------|--|
| 12:13:53                       | <b>1</b>  | PRESIDING OFFICER: Senator Huffman?    |
|                                | <b>2</b>  | SENATOR HUFFMAN: Nay.                  |
| 12:13:54                       | <b>3</b>  | PRESIDING OFFICER: Senator Hughes?     |
|                                | <b>4</b>  | SENATOR HUGHES: Nay.                   |
| 12:13:55                       | <b>5</b>  | PRESIDING OFFICER: Senator Johnson?    |
|                                | <b>6</b>  | SENATOR JOHNSON: Yea.                  |
| 12:13:57                       | <b>7</b>  | PRESIDING OFFICER: Senator King?       |
|                                | <b>8</b>  | SENATOR KING: Nay.                     |
| 12:13:58                       | <b>9</b>  | PRESIDING OFFICER: Senator Kolkhorst?  |
|                                | <b>10</b> | SENATOR KOLKHORST: Nay.                |
| 12:13:59                       | <b>11</b> | PRESIDING OFFICER: Senator La Mantia?  |
|                                | <b>12</b> | SENATOR LA MANTIA: Yea.                |
| 12:14:02                       | <b>13</b> | PRESIDING OFFICER: Senator Menendez?   |
|                                | <b>14</b> | SENATOR MENENDEZ: Yea.                 |
|                                | <b>15</b> | PRESIDING OFFICER: Senator Middleton?  |
|                                | <b>16</b> | SENATOR MIDDLETON: Nay.                |
| 12:14:04                       | <b>17</b> | PRESIDING OFFICER: Senator Miles?      |
|                                | <b>18</b> | SENATOR MILES: Yea.                    |
| 12:14:05                       | <b>19</b> | PRESIDING OFFICER: Senator Nichols?    |
|                                | <b>20</b> | SENATOR NICHOLS: Yea.                  |
| 12:14:06                       | <b>21</b> | PRESIDING OFFICER: Senator Parker?     |
|                                | <b>22</b> | SENATOR PARKER: Nay.                   |
| 12:14:08                       | <b>23</b> | PRESIDING OFFICER: Senator Perry?      |
|                                | <b>24</b> | SENATOR PERRY: Nay.                    |
| 12:14:10                       | <b>25</b> | PRESIDING OFFICER: Senator Schwertner? |
| TAMI LEWIS, CSR, RDR, CRR, CRC |           |  |

|                                |           | 47  |
|--------------------------------|-----------|---|
|                                | <b>1</b>  | SENATOR SCHWERTNER: Nay.                                  |
| 12:14:11                       | <b>2</b>  | PRESIDING OFFICER: Senator Sparks?                        |
|                                | <b>3</b>  | SENATOR SPARKS: Nay.                                      |
| 12:14:12                       | <b>4</b>  | PRESIDING OFFICER: Senator Springer?                      |
|                                | <b>5</b>  | SENATOR SPRINGER: Nay.                                    |
| 12:14:13                       | <b>6</b>  | PRESIDING OFFICER: Senator West?                          |
| 12:14:14                       | <b>7</b>  | SENATOR WEST: Yea.  |
| 12:14:14                       | <b>8</b>  | PRESIDING OFFICER: Senator Whitmire?                      |
| 12:14:16                       | <b>9</b>  | SENATOR WHITMIRE: Yea.                                    |
|                                | <b>10</b> | PRESIDING OFFICER: Senator Zaffirini?                     |
|                                | <b>11</b> | SENATOR ZAFFIRINI: Yea.                                   |
| 12:14:17                       | <b>12</b> | PRESIDING OFFICER: There being 14 yeas, 16                |
| 12:14:19                       | <b>13</b> | nays, a finding of acquittal is entered as to Article X.  |
| 12:14:25                       | <b>14</b> | And if you've joined us in mid-session                    |
| 12:14:29                       | <b>15</b> | online, it takes 21 votes to convict, and the attorney    |
| 12:14:35                       | <b>16</b> | general is removed from office if he's convicted on just  |
| 12:14:38                       | <b>17</b> | one of the 16 articles.                                   |
| 12:14:39                       | <b>18</b> | We are now to Article XI. I'm sorry. It's                 |
| 12:14:47                       | <b>19</b> | Article XV because we skipped a few numbers.              |
| 12:14:55                       | <b>20</b> | Excuse me.  |
| 12:14:59                       | <b>21</b> | False statements in official records,                     |
| 12:15:01                       | <b>22</b> | whistleblower response report. This is Article XV.        |
| 12:15:04                       | <b>23</b> | While holding office as attorney general,                 |
| 12:15:06                       | <b>24</b> | Warren Kenneth Paxton made false or misleading statements |
| 12:15:09                       | <b>25</b> | in official records to mislead both the public and public |
| TAMI LEWIS, CSR, RDR, CRR, CRC |           |   |

|                                |           | 48   |
|--------------------------------|-----------|--|
| 12:15:11                       | <b>1</b>  | officials.   |
| 12:15:13                       | <b>2</b>  | Specifically, Paxton made or caused to be                    |
| 12:15:16                       | <b>3</b>  | made multiple false or misleading statements in a lengthy    |
| 12:15:18                       | <b>4</b>  | written report issued by his office in response to           |
| 12:15:21                       | <b>5</b>  | whistleblower allegations.                                   |
| 12:15:22                       | <b>6</b>  | Shall this article of impeachment be                         |
| 12:15:24                       | <b>7</b>  | sustained? A yeas vote is to convict; a nays vote is to      |
| 12:15:27                       | <b>8</b>  | acquit. Please mark your voting form.                        |
| 12:16:08                       | <b>9</b>  | You may pick up the ballots. All the                         |
| 12:16:56                       | <b>10</b> | ballots are in. The clerk will read them at random.          |
| 12:17:00                       | <b>11</b> | THE CLERK: Senator Eckhardt, yeas; Senator                   |
| 12:17:17                       | <b>12</b> | King, nays; Senator Sparks, nays; Senator Flores, nays;      |
| 12:17:30                       | <b>13</b> | Hancock, yeas; Senator Menendez, yeas; Senator Birdwell,     |
| 12:17:38                       | <b>14</b> | nays; Senator Hall, nays; Senator Perry, nays; Senator       |
| 12:17:54                       | <b>15</b> | Kolkhorst, nays; Senator Bettencourt, nays; Senator          |
| 12:18:05                       | <b>16</b> | Creighton, nays; Senator Middleton, nays; Senator Alvarado,  |
| 12:18:15                       | <b>17</b> | yeas; Senator Miles, yeas; Senator Gutierrez, yeas; Senator  |
| 12:18:36                       | <b>18</b> | Johnson, yeas; Senator Springer, nays; Senator Schwertner,   |
| 12:18:44                       | <b>19</b> | nays; Senator Campbell, nays; Senator Nichols, yeas; Senator |
| 12:18:55                       | <b>20</b> | West, yeas; Senator Whitmire, yeas; Senator Huffman, nays;   |
| 12:19:07                       | <b>21</b> | Senator Hinojosa, yeas; Senator Zaffirini, yeas; Senator     |
| 12:19:18                       | <b>22</b> | Blanco, yeas; Senator La Mantia, yeas; Senator Parker, nays; |
| 12:19:32                       | <b>23</b> | Senator Hughes, nays.  |
| 12:19:34                       | <b>24</b> | 14 yeas; 16 nays.  |
| 12:19:54                       | <b>25</b> | PRESIDING OFFICER: Confirming the vote.                      |
| TAMI LEWIS, CSR, RDR, CRR, CRC |           |  |

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|----------|-----------|---|
| 12:20:00 | <b>1</b>  | Senator Alvarado?   |
|          | <b>2</b>  | SENATOR ALVARADO: Yea.  |
| 12:20:01 | <b>3</b>  | PRESIDING OFFICER: Senator Bettencourt?                               |
|          | <b>4</b>  | SENATOR BETTENCOURT: Nay.   |
| 12:20:02 | <b>5</b>  | PRESIDING OFFICER: Senator Birdwell?                                  |
| 12:20:04 | <b>6</b>  | SENATOR BIRDWELL: Nay.  |
| 12:20:04 | <b>7</b>  | PRESIDING OFFICER: Senator Blanco?                                    |
|          | <b>8</b>  | SENATOR BLANCO: Yea.  |
| 12:20:05 | <b>9</b>  | PRESIDING OFFICER: Senator Campbell?                                  |
|          | <b>10</b> | SENATOR CAMPBELL: Nay.  |
| 12:20:07 | <b>11</b> | PRESIDING OFFICER: Senator Creighton?                                 |
|          | <b>12</b> | SENATOR CREIGHTON: Nay.   |
| 12:20:08 | <b>13</b> | PRESIDING OFFICER: Senator Eckhardt?                                  |
|          | <b>14</b> | SENATOR ECKHARDT: Yea.  |
| 12:20:09 | <b>15</b> | PRESIDING OFFICER: Senator Flores?                                    |
|          | <b>16</b> | SENATOR FLORES: Nay.  |
| 12:20:10 | <b>17</b> | PRESIDING OFFICER: Senator Gutierrez?                                 |
|          | <b>18</b> | SENATOR GUTIERREZ: Yea.   |
| 12:20:12 | <b>19</b> | PRESIDING OFFICER: Senator Hall?                                      |
|          | <b>20</b> | SENATOR HALL: Nay.  |
| 12:20:13 | <b>21</b> | PRESIDING OFFICER: Senator Hancock?                                   |
|          | <b>22</b> | SENATOR HANCOCK: Yea.   |
| 12:20:14 | <b>23</b> | PRESIDING OFFICER: Senator Hinojosa?                                  |
|          | <b>24</b> | SENATOR HINOJOSA: Yea.  |
| 12:20:16 | <b>25</b> | PRESIDING OFFICER: Senator Huffman?<br>TAMI LEWIS, CSR, RDR, CRR, CRC |

|          |           | 50   |
|----------|-----------|--|
|          | <b>1</b>  | SENATOR HUFFMAN: Nay.                                      |
| 12:20:17 | <b>2</b>  | PRESIDING OFFICER: Senator Hughes?                         |
|          | <b>3</b>  | SENATOR HUGHES: Nay.                                       |
| 12:20:18 | <b>4</b>  | PRESIDING OFFICER: Senator Johnson?                        |
|          | <b>5</b>  | SENATOR JOHNSON: Yea.                                      |
| 12:20:20 | <b>6</b>  | PRESIDING OFFICER: Senator King?                           |
|          | <b>7</b>  | SENATOR KING: Nay.   |
| 12:20:22 | <b>8</b>  | PRESIDING OFFICER: Senator Kolkhorst?                      |
|          | <b>9</b>  | SENATOR KOLKHORST: Nay.                                    |
| 12:20:23 | <b>10</b> | PRESIDING OFFICER: Senator La Mantia?                      |
| 12:20:25 | <b>11</b> | SENATOR LA MANTIA: Yea.                                    |
| 12:20:25 | <b>12</b> | PRESIDING OFFICER: Senator Menendez?                       |
|          | <b>13</b> | SENATOR MENENDEZ: Yea.                                     |
| 12:20:27 | <b>14</b> | PRESIDING OFFICER: Senator Middleton?                      |
| 12:20:28 | <b>15</b> | SENATOR MIDDLETON: Nay.                                    |
| 12:20:29 | <b>16</b> | PRESIDING OFFICER: Senator Miles?                          |
|          | <b>17</b> | SENATOR MILES: Yea.  |
| 12:20:30 | <b>18</b> | PRESIDING OFFICER: Senator Nichols?                        |
|          | <b>19</b> | SENATOR NICHOLS: Yea.                                      |
| 12:20:33 | <b>20</b> | PRESIDING OFFICER: Senator Parker?                         |
|          | <b>21</b> | SENATOR PARKER: Nay.                                       |
| 12:20:34 | <b>22</b> | PRESIDING OFFICER: Senator Perry?                          |
|          | <b>23</b> | SENATOR PERRY: Nay.  |
| 12:20:36 | <b>24</b> | PRESIDING OFFICER: Senator Schwertner?                     |
| 12:20:37 | <b>25</b> | SENATOR SCHWERTNER: Nay.<br>TAMI LEWIS, CSR, RDR, CRR, CRC |

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|----------|-----------|---|
| 12:20:37 | <b>1</b>  | PRESIDING OFFICER: Senator Sparks?  |
|          | <b>2</b>  | SENATOR SPARKS: Nay.  |
| 12:20:38 | <b>3</b>  | PRESIDING OFFICER: Senator Springer?                                      |
| 12:20:39 | <b>4</b>  | SENATOR SPRINGER: Nay.  |
| 12:20:40 | <b>5</b>  | PRESIDING OFFICER: Senator West?  |
|          | <b>6</b>  | SENATOR WEST: Yea.  |
| 12:20:41 | <b>7</b>  | PRESIDING OFFICER: Senator Whitmire?                                      |
|          | <b>8</b>  | SENATOR WHITMIRE: Yea.  |
| 12:20:43 | <b>9</b>  | PRESIDING OFFICER: Senator Zaffirini?                                     |
| 12:20:44 | <b>10</b> | SENATOR ZAFFIRINI: Yea.   |
| 12:20:44 | <b>11</b> | PRESIDING OFFICER: There being 14 aye --                                  |
| 12:20:46 | <b>12</b> | yeas and 16 nays, the finding of acquittal is entered for                 |
| 12:20:50 | <b>13</b> | Article XV.   |
| 12:21:04 | <b>14</b> | Members, you will now vote on Article XVI,                                |
| 12:21:07 | <b>15</b> | conspiracy and attempted conspiracy.                                      |
| 12:21:08 | <b>16</b> | While holding office as attorney general,                                 |
| 12:21:11 | <b>17</b> | Warren Kenneth Paxton acted with others to conspire or                    |
| 12:21:13 | <b>18</b> | attempt to conspire to commit acts described in one or                    |
| 12:21:16 | <b>19</b> | more articles.  |
| 12:21:17 | <b>20</b> | Shall this article of impeachment be                                      |
| 12:21:20 | <b>21</b> | sustained? A yea vote is to convict; a nay vote is to                     |
| 12:21:32 | <b>22</b> | acquit. Please mark your ballots.   |
| 12:21:40 | <b>23</b> | I believe you can collect them. All the                                   |
| 12:22:24 | <b>24</b> | ballots are in. Clerk will read them at random.                           |
| 12:22:37 | <b>25</b> | THE CLERK: Kolkhorst, nay; Bettencourt,<br>TAMI LEWIS, CSR, RDR, CRR, CRC |

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|----------|-----------|--|
| 12:22:50 | <b>1</b>  | nay; Creighton, nay; Middleton, nay; Alvarado, yea;                  |
| 12:23:03 | <b>2</b>  | Eckhardt, yea; King, nay; Sparks, nay; Flores, nay;                  |
| 12:23:25 | <b>3</b>  | Hancock, yea; Menendez, yea; Birdwell, nay; Hall, nay;               |
| 12:23:44 | <b>4</b>  | Perry, nay; Schwertner, nay; Campbell, nay; Nichols, yea;            |
| 12:24:11 | <b>5</b>  | West, yea; Whitmire, yea; Huffman, nay; Hinojosa, yea;               |
| 12:24:26 | <b>6</b>  | Zaffirini, yea; Blanco, yea; La Mantia, yea; Parker, nay;            |
| 12:24:40 | <b>7</b>  | Hughes, nay; Miles, yea; Gutierrez, yea; Johnson, yea;               |
| 12:24:57 | <b>8</b>  | Springer, nay.   |
| 12:25:00 | <b>9</b>  | 14 yeas; 16 nays.  |
| 12:25:18 | <b>10</b> | PRESIDING OFFICER: Confirm the votes.                                |
| 12:25:21 | <b>11</b> | Senator Alvarado?  |
| 12:25:22 | <b>12</b> | SENATOR ALVARADO: Yea.   |
| 12:25:22 | <b>13</b> | PRESIDING OFFICER: Senator Bettencourt?                              |
|          | <b>14</b> | SENATOR BETTENCOURT: Nay.  |
| 12:25:24 | <b>15</b> | PRESIDING OFFICER: Senator Birdwell?                                 |
|          | <b>16</b> | SENATOR BIRDWELL: Nay.   |
| 12:25:25 | <b>17</b> | PRESIDING OFFICER: Senator Blanco?                                   |
|          | <b>18</b> | SENATOR BLANCO: Yea.   |
| 12:25:26 | <b>19</b> | PRESIDING OFFICER: Senator Campbell?                                 |
|          | <b>20</b> | SENATOR CAMPBELL: Nay.   |
| 12:25:28 | <b>21</b> | PRESIDING OFFICER: Senator Creighton?                                |
|          | <b>22</b> | SENATOR CREIGHTON: Nay.  |
| 12:25:29 | <b>23</b> | PRESIDING OFFICER: Senator Eckhardt?                                 |
|          | <b>24</b> | SENATOR ECKHARDT: Yea.   |
| 12:25:31 | <b>25</b> | PRESIDING OFFICER: Senator Flores?<br>TAMI LEWIS, CSR, RDR, CRR, CRC |

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|          |           |                                       |
|----------|-----------|---------------------------------------|
| 12:25:32 | <b>1</b>  | SENATOR FLORES: Nay.                  |
| 12:25:33 | <b>2</b>  | PRESIDING OFFICER: Senator Gutierrez? |
| 12:25:34 | <b>3</b>  | SENATOR GUTIERREZ: Yea.               |
| 12:25:34 | <b>4</b>  | PRESIDING OFFICER: Senator Hall?      |
|          | <b>5</b>  | SENATOR HALL: Nay.                    |
| 12:25:35 | <b>6</b>  | PRESIDING OFFICER: Senator Hancock?   |
|          | <b>7</b>  | SENATOR HANCOCK: Yea.                 |
|          | <b>8</b>  | PRESIDING OFFICER: Senator Hinojosa?  |
|          | <b>9</b>  | SENATOR HINOJOSA: Yea.                |
| 12:25:38 | <b>10</b> | PRESIDING OFFICER: Senator Huffman?   |
| 12:25:39 | <b>11</b> | SENATOR HUFFMAN: Nay.                 |
| 12:25:39 | <b>12</b> | PRESIDING OFFICER: Senator Hughes?    |
|          | <b>13</b> | SENATOR HUGHES: Nay.                  |
| 12:25:40 | <b>14</b> | PRESIDING OFFICER: Senator Johnson?   |
|          | <b>15</b> | SENATOR JOHNSON: Yea.                 |
| 12:25:41 | <b>16</b> | PRESIDING OFFICER: Senator King?      |
|          | <b>17</b> | SENATOR KING: Nay.                    |
| 12:25:43 | <b>18</b> | PRESIDING OFFICER: Senator Kolkhorst? |
|          | <b>19</b> | SENATOR KOLKHORST: Nay.               |
| 12:25:46 | <b>20</b> | PRESIDING OFFICER: Senator La Mantia? |
| 12:25:46 | <b>21</b> | SENATOR LA MANTIA: Yea.               |
| 12:25:47 | <b>22</b> | PRESIDING OFFICER: Senator Menendez?  |
|          | <b>23</b> | SENATOR MENENDEZ: Yea.                |
|          | <b>24</b> | PRESIDING OFFICER: Senator Middleton? |
|          | <b>25</b> | SENATOR MIDDLETON: Nay.               |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC        |

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|          |           |   |
|----------|-----------|---|
| 12:26:23 | <b>1</b>  | XVII, misappropriation of public resources.               |
| 12:26:25 | <b>2</b>  | While holding office as attorney general,                 |
| 12:26:27 | <b>3</b>  | Warren Kenneth Paxton misused his official powers by      |
| 12:26:29 | <b>4</b>  | causing employees of his office to perform services for   |
| 12:26:32 | <b>5</b>  | his benefit and the benefit of others.                    |
| 12:26:34 | <b>6</b>  | Shall this article of impeachment be                      |
| 12:26:36 | <b>7</b>  | sustained? A yea vote is to convict; a nay vote is to     |
| 12:26:40 | <b>8</b>  | acquit. Please mark your ballots.                         |
| 12:27:04 | <b>9</b>  | You may pick them up. All ballots have                    |
| 12:27:54 | <b>10</b> | been turned in. The clerk will read them in random.       |
| 12:28:04 | <b>11</b> | THE CLERK: Alvarado, yea; Eckhardt, yea;                  |
| 12:28:16 | <b>12</b> | Senator King, nay; Senator Sparks, nay; Senator Flores,   |
| 12:28:26 | <b>13</b> | na; Senator Hancock, yea; Senator Menendez, yea; Senator  |
| 12:28:39 | <b>14</b> | Birdwell, nay; Senator Hall, nay; Senator Perry, nay;     |
| 12:28:52 | <b>15</b> | Senator Kolkhorst, nay; Senator Bettencourt, nay; Senator |
| 12:29:00 | <b>16</b> | Creighton, nay; Senator Middleton, nay; Senator           |
| 12:29:18 | <b>17</b> | Schwertner, nay; Senator Campbell, nay; Senator Nichols,  |
| 12:29:25 | <b>18</b> | yea; Senator West, yea; Senator Whitmire, yea; Senator    |
| 12:29:37 | <b>19</b> | Huffman, nay; Senator Hinojosa, yea; Senator Zaffirini,   |
| 12:29:45 | <b>20</b> | yea; Senator Blanco, yea; Senator La Mantia, yea; Senator |
| 12:29:57 | <b>21</b> | Parker, nay; Senator Hughes, nay; Senator Miles, yea;     |
| 12:30:08 | <b>22</b> | Senator Gutierrez, yea; Senator Johnson, yea; Senator     |
| 12:30:17 | <b>23</b> | Springer, nay.  |
| 12:30:19 | <b>24</b> | 14 yeas; 16 nays.   |
| 12:30:37 | <b>25</b> | PRESIDING OFFICER: Confirming the vote.                   |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC                            |

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|          |           |  |
|----------|-----------|--|
|          | <b>1</b>  | PRESIDING OFFICER: Senator Hugh -- I'm                   |
| 12:25:50 | <b>2</b>  | sorry, Senator Miles?                                    |
|          | <b>3</b>  | SENATOR MILES: Yea.                                      |
| 12:25:51 | <b>4</b>  | PRESIDING OFFICER: Senator Nichols?                      |
| 12:25:52 | <b>5</b>  | SENATOR NICHOLS: Yea.                                    |
| 12:25:53 | <b>6</b>  | PRESIDING OFFICER: Senator Parker?                       |
|          | <b>7</b>  | SENATOR PARKER: Nay.                                     |
| 12:25:54 | <b>8</b>  | PRESIDING OFFICER: Senator Perry?                        |
|          | <b>9</b>  | SENATOR PERRY: Nay.                                      |
| 12:25:56 | <b>10</b> | PRESIDING OFFICER: Senator Schwertner?                   |
|          | <b>11</b> | SENATOR SCHWERTNER: Nay.                                 |
|          | <b>12</b> | PRESIDING OFFICER: Senator Sparks?                       |
|          | <b>13</b> | SENATOR SPARKS: Nay.                                     |
|          | <b>14</b> | PRESIDING OFFICER: Senator Springer?                     |
|          | <b>15</b> | SENATOR SPRINGER: Nay.                                   |
|          | <b>16</b> | PRESIDING OFFICER: Senator West?                         |
|          | <b>17</b> | SENATOR WEST: Yea.                                       |
|          | <b>18</b> | PRESIDING OFFICER: Senator Whitmire?                     |
|          | <b>19</b> | SENATOR WHITMIRE: Yea.                                   |
| 12:26:03 | <b>20</b> | PRESIDING OFFICER: Senator Zaffirini?                    |
|          | <b>21</b> | SENATOR ZAFFIRINI: Yea.                                  |
| 12:26:04 | <b>22</b> | PRESIDING OFFICER: 14 yeas; 16 nays. A                   |
| 12:26:06 | <b>23</b> | finding of acquittal is entered for Article XVI. We have |
| 12:26:10 | <b>24</b> | four articles remaining.                                 |
| 12:26:21 | <b>25</b> | Members, you are now voting on Article                   |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC                           |

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|          |           |   |
|----------|-----------|---|
| 12:30:41 | <b>1</b>  | Senator Alvarado?                       |
|          | <b>2</b>  | SENATOR ALVARADO: Yea.                  |
| 12:30:42 | <b>3</b>  | PRESIDING OFFICER: Senator Bettencourt? |
|          | <b>4</b>  | SENATOR BETTENCOURT: Nay.               |
| 12:30:44 | <b>5</b>  | PRESIDING OFFICER: Senator Birdwell?    |
|          | <b>6</b>  | SENATOR BIRDWELL: Nay.                  |
|          | <b>7</b>  | PRESIDING OFFICER: Senator Blanco?      |
|          | <b>8</b>  | SENATOR BLANCO: Yea.                    |
| 12:30:46 | <b>9</b>  | PRESIDING OFFICER: Senator Campbell?    |
|          | <b>10</b> | SENATOR CAMPBELL: Nay.                  |
| 12:30:49 | <b>11</b> | PRESIDING OFFICER: Senator Creighton?   |
|          | <b>12</b> | SENATOR CREIGHTON: Nay.                 |
| 12:30:50 | <b>13</b> | PRESIDING OFFICER: Senator Eckhardt?    |
| 12:30:52 | <b>14</b> | SENATOR ECKHARDT: Yea.                  |
| 12:30:53 | <b>15</b> | PRESIDING OFFICER: Senator -- Senator   |
| 12:30:53 | <b>16</b> | Flores?                                 |
| 12:30:53 | <b>17</b> | SENATOR FLORES: Nay.                    |
| 12:30:54 | <b>18</b> | PRESIDING OFFICER: Senator Gutierrez?   |
|          | <b>19</b> | SENATOR GUTIERREZ: Yea.                 |
| 12:30:56 | <b>20</b> | PRESIDING OFFICER: Senator Hall?        |
| 12:30:56 | <b>21</b> | SENATOR HALL: Nay.                      |
| 12:30:57 | <b>22</b> | PRESIDING OFFICER: Senator Hancock?     |
|          | <b>23</b> | SENATOR HANCOCK: Yea.                   |
| 12:30:58 | <b>24</b> | PRESIDING OFFICER: Senator Hinojosa?    |
| 12:30:59 | <b>25</b> | SENATOR HINOJOSA: Yea.                  |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC          |

|          |           | 57                                     |
|----------|-----------|--|
| 12:30:59 | <b>1</b>  | PRESIDING OFFICER: Senator Huffman?    |
|          | <b>2</b>  | SENATOR HUFFMAN: Nay.                  |
| 12:31:01 | <b>3</b>  | PRESIDING OFFICER: Senator Hughes?     |
|          | <b>4</b>  | SENATOR HUGHES: Nay.                   |
| 12:31:03 | <b>5</b>  | PRESIDING OFFICER: Senator Johnson?    |
|          | <b>6</b>  | SENATOR JOHNSON: Yea.                  |
|          | <b>7</b>  | PRESIDING OFFICER: Senator King?       |
|          | <b>8</b>  | SENATOR KING: Nay.                     |
| 12:31:05 | <b>9</b>  | PRESIDING OFFICER: Senator Kolkhorst?  |
|          | <b>10</b> | SENATOR KOLKHORST: Nay.                |
| 12:31:07 | <b>11</b> | PRESIDING OFFICER: Senator La Mantia?  |
| 12:31:08 | <b>12</b> | SENATOR LA MANTIA: Yea.                |
| 12:31:08 | <b>13</b> | PRESIDING OFFICER: Senator Menendez?   |
| 12:31:09 | <b>14</b> | SENATOR MENENDEZ: Yea.                 |
| 12:31:09 | <b>15</b> | PRESIDING OFFICER: Senator Middleton?  |
|          | <b>16</b> | SENATOR MIDDLETON: Nay.                |
|          | <b>17</b> | PRESIDING OFFICER: Senator Miles?      |
|          | <b>18</b> | SENATOR MILES: Yea.                    |
| 12:31:13 | <b>19</b> | PRESIDING OFFICER: Senator Nichols?    |
| 12:31:13 | <b>20</b> | SENATOR NICHOLS: Yea.                  |
| 12:31:13 | <b>21</b> | PRESIDING OFFICER: Senator Parker?     |
| 12:31:15 | <b>22</b> | SENATOR PARKER: Nay.                   |
| 12:31:15 | <b>23</b> | PRESIDING OFFICER: Senator Perry?      |
| 12:31:17 | <b>24</b> | SENATOR PERRY: Nay.                    |
| 12:31:17 | <b>25</b> | PRESIDING OFFICER: Senator Schwertner? |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC         |

|          |           | 58   |
|----------|-----------|--|
| 12:31:18 | <b>1</b>  | SENATOR SCHWERTNER: Nay.                                 |
| 12:31:18 | <b>2</b>  | PRESIDING OFFICER: Senator Sparks?                       |
|          | <b>3</b>  | SENATOR SPARKS: Nay.                                     |
| 12:31:21 | <b>4</b>  | PRESIDING OFFICER: Senator Springer?                     |
| 12:31:21 | <b>5</b>  | SENATOR SPRINGER: Nay.                                   |
| 12:31:22 | <b>6</b>  | PRESIDING OFFICER: Senator Whitmire?                     |
|          | <b>7</b>  | SENATOR WHITMIRE: Aye.                                   |
| 12:31:24 | <b>8</b>  | PRESIDING OFFICER: Senator West?                         |
|          | <b>9</b>  | SENATOR WEST: Aye.                                       |
| 12:31:26 | <b>10</b> | PRESIDING OFFICER: And Senator Zaffirini?                |
|          | <b>11</b> | SENATOR ZAFFIRINI: Yea.                                  |
| 12:31:28 | <b>12</b> | PRESIDING OFFICER: 14 yeas; 16 nays. A                   |
| 12:31:30 | <b>13</b> | finding of acquittal is entered to Article XVII.         |
| 12:31:42 | <b>14</b> | Members, you will now vote on Article                    |
| 12:31:44 | <b>15</b> | XVIII, dereliction of duty.                              |
| 12:31:46 | <b>16</b> | While holding office as attorney general,                |
| 12:31:49 | <b>17</b> | Warren Kenneth Paxton violated the Texas Constitution,   |
| 12:31:51 | <b>18</b> | his oaths of office, statutes, and public policy against |
| 12:31:55 | <b>19</b> | public officials acting contrary to the public interest  |
| 12:31:58 | <b>20</b> | by engaging in acts described in one or more articles.   |
| 12:32:01 | <b>21</b> | Shall this Article of Impeachment be                     |
| 12:32:03 | <b>22</b> | sustained? A yea vote is to convict; a nay vote is to    |
| 12:32:11 | <b>23</b> | acquit. Please mark your voting form.                    |
| 12:32:28 | <b>24</b> | I believe you can collect the ballots. All               |
| 12:33:08 | <b>25</b> | ballots have been collected. The clerk will read them at |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC                           |

|          |           | 59  |
|----------|-----------|---|
| 12:33:10 | <b>1</b>  | random.   |
| 12:33:12 | <b>2</b>  | THE CLERK: Senator Blanco, yea; Senator La                |
| 12:33:26 | <b>3</b>  | Mantia, yea; Senator Parker, nay; Senator Hughes, nay;    |
| 12:33:37 | <b>4</b>  | Senator Miles, yea; Senator Gutierrez, yea; Senator       |
| 12:33:48 | <b>5</b>  | Johnson, yea; Senator Springer, nay; Senator Schwertner,  |
| 12:33:58 | <b>6</b>  | nay; Senator Campbell, nay; Senator Nichols, yea; Senator |
| 12:34:10 | <b>7</b>  | West, yea; Senator Whitmire, yea; Senator Huffman, nay;   |
| 12:34:22 | <b>8</b>  | Senator Hinojosa, yea; Senator Zaffirini, yea; Senator    |
| 12:34:40 | <b>9</b>  | Menendez, yea; Senator Birdwell, nay; Senator Hall, nay;  |
| 12:34:58 | <b>10</b> | Senator Perry, nay; Senator Kolkhorst, nay; Senator       |
| 12:35:09 | <b>11</b> | Bettencourt, nay; Senator Creighton, nay; Senator         |
| 12:35:22 | <b>12</b> | Middleton, nay; Senator Alvarado, yea; Senator King, nay; |
| 12:35:39 | <b>13</b> | Senator Sparks, nay; Senator Flores, nay; Senator         |
| 12:35:49 | <b>14</b> | Hancock, yea.   |
| 12:36:33 | <b>15</b> | PRESIDING OFFICER: We're going to recheck                 |
| 12:36:34 | <b>16</b> | them.   |
| 12:36:47 | <b>17</b> | THE CLERK: 14 yeas; 16 nays.                              |
| 12:37:09 | <b>18</b> | PRESIDING OFFICER: Confirming the vote.                   |
| 12:37:14 | <b>19</b> | Senator Alvarado?   |
|          | <b>20</b> | SENATOR ALVARADO: Yea.                                    |
| 12:37:15 | <b>21</b> | PRESIDING OFFICER: Senator Bettencourt?                   |
|          | <b>22</b> | SENATOR BETTENCOURT: Nay.                                 |
| 12:37:16 | <b>23</b> | PRESIDING OFFICER: Senator Birdwell?                      |
|          | <b>24</b> | SENATOR BIRDWELL: Nay.                                    |
| 12:37:18 | <b>25</b> | PRESIDING OFFICER: Senator Blanco?                        |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC                            |

|          |           | 60                                    |
|----------|-----------|---------------------------------------|
|          | <b>1</b>  | SENATOR BLANCO: Yea.                  |
| 12:37:19 | <b>2</b>  | PRESIDING OFFICER: Senator Campbell?  |
|          | <b>3</b>  | SENATOR CAMPBELL: Nay.                |
| 12:37:20 | <b>4</b>  | PRESIDING OFFICER: Senator Creighton? |
|          | <b>5</b>  | SENATOR CREIGHTON: Nay.               |
| 12:37:21 | <b>6</b>  | PRESIDING OFFICER: Senator Eckhardt?  |
|          | <b>7</b>  | SENATOR ECKHARDT: Yea.                |
| 12:37:24 | <b>8</b>  | PRESIDING OFFICER: Senator Flores?    |
|          | <b>9</b>  | SENATOR FLORES: Nay.                  |
| 12:37:26 | <b>10</b> | PRESIDING OFFICER: Senator Gutierrez? |
| 12:37:26 | <b>11</b> | SENATOR GUTIERREZ: Yea.               |
| 12:37:27 | <b>12</b> | PRESIDING OFFICER: Senator Hall?      |
|          | <b>13</b> | SENATOR HALL: Nay.                    |
| 12:37:28 | <b>14</b> | PRESIDING OFFICER: Senator Hancock?   |
|          | <b>15</b> | SENATOR HANCOCK: Nay.                 |
| 12:37:29 | <b>16</b> | PRESIDING OFFICER: Senator Hinojosa?  |
|          | <b>17</b> | SENATOR HINOJOSA: Yea.                |
| 12:37:30 | <b>18</b> | PRESIDING OFFICER: Senator Huffman?   |
|          | <b>19</b> | SENATOR HUFFMAN: Nay.                 |
| 12:37:31 | <b>20</b> | PRESIDING OFFICER: Senator Hughes?    |
|          | <b>21</b> | SENATOR HUGHES: Nay.                  |
| 12:37:32 | <b>22</b> | PRESIDING OFFICER: Senator Johnson?   |
|          | <b>23</b> | SENATOR JOHNSON: Yea.                 |
| 12:37:34 | <b>24</b> | PRESIDING OFFICER: Senator King?      |
|          | <b>25</b> | SENATOR KING: Nay.                    |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC        |

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|          |           |  |
|----------|-----------|--|
| 12:37:36 | <b>1</b>  | PRESIDING OFFICER: Senator Kolkhorst?  |
|          | <b>2</b>  | SENATOR KOLKHORST: Nay.                |
| 12:37:37 | <b>3</b>  | PRESIDING OFFICER: Senator La Mantia?  |
| 12:37:39 | <b>4</b>  | SENATOR LA MANTIA: Yea.                |
| 12:37:39 | <b>5</b>  | PRESIDING OFFICER: Senator Menendez?   |
| 12:37:40 | <b>6</b>  | SENATOR MENENDEZ: Yea.                 |
| 12:37:41 | <b>7</b>  | PRESIDING OFFICER: Senator Middleton?  |
|          | <b>8</b>  | SENATOR MIDDLETON: Nay.                |
| 12:37:42 | <b>9</b>  | PRESIDING OFFICER: Senator Miles?      |
|          | <b>10</b> | SENATOR MILES: Yea.                    |
| 12:37:43 | <b>11</b> | PRESIDING OFFICER: Senator Nichols?    |
|          | <b>12</b> | SENATOR NICHOLS: Yea.                  |
| 12:37:45 | <b>13</b> | PRESIDING OFFICER: Senator Parker?     |
|          | <b>14</b> | SENATOR PARKER: Nay.                   |
|          | <b>15</b> | PRESIDING OFFICER: Senator Perry?      |
|          | <b>16</b> | SENATOR PERRY: Nay.                    |
| 12:37:48 | <b>17</b> | PRESIDING OFFICER: Senator Schwertner? |
|          | <b>18</b> | SENATOR SCHWERTNER: Nay.               |
| 12:37:49 | <b>19</b> | PRESIDING OFFICER: Senator Sparks?     |
| 12:37:51 | <b>20</b> | SENATOR SPARKS: Nay.                   |
| 12:37:52 | <b>21</b> | PRESIDING OFFICER: Senator Springer?   |
|          | <b>22</b> | SENATOR SPRINGER: Nay.                 |
| 12:37:53 | <b>23</b> | PRESIDING OFFICER: Senator West?       |
|          | <b>24</b> | SENATOR WEST: Yea.                     |
|          | <b>25</b> | PRESIDING OFFICER: Senator Whitmire?   |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC         |

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|          |           |   |
|----------|-----------|---|
| 12:41:49 | <b>1</b>  | Bettencourt, nay; Creighton, nay; Middleton, nay;     |
| 12:42:03 | <b>2</b>  | Alvarado, yea; Eckhardt, yea; King, nay; Sparks, nay; |
| 12:42:25 | <b>3</b>  | Flores, nay; Blanco, yea.                             |
| 12:42:32 | <b>4</b>  | 14 yeas; 16 nays.                                     |
| 12:42:56 | <b>5</b>  | PRESIDING OFFICER: Confirming the vote.               |
| 12:42:59 | <b>6</b>  | Senator Alvarado?                                     |
|          | <b>7</b>  | SENATOR ALVARADO: Yea.                                |
| 12:43:01 | <b>8</b>  | PRESIDING OFFICER: Senator Bettencourt?               |
|          | <b>9</b>  | SENATOR BETTENCOURT: Nay.                             |
| 12:43:02 | <b>10</b> | PRESIDING OFFICER: Senator Birdwell?                  |
|          | <b>11</b> | SENATOR BIRDWELL: Nay.                                |
| 12:43:03 | <b>12</b> | PRESIDING OFFICER: Senator Blanco?                    |
|          | <b>13</b> | SENATOR BLANCO: Yea.                                  |
| 12:43:04 | <b>14</b> | PRESIDING OFFICER: Senator Campbell?                  |
|          | <b>15</b> | SENATOR CAMPBELL: Nay.                                |
| 12:43:06 | <b>16</b> | PRESIDING OFFICER: Senator Creighton?                 |
|          | <b>17</b> | SENATOR CREIGHTON: Nay.                               |
| 12:43:07 | <b>18</b> | PRESIDING OFFICER: Senator Eckhardt?                  |
|          | <b>19</b> | SENATOR ECKHARDT: Yea.                                |
| 12:43:09 | <b>20</b> | PRESIDING OFFICER: Senator Flores?                    |
|          | <b>21</b> | SENATOR FLORES: Nay.                                  |
| 12:43:10 | <b>22</b> | PRESIDING OFFICER: Senator Gutierrez.                 |
| 12:43:12 | <b>23</b> | SENATOR GUTIERREZ: Aye.                               |
| 12:43:12 | <b>24</b> | PRESIDING OFFICER: Senator Hall?                      |
| 12:43:13 | <b>25</b> | SENATOR HALL: Nay.                                    |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC                        |

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|          |           |   |
|----------|-----------|---|
|          | <b>1</b>  | SENATOR WHITMIRE: Yea.                                    |
| 12:37:56 | <b>2</b>  | PRESIDING OFFICER: Senator Zaffirini?                     |
|          | <b>3</b>  | SENATOR ZAFFIRINI: Yea.                                   |
| 12:37:57 | <b>4</b>  | PRESIDING OFFICER: There being 14 yeas and                |
| 12:38:00 | <b>5</b>  | 16 nays, a finding of acquittal is entered as to Article  |
| 12:38:03 | <b>6</b>  | XVIII.  |
| 12:38:13 | <b>7</b>  | Members, you will now vote on Article XIX,                |
| 12:38:16 | <b>8</b>  | unfitness for office.                                     |
| 12:38:17 | <b>9</b>  | While holding office as attorney general,                 |
| 12:38:19 | <b>10</b> | Warren Kenneth Paxton engaged in misconduct, private or   |
| 12:38:23 | <b>11</b> | public, of such character as to indicate his unfitness    |
| 12:38:26 | <b>12</b> | for office, as shown by the acts described in one or more |
| 12:38:29 | <b>13</b> | articles.   |
| 12:38:30 | <b>14</b> | Shall this Article of Impeachment be                      |
| 12:38:32 | <b>15</b> | sustained? A yea vote is to convict; a nay vote is to     |
| 12:38:39 | <b>16</b> | acquit. Please mark -- please mark your ballots.          |
| 12:38:56 | <b>17</b> | You may pick up the ballots. All the                      |
| 12:39:45 | <b>18</b> | ballots are collected. The clerk will read them at        |
| 12:39:48 | <b>19</b> | random.   |
| 12:39:50 | <b>20</b> | THE CLERK: La Mantia, yea; Parker, nay;                   |
| 12:40:06 | <b>21</b> | Hughes, nay; Miles, yea; Gutierrez, yea; Johnson, yea;    |
| 12:40:23 | <b>22</b> | Springer, nay; Schwertner, nay; Campbell, nay; Nichols,   |
| 12:40:37 | <b>23</b> | yea; West, yea; Whitmire, yea; Huffman, nay; Hinojosa,    |
| 12:40:57 | <b>24</b> | yea; Zaffirini, yea; Hancock, yea; Menendez, yea;         |
| 12:41:27 | <b>25</b> | Birdwell, nay; Hall, nay; Perry, nay; Kolkhorst, nay;     |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC                            |

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|          |           |                                       |
|----------|-----------|---------------------------------------|
| 12:43:14 | <b>1</b>  | PRESIDING OFFICER: I got it. Senator  |
| 12:43:15 | <b>2</b>  | Hancock?                              |
|          | <b>3</b>  | SENATOR HANCOCK: Yea.                 |
| 12:43:17 | <b>4</b>  | PRESIDING OFFICER: Senator Hinojosa?  |
|          | <b>5</b>  | SENATOR HINOJOSA: Yea.                |
| 12:43:18 | <b>6</b>  | PRESIDING OFFICER: Senator Huffman?   |
|          | <b>7</b>  | SENATOR HUFFMAN: Nay.                 |
|          | <b>8</b>  | PRESIDING OFFICER: Senator Hughes?    |
| 12:43:20 | <b>9</b>  | SENATOR HUGHES: Nay.                  |
| 12:43:20 | <b>10</b> | PRESIDING OFFICER: Senator Johnson?   |
|          | <b>11</b> | SENATOR JOHNSON: Yea.                 |
| 12:43:22 | <b>12</b> | PRESIDING OFFICER: Senator King?      |
|          | <b>13</b> | SENATOR KING: Nay.                    |
| 12:43:23 | <b>14</b> | PRESIDING OFFICER: Senator Kolkhorst? |
|          | <b>15</b> | SENATOR KOLKHORST: Nay.               |
| 12:43:25 | <b>16</b> | PRESIDING OFFICER: Senator La Mantia? |
| 12:43:25 | <b>17</b> | SENATOR LA MANTIA: Yea.               |
| 12:43:26 | <b>18</b> | PRESIDING OFFICER: Senator Menendez?  |
|          | <b>19</b> | SENATOR MENENDEZ: Yea.                |
| 12:43:28 | <b>20</b> | PRESIDING OFFICER: Senator -- Senator |
| 12:43:29 | <b>21</b> | Middleton?                            |
|          | <b>22</b> | SENATOR MIDDLETON: Nay.               |
|          | <b>23</b> | PRESIDING OFFICER: Senator Miles?     |
| 12:43:31 | <b>24</b> | SENATOR MILES: Yea.                   |
| 12:43:31 | <b>25</b> | PRESIDING OFFICER: Senator Nichols?   |
|          |           | TAMI LEWIS, CSR, RDR, CRR, CRC        |

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| 12:43:32                       | <b>1</b>  | SENATOR NICHOLS: Yea.                                     |
| 12:43:32                       | <b>2</b>  | PRESIDING OFFICER: Senator Parker?                        |
|                                | <b>3</b>  | SENATOR PARKER: Nay.                                      |
| 12:43:34                       | <b>4</b>  | PRESIDING OFFICER: Senator Perry?                         |
|                                | <b>5</b>  | SENATOR PERRY: Nay.                                       |
| 12:43:35                       | <b>6</b>  | PRESIDING OFFICER: Senator Schwertner?                    |
|                                | <b>7</b>  | SENATOR SCHWERTNER: Nay.                                  |
| 12:43:37                       | <b>8</b>  | PRESIDING OFFICER: Senator Sparks?                        |
| 12:43:39                       | <b>9</b>  | SENATOR SPARKS: Nay.                                      |
| 12:43:39                       | <b>10</b> | PRESIDING OFFICER: Senator Springer?                      |
|                                | <b>11</b> | SENATOR SPRINGER: Nay.                                    |
| 12:43:40                       | <b>12</b> | PRESIDING OFFICER: Senator Whitmire?                      |
|                                | <b>13</b> | SENATOR WHITMIRE: Yea.                                    |
|                                | <b>14</b> | PRESIDING OFFICER: Senator West?                          |
|                                | <b>15</b> | SENATOR WEST: Yea.  |
| 12:43:43                       | <b>16</b> | PRESIDING OFFICER: Senator Zaffirini?                     |
| 12:43:45                       | <b>17</b> | SENATOR ZAFFIRINI: Yea.                                   |
| 12:43:45                       | <b>18</b> | PRESIDING OFFICER: 14 yeas; 16 nays. A                    |
| 12:43:47                       | <b>19</b> | finding of acquittal is entered for Article XIX.          |
| 12:43:52                       | <b>20</b> | Members, this is the last article for you                 |
| 12:44:39                       | <b>21</b> | to vote on, Article XX, abuse of public trust.            |
| 12:44:43                       | <b>22</b> | While holding office as attorney general,                 |
| 12:44:45                       | <b>23</b> | Warren Kenneth Paxton used, misused, or failed to use his |
| 12:44:48                       | <b>24</b> | official powers in a manner calculated to subvert the     |
| 12:44:51                       | <b>25</b> | lawful operation of the government of the State of Texas  |
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| 12:44:53                       | <b>1</b>  | and to obstruct the fair and impartial administration of  |
| 12:44:56                       | <b>2</b>  | justice, thereby bringing the Office of Attorney General  |
| 12:44:59                       | <b>3</b>  | into scandal and disrepute to the prejudice of public     |
| 12:45:03                       | <b>4</b>  | confidence in the government of this state, as shown by   |
| 12:45:05                       | <b>5</b>  | the acts described in one or more articles.               |
| 12:45:08                       | <b>6</b>  | Shall this Article of Impeachment be                      |
| 12:45:09                       | <b>7</b>  | sustained? A yea vote is to convict; a nay vote is to     |
| 12:45:12                       | <b>8</b>  | acquit. Please mark your ballots.                         |
| 12:45:27                       | <b>9</b>  | Ready to pick up. All ballots are                         |
| 12:46:17                       | <b>10</b> | collected. Clerk will read them at random.                |
| 12:46:31                       | <b>11</b> | THE CLERK: Senator Springer, nay;                         |
| 12:46:37                       | <b>12</b> | Schwertner, nay; Senator Campbell, nay; Senator Nichols,  |
| 12:46:46                       | <b>13</b> | yea; Senator West, yea; Senator Whitmire, yea; Senator    |
| 12:46:57                       | <b>14</b> | Huffman, nay; Senator Hinojosa, yea; Senator Zaffirini,   |
| 12:47:06                       | <b>15</b> | yea; Senator Blanco, yea; Senator La Mantia, yea; Senator |
| 12:47:19                       | <b>16</b> | Parker, nay; Senator Hughes, nay; Senator Miles, yea;     |
| 12:47:32                       | <b>17</b> | Senator Gutierrez, yea; Senator Johnson, yea; Senator     |
| 12:47:49                       | <b>18</b> | Alvarado, yea; Senator Eckhardt, yea; Senator King, nay;  |
| 12:48:09                       | <b>19</b> | Senator Sparks, nay; Senator Flores, nay; Senator         |
| 12:48:20                       | <b>20</b> | Hancock, yea; Senator Menendez, yea; Senator Birdwell,    |
| 12:48:33                       | <b>21</b> | nay; Senator Hall, nay; Senator Perry, nay; Senator       |
| 12:48:48                       | <b>22</b> | Kolkhorst, nay; Senator Bettencourt, nay; Senator         |
| 12:48:58                       | <b>23</b> | Creighton, nay; Senator Middleton, nay.                   |
| 12:49:11                       | <b>24</b> | 14 yeas; 16 nays.   |
| 12:49:28                       | <b>25</b> | PRESIDING OFFICER: Confirming the vote.                   |
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| 12:49:33                       | <b>1</b>  | Senator Alvarado?                                    |
|                                | <b>2</b>  | SENATOR ALVARADO: Yea.                               |
| 12:49:35                       | <b>3</b>  | PRESIDING OFFICER: Senator Bettencourt?              |
|                                | <b>4</b>  | SENATOR BETTENCOURT: Nay.                            |
| 12:49:37                       | <b>5</b>  | PRESIDING OFFICER: Senator Birdwell?                 |
|                                | <b>6</b>  | SENATOR BIRDWELL: Nay.                               |
| 12:49:39                       | <b>7</b>  | PRESIDING OFFICER: Senator Blanco?                   |
|                                | <b>8</b>  | SENATOR BLANCO: Yea.                                 |
| 12:49:40                       | <b>9</b>  | PRESIDING OFFICER: Senator Campbell?                 |
|                                | <b>10</b> | SENATOR CAMPBELL: Nay.                               |
| 12:49:41                       | <b>11</b> | PRESIDING OFFICER: Senator Creighton?                |
| 12:49:42                       | <b>12</b> | SENATOR CREIGHTON: Nay.                              |
| 12:49:42                       | <b>13</b> | PRESIDING OFFICER: Senator Eckhardt?                 |
|                                | <b>14</b> | SENATOR ECKHARDT: Yea.                               |
| 12:49:45                       | <b>15</b> | PRESIDING OFFICER: Senator Flores?                   |
| 12:49:46                       | <b>16</b> | SENATOR FLORES: Nay.                                 |
| 12:49:46                       | <b>17</b> | PRESIDING OFFICER: Senator Gutierrez?                |
| 12:49:49                       | <b>18</b> | SENATOR GUTIERREZ: Yea.                              |
| 12:49:49                       | <b>19</b> | PRESIDING OFFICER: Senator Hall?                     |
|                                | <b>20</b> | SENATOR HALL: Nay.                                   |
| 12:49:50                       | <b>21</b> | PRESIDING OFFICER: Senator Hancock?                  |
|                                | <b>22</b> | SENATOR HANCOCK: Yea.                                |
| 12:49:53                       | <b>23</b> | PRESIDING OFFICER: Senator Hino -- that              |
| 12:49:53                       | <b>24</b> | was a yea, correct? Senator Hancock, that was a yea? |
|                                | <b>25</b> | SENATOR HANCOCK: Yea.                                |
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| 12:49:57                       | <b>1</b>  | PRESIDING OFFICER: Senator Hinojosa?  |
|                                | <b>2</b>  | SENATOR HINOJOSA: Yea.                |
|                                | <b>3</b>  | PRESIDING OFFICER: Senator Huffman?   |
|                                | <b>4</b>  | SENATOR HUFFMAN: Nay.                 |
|                                | <b>5</b>  | PRESIDING OFFICER: Senator Hughes?    |
|                                | <b>6</b>  | SENATOR HUGHES: Nay.                  |
| 12:50:01                       | <b>7</b>  | PRESIDING OFFICER: Senator Johnson?   |
|                                | <b>8</b>  | SENATOR JOHNSON: Yea.                 |
|                                | <b>9</b>  | PRESIDING OFFICER: Senator King?      |
|                                | <b>10</b> | SENATOR KING: Nay.                    |
| 12:50:04                       | <b>11</b> | PRESIDING OFFICER: Senator Kolkhorst? |
|                                | <b>12</b> | SENATOR KOLKHORST: Nay.               |
| 12:50:05                       | <b>13</b> | PRESIDING OFFICER: Senate La Mantia?  |
|                                | <b>14</b> | SENATOR LA MANTIA: Yea.               |
| 12:50:08                       | <b>15</b> | PRESIDING OFFICER: Senator Menendez?  |
| 12:50:09                       | <b>16</b> | SENATOR MENENDEZ: Yea.                |
|                                | <b>17</b> | PRESIDING OFFICER: Senator Middleton? |
|                                | <b>18</b> | SENATOR MIDDLETON: Nay.               |
|                                | <b>19</b> | PRESIDING OFFICER: Senator Miles?     |
|                                | <b>20</b> | SENATOR MILES: Yea.                   |
| 12:50:12                       | <b>21</b> | PRESIDING OFFICER: Senator Nichols?   |
|                                | <b>22</b> | SENATOR NICHOLS: Yea.                 |
| 12:50:13                       | <b>23</b> | PRESIDING OFFICER: Senator Parker?    |
|                                | <b>24</b> | SENATOR PARKER: Nay.                  |
| 12:50:14                       | <b>25</b> | PRESIDING OFFICER: Senator Perry?     |
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**1** SENATOR PERRY: Nay.

12:50:16 **2** PRESIDING OFFICER: Senator Schwert --

12:50:16 **3** Schwertner? Excuse me.

**4** SENATOR SCHWERTNER: Nay.

12:50:19 **5** PRESIDING OFFICER: Senator Sparks?

**6** SENATOR SPARKS: Nay.

12:50:19 **7** PRESIDING OFFICER: Senator Springer?

**8** SENATOR SPRINGER: Nay.

12:50:21 **9** PRESIDING OFFICER: Senator West?

12:50:22 **10** SENATOR WEST: Yea.

12:50:23 **11** PRESIDING OFFICER: Senator Whitmire?

**12** SENATOR WHITMIRE: Yea.

12:50:25 **13** PRESIDING OFFICER: Senator Zaffirini?

**14** SENATOR ZAFFIRINI: Yea.

12:50:26 **15** PRESIDING OFFICER: There being 14 yeas and

12:50:27 **16** 16 nays, a finding of acquittal is entered as to Article

12:50:31 **17** XX.

12:50:33 **18** Senator Birdwell, I understand you have a

12:50:35 **19** motion.

12:50:37 **20** SENATOR BIRDWELL: Mr. President, under

**21** Rule 30(b), I move the dismissal of the remaining

**22** Articles of Impeachment, Article XI, Article XII, Article

12:50:46 **23** XIII, and Article XIV, that were held in abeyance. A

12:50:49 **24** dismissal in this context does not constitute an

12:50:52 **25** acquittal of any charge containing the Articles of

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12:50:56 **1** Impeachment, but would constitute a final decision by the

12:50:57 **2** Senate on the Articles of Impeachment, and the

12:50:59 **3** impeachment would no longer be pending for purposes of

12:51:02 **4** Article XV, Section 5, of the Texas Constitution. The

12:51:05 **5** Court of Impeachment would dissolve upon further motion

12:51:08 **6** to adjourn sine die, Mr. President.

12:51:16 **7** PRESIDING OFFICER: Members, you still have

12:51:18 **8** a blank form on your desk, so you will vote yea as to

12:51:23 **9** dismiss the remaining articles; nay is to deny the motion

12:51:27 **10** to dismiss. So yea is to dismiss; a nay vote is to deny.

12:51:32 **11** Please mark your ballots carefully. A yea vote is to

12:51:46 **12** grant the motion; a nay vote is to deny the motion.

12:51:54 **13** Bailiff, you may collect the votes. The

12:52:47 **14** ballots have been collected. The clerk will read them at

12:52:52 **15** random. This is a simple 16 vote on the motion, not 21.

12:53:03 **16** THE CLERK: Senator Hall, yea; Senator

12:53:09 **17** Perry, yea; Senator Kolkhorst, yea; Senator Bettencourt,

12:53:21 **18** yea; Senator Creighton, yea; Senator Middleton, yea;

12:53:33 **19** Senator Alvarado, nay; Senator Eckhardt, nay; Senator

12:53:44 **20** King, yea; Senator Sparks, yea; Senator Flores, yea;

12:54:00 **21** Senator Hancock, yea; Senator Menendez, nay; Senator

12:54:10 **22** Birdwell, yea; Senator Blanco, nay; Senator La Mantia,

12:54:29 **23** nay; Senator Parker, yea; Senator Hughes, yea; Senator

12:54:42 **24** Miles, nay; Senator Gutierrez, nay; Senator Johnson, nay;

12:54:55 **25** Senator Springer, yea; Senator Schwertner, yea; Senator

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12:55:05 **1** Campbell, yea; Senator Nichols, yea; Senator West, nay;

12:55:19 **2** Senator Whitmire, nay; Senator Huffman, yea; Senator

12:55:31 **3** Hinojosa, yea; Senator Zaffirini, nay.

12:55:43 **4** 19 yeas; 11 nays.

12:56:03 **5** PRESIDING OFFICER: I'll now confirm these

12:56:09 **6** votes to grant the motion by Senator Birdwell.

12:56:14 **7** Senator Alvarado?

**8** SENATOR ALVARADO: Nay.

12:56:16 **9** PRESIDING OFFICER: Senator Bettencourt?

**10** SENATOR BETTENCOURT: Yea.

12:56:19 **11** PRESIDING OFFICER: Senator Birdwell?

**12** SENATOR BIRDWELL: Yea.

12:56:21 **13** PRESIDING OFFICER: Senator Blanco?

**14** SENATOR BLANCO: Nay.

12:56:21 **15** PRESIDING OFFICER: Senator Campbell?

**16** SENATOR CAMPBELL: Yea.

12:56:23 **17** PRESIDING OFFICER: Senator Creighton?

**18** SENATOR CREIGHTON: Yea.

12:56:24 **19** PRESIDING OFFICER: Senator Eckhardt?

**20** SENATOR ECKHARDT: Nay.

12:56:26 **21** PRESIDING OFFICER: Senator Flores?

**22** SENATOR FLORES: Yea.

12:56:28 **23** PRESIDING OFFICER: Senator Gutierrez?

**24** SENATOR GUTIERREZ: Nay.

12:56:29 **25** PRESIDING OFFICER: Senator Hall?

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**1** SENATOR HALL: Yea.

12:56:30 **2** PRESIDING OFFICER: Senator Hancock?

**3** SENATOR HANCOCK: Yea.

12:56:31 **4** PRESIDING OFFICER: Senator Hinojosa?

**5** SENATOR HINOJOSA: Yea.

12:56:32 **6** PRESIDING OFFICER: Senator Huffman?

**7** SENATOR HUFFMAN: Yea.

12:56:33 **8** PRESIDING OFFICER: Senator Hughes?

**9** SENATOR HUGHES: Yea.

**10** PRESIDING OFFICER: Senator Johnson?

**11** SENATOR JOHNSON: Nay.

**12** PRESIDING OFFICER: Senator King?

**13** SENATOR KING: Yea.

12:56:38 **14** PRESIDING OFFICER: Senator Kolkhorst?

**15** SENATOR KOLKHORST: Yea.

12:56:40 **16** PRESIDING OFFICER: Senator La Mantia?

**17** SENATOR LA MANTIA: Nay.

12:56:41 **18** PRESIDING OFFICER: Senator Menendez?

**19** SENATOR MENENDEZ: Nay.

**20** PRESIDING OFFICER: Senator Middleton?

**21** SENATOR MIDDLETON: Yea.

**22** PRESIDING OFFICER: Senator Miles?

**23** SENATOR MILES: Nay.

12:56:46 **24** PRESIDING OFFICER: Senator Nichols?

**25** SENATOR NICHOLS: Yea.

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12:56:48 **1** PRESIDING OFFICER: Senator Parker?  
**2** SENATOR PARKER: Yea.  
**3** PRESIDING OFFICER: Senator Perry?  
**4** SENATOR PERRY: Yea.  
**5** PRESIDING OFFICER: Senator Schwertner?  
**6** SENATOR SCHWERTNER: Yea.  
12:56:54 **7** PRESIDING OFFICER: Senator Sparks?  
**8** SENATOR SPARKS: Yea.  
**9** PRESIDING OFFICER: Senator Springer?  
**10** SENATOR SPRINGER: Yea.  
**11** PRESIDING OFFICER: Senator West?  
**12** SENATOR WEST: Nay.  
12:56:57 **13** PRESIDING OFFICER: Senator Whitmire?  
**14** SENATOR WHITMIRE: Nay.  
12:56:58 **15** PRESIDING OFFICER: Senator Zaffirini?  
**16** SENATOR ZAFFIRINI: Nay.  
12:57:00 **17** PRESIDING OFFICER: There being 19 yeas and  
12:57:02 **18** 11 yeas, the motion is granted.  
12:57:13 **19** Members, before we adjourn, I'm going to  
12:57:18 **20** make a couple of remarks to put in the record. Also I  
12:57:22 **21** want to remind you under Rule 8 of the rules that you  
12:57:24 **22** passed, each of you can enter a written statement into  
12:57:31 **23** the record over the next 72 hours. It would have to be  
12:57:35 **24** in the next 72 hours. I remind you this is an historic  
12:57:38 **25** event, and as we look back at the last impeachments here,  
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12:57:44 **1** there was much to learn. And you have that opportunity  
12:57:48 **2** to leave your thoughts and your remarks, as I will here  
12:57:51 **3** in a moment for others to look at in case there's another  
12:57:56 **4** impeach -- impeachment at some time in the future of  
12:57:58 **5** Texas.  
12:57:59 **6** However, before I make my remarks, I want  
12:58:02 **7** to excuse my legal counsel, Judge Lana Myers, who has  
12:58:08 **8** been just an extraordinary, extraordinary person to work  
12:58:12 **9** with and has become a great friend, and she's just been  
12:58:16 **10** terrific, before a Judge on the Fifth Circuit -- on the  
12:58:21 **11** Fifth Court of Appeals, rather, criminal court Judge, and  
12:58:23 **12** a longtime prosecutor from Dallas. And I could not have  
12:58:26 **13** done this without you.  
12:58:29 **14** (Applause)  
12:58:40 **15** Members, I have just a few minutes of  
12:58:53 **16** comments, about five minutes. I've been unusually quiet  
12:58:58 **17** for the last three months since the House of  
12:59:01 **18** Representatives sent the Articles of Impeachment against  
12:59:03 **19** the attorney general to us on very short notice in the  
12:59:06 **20** final hours of the regular legislative session. The law  
12:59:09 **21** requires the Senate to receive the articles and have a  
12:59:13 **22** trial. And once I realized I would be the Presiding  
12:59:16 **23** Officer and Judge, I thought it was my duty to be quiet  
12:59:19 **24** on this issue. Otherwise, how could I oversee a fair  
12:59:23 **25** trial? I've done my very best to do so the last three  
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12:59:27 **1** months and especially in the last two weeks.  
12:59:29 **2** Now that the trial is over, I want to take  
12:59:31 **3** a few minutes before we close to put a few remarks in the  
12:59:34 **4** Court record for future Legislatures to read in the event  
12:59:37 **5** of another impeachment one day on both what the House and  
12:59:43 **6** Senate did.  
12:59:44 **7** Senators, first, I want to once again thank  
12:59:46 **8** you for doing your work. You all were thorough. You  
12:59:53 **9** were thoughtful. You were professional. I watched all  
12:59:55 **10** of you each day listen intently to every word that was  
12:59:59 **11** said by every witness. Many of you took notes nonstop.  
13:00:05 **12** I want to thank the rules committee,  
13:00:08 **13** Senator Birdwell, the chair. I want to thank the rules  
13:00:11 **14** committee for their tireless work, Senator Huffman,  
13:00:15 **15** Senator West, Senator Hinojosa, Senator Creighton,  
13:00:18 **16** Senator King, Senator Flores. You worked many hours for  
13:00:24 **17** the last three months. You wrote 31 rules that were  
13:00:29 **18** approved by the Senate 25 to 3, and those Senators, when  
13:00:33 **19** you brought them to them, they made adjustments and  
13:00:36 **20** suggestions to those rules, as you know. It was a  
13:00:39 **21** collaborative effort from all members.  
13:00:42 **22** All of us studied past impeachments from  
13:00:45 **23** all across the country to learn from the mistakes of past  
13:00:48 **24** impeachments so we wouldn't make the same errors. Now,  
13:00:51 **25** the 31 rules weren't perfect, but you can be proud of the  
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13:00:55 **1** rules you passed. They were our guide for these last 90  
13:01:00 **2** days or so and through this process.  
13:01:03 **3** I want to mention one rule that really  
13:01:05 **4** stands out to me for future Legislatures, I believe, to  
13:01:08 **5** follow, and that was putting a reasonable time clock on  
13:01:11 **6** both parties to present their case. Otherwise, this  
13:01:15 **7** trial could have lasted, as some others have, for months  
13:01:18 **8** or at least four or five weeks. Both sides were in  
13:01:23 **9** agreement immediately on the time clock and how it should  
13:01:27 **10** be allocated, and I appreciate both parties for your  
13:01:31 **11** cooperation not only on that -- and much of that was  
13:01:36 **12** actually part of your suggestion as well -- but on every  
13:01:38 **13** rule. I said to both parties when we met here a week  
13:01:41 **14** before the trial to do a walk-through that we wanted to  
13:01:44 **15** have a fair trial and protect the integrity of the body,  
13:01:49 **16** the integrity of this great chamber, and each of you  
13:01:54 **17** fulfilled that. I was proud of both of you, how you  
13:01:59 **18** conducted yourselves on the Court.  
13:02:02 **19** I feel it's important to set the full  
13:02:04 **20** record straight on this trial because I want people in  
13:02:10 **21** the future to have a full picture of what happened and  
13:02:13 **22** how did we get here. I've spent most of the last 90  
13:02:17 **23** days, as many of you have, preparing for this trial.  
13:02:19 **24** I've issued over 240 subpoenas. I've studied numerous  
13:02:23 **25** motions, written multiple orders, read hundreds of pages  
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13:02:25 **1** of history, rules, documents, and worked on every detail  
 13:02:29 **2** of this trial with you and with our incredible Secretary  
 13:02:32 **3** of the Senate, the clerk of the court, who turned this  
 13:02:35 **4** chamber into a courtroom and her great staff.  
 13:02:39 **5** I have had a total view of this process  
 13:02:41 **6** from the very first day the House sent over the Articles  
 13:02:46 **7** of Impeachment to us in May. With all due respect to the  
 13:02:51 **8** House, we didn't need to be told in the final arguments  
 13:02:54 **9** how important this vote was. I believe the quote was,  
 13:02:59 **10** This will, if you're like me, be the hardest and most  
 13:03:02 **11** difficult, the heaviest vote that you will ever cast in  
 13:03:05 **12** your time in the Legislature. This vote will be the vote  
 13:03:08 **13** you're remembered for most. Our members already knew  
 13:03:11 **14** that and have known that for the last three months.  
 13:03:15 **15** If only the House members who voted for  
 13:03:17 **16** impeachment would have followed that instruction in the  
 13:03:20 **17** House, we may not have been here. In the House the vote  
 13:03:23 **18** to send the Articles of Impeachment against the attorney  
 13:03:26 **19** general to the Senate happened in only a few days with  
 13:03:28 **20** virtually no time for 150 members to even study the  
 13:03:32 **21** articles. The Speaker and his team rammed through the  
 13:03:34 **22** first impeachment of the statewide official in Texas in  
 13:03:37 **23** over 100 years while paying no attention to the precedent  
 13:03:40 **24** that the House set in every other impeachment before.  
 13:03:44 **25** In the past, the House had transparent and  
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13:03:47 **1** open investigations for all to see, including other House  
 13:03:51 **2** members. The target of the investigation was notified  
 13:03:54 **3** and invited to attend with counsel and given an  
 13:03:57 **4** opportunity to cross-examine the witnesses that were  
 13:03:59 **5** placed under oath before testimony was taken. At the  
 13:04:03 **6** conclusion of past House investigations, the evidence was  
 13:04:06 **7** laid out for weeks for House members to evaluate, not  
 13:04:10 **8** ours, before they took their vote on Articles of  
 13:04:13 **9** Impeachment.  
 13:04:14 **10** Representative John Smithee, a longtime  
 13:04:16 **11** House member who has argued cases before the Texas  
 13:04:20 **12** Supreme Court, spoke on the House floor during  
 13:04:23 **13** impeachment vote in May. He was one of only 23 who voted  
 13:04:26 **14** against impeachment. Representative Smithee said the  
 13:04:28 **15** House could not legitimately impeach General Paxton on  
 13:04:31 **16** the record because there was no record to send to the  
 13:04:34 **17** Senate. He said the House was not following the rule of  
 13:04:38 **18** law. He said the House approach -- and I quote  
 13:04:40 **19** Representative Smithee -- "Hang them now and judge them  
 13:04:44 **20** later."  
 13:04:44 **21** Confirming this, Representative Murr, the  
 13:04:47 **22** chair of the House investigating committee, said on the  
 13:04:49 **23** House floor, the House is not the body that does the fact  
 13:04:53 **24** finding. The fact finding occurs in the Senate, and the  
 13:04:56 **25** oath for any witnesses would occur there. Well, that's  
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13:04:59 **1** just not true. As Representative Smithee said, that's  
 13:05:02 **2** exactly what they did in 1917. He said the last House  
 13:05:06 **3** impeachment of a statewide official in 1917 was Governor  
 13:05:10 **4** Ferguson. John Smithee said it was conducted like a full  
 13:05:13 **5** trial before the House sent it to the Senate. Witnesses  
 13:05:17 **6** were put under oath and cross-examined by the defendant.  
 13:05:20 **7** He said this time no House witnesses were put under oath,  
 13:05:23 **8** and the defendant was denied the right to cross-examine.  
 13:05:26 **9** Representative Smithee told his fellow members the House  
 13:05:28 **10** process was indefensible. Representative Smithee said  
 13:05:32 **11** the House did not follow the rules of evidence, and their  
 13:05:34 **12** case was based on triple hearsay that would never be  
 13:05:37 **13** allowed in court.  
 13:05:38 **14** I think Representative Smithee's speech was  
 13:05:41 **15** one of the most honest and courageous speeches I've ever  
 13:05:44 **16** heard in the House. And if you want to watch it online,  
 13:05:47 **17** go to YouTube. Look up John Smithee -- that's  
 13:05:54 **18** S-m-i-t-h-e-e -- his floor speech on the Paxton  
 13:05:56 **19** impeachment. It's an amazing, courageous speech to give  
 13:05:59 **20** when he knew he was only one of 23 not voting for  
 13:06:03 **21** impeachment.  
 13:06:04 **22** In the next regular session, we should  
 13:06:07 **23** amend the constitution on the issue of impeachment as  
 13:06:10 **24** currently written that allowed this flawed process to  
 13:06:12 **25** happen. Any testimony given in a House impeachment  
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13:06:17 **1** investigation must be given under oath, and the target of  
 13:06:20 **2** that impeachment must be allowed to present with a lawyer  
 13:06:24 **3** to cross-examine the witnesses; otherwise, people can say  
 13:06:26 **4** anything they want without any accountability or need to  
 13:06:30 **5** be truthful because there is no threat of perjury. The  
 13:06:33 **6** House must also give members a minimum of two weeks to  
 13:06:37 **7** review all evidence given under oath before voting on  
 13:06:40 **8** such a serious matter. Had they done those two things,  
 13:06:45 **9** this trial may never have happened.  
 13:06:48 **10** And when the House sends Articles of  
 13:06:50 **11** Impeachment to the Senate, if they do in the future, the  
 13:06:52 **12** officials should not be put on unpaid leave through the  
 13:06:56 **13** process. The federal system does not allow that. Why do  
 13:06:59 **14** we allow that in Texas? President Clinton and President  
 13:07:02 **15** Trump did not have to step down from the Oval Office from  
 13:07:04 **16** their duties during their impeachment process.  
 13:07:07 **17** Members, this is not a partisan issue. We  
 13:07:10 **18** owe it to future Legislatures to make these changes so  
 13:07:13 **19** that no future official impeached by the House, whether  
 13:07:17 **20** Republican, Democrat, or Independent, is subject to the  
 13:07:18 **21** way this impeachment process occurred in the House this  
 13:07:21 **22** year.  
 13:07:22 **23** Millions of taxpayer dollars have been  
 13:07:25 **24** wasted on this impeachment. Thirty-one Senators and a  
 13:07:28 **25** large Senate staff that made this trial possible have put  
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13:07:31 **1** their family life, their jobs, their business on hold for  
 13:07:33 **2** the last three months after already being here from  
 13:07:36 **3** January to June. I'm going to call next week for a full  
 13:07:40 **4** audit of all taxpayer money spent by the House from the  
 13:07:45 **5** beginning of their investigation in March to their final  
 13:07:47 **6** bills they get from their lawyers. We will provide our  
 13:07:50 **7** cost as well that were forced on us by the House  
 13:07:52 **8** impeachment. One big difference: We didn't pay a huge  
 13:07:55 **9** team of outside lawyers and investigators. We did it  
 13:07:59 **10** mostly with our own staffs working endless hours with no  
 13:08:03 **11** extra pay.  
 13:08:04 **12** As Representative Smithee said, this is not  
 13:08:06 **13** the way it has happened in the past in the House. That's  
 13:08:09 **14** why I believe we've only had two prior impeachments. Our  
 13:08:16 **15** founders expected better. It should have never happened  
 13:08:19 **16** this year, and hopefully it doesn't again unless we  
 13:08:24 **17** address this in the Constitution.  
 13:08:26 **18** And, finally, members, may God continue to  
 13:08:29 **19** bless the greatest place God ever created on earth, the  
 13:08:32 **20** place we call Texas. We are the envy of the world. We  
 13:08:37 **21** are the America that all America used to be, and that's  
 13:08:40 **22** why people move here from every state in the union by the  
 13:08:43 **23** hundreds of thousands every year.  
 13:08:45 **24** Members, each of you took an oath on the  
 13:08:47 **25** Sam Houston Bible on the first day of this trial, and I  
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13:10:27 **1** of Impeachment is hereby dissolved, and we are adjourned  
 13:10:32 **2** sine die pending submission of the final judgment to the  
 13:10:35 **3** Secretary of State.  
 13:10:36 **4** Thank you, members.  
**5** (Adjourned at 1:10 p.m.)  
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13:08:51 **1** know no matter how you voted, you lived up to that oath  
 13:08:56 **2** in how you saw the evidence. I thank you again for the  
 13:08:59 **3** professionalism you demonstrated every day for the last  
 13:09:01 **4** three months. I'm honored and I'm proud to serve with  
 13:09:05 **5** you as Lieutenant Governor.  
 13:09:09 **6** Members, a judgment of acquittal -- or  
 13:09:13 **7** dismissal on all Articles of Impeachment satisfies Texas  
 13:09:18 **8** Constitution, Article XV, Section 5. I will now sign the  
 13:09:20 **9** final judgment. This judgment will be filed with the  
 13:09:39 **10** Secretary of State, and Attorney General Warren Kenneth  
 13:09:43 **11** Paxton, Jr., is hereby, at this moment, reinstated to  
 13:09:46 **12** office. The President's desk is clear, and there is no  
 13:09:49 **13** pending business before the Senate.  
 13:09:53 **14** I'm now going to recognize the dean for a  
 13:09:57 **15** highly privileged motion. The next thing I will do is  
 13:10:01 **16** have the jury retire. So lawyers and House Managers,  
 13:10:05 **17** everyone stay in your seats till the -- the members of  
 13:10:08 **18** the jury leave.  
 13:10:10 **19** Senator Whitmire.  
 13:10:12 **20** SENATOR WHITMIRE: Thank you,  
 13:10:13 **21** Mr. President. I move that the Court of Impeachment is  
 13:10:14 **22** hereby dissolved, and we adjourn sine die pending  
 13:10:18 **23** submission of final judgment to the Secretary of State.  
 13:10:21 **24** PRESIDING OFFICER: Is there any objection?  
 13:10:23 **25** Hearing none, this concludes the proceedings. The Court  
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**1** C E R T I F I C A T E  
**2** STATE OF TEXAS )  
**3** COUNTY OF TRAVIS )  
**4** I, Tami G. Lewis, Certified Shorthand Reporter  
**5** in and for the State of Texas, Registered Diplomate  
**6** Reporter and Certified Realtime Reporter, do hereby  
**7** certify that the above-mentioned matter occurred as  
**8** hereinbefore set out.  
**9** I further certify that I am neither counsel  
**10** for, related to, nor employed by any of the parties or  
**11** attorneys in the action in which this proceeding was  
**12** taken, and further that I am not financially or otherwise  
**13** interested in the outcome of the action.  
**14** Certified to me by this 16th day of September,  
**15** 2023.  
**16**  
**17**  
**18** Tami G. Lewis, RDR, CRR, CRC  
**19** Texas Certified Shorthand Reporter  
 CSR No. 7494 - Expires 10/31/25  
 email: realtimedepos@gmail.com  
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