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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 - PM SESSION
SEPTEMBER 6, 2023

The following proceedings came on to be heard in
the above-entitled cause in the Senate chambers before
Lieutenant Governor Dan Patrick, Presiding Officer, and
Senate members.

Stenographically reported by Mary Oralia Berry,
CSR, RDR, CRR, CBC.

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VOLUME 2 -- PM SESSION
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1 subpoena and about Nate Paul, et cetera, correct?

2 A. That is correct.

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

5 A. Yes, correct.

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

8 A. We did, yes, sir.

9 Q. What day was that sent?

10 A. That was the next day.

11 Q. What next day?

12 A. Well, the -- October 1st.

13 Q. Okay. October 1st.

14 A. Yes, sir.

15 Q. And then you resigned October 2nd?

16 A. That's correct, sir.

17 Q. All right. Just so I can get it in my mind.

18 You learned about the subpoena on the 29th of September?

19 A. Yes.

20 Q. Y'all met the same day?

21 A. Yes.

22 Q. You went to the FBI the next day?

23 A. Yes.

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

25 A. That's correct.

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

3 A. Correct.

4 Q. And then the next day you resigned?

5 A. Yes.

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

8 MR. BUZBEE: Go back, Erick, if you
9 would --

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

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

17 All right. Erick, would you -- AG
18 Exhibit 170, go to Brickman 187. And let's just try to
19 confirm in our minds that the documents match up to the
20 timeline. Page 187. Okay. Here we are. And I think
21 everybody can see this.

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

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 Erick, if you would
25 same exhibit, Exhibit 1. We're looking at Exhibit 127,

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.

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.

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

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.

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. I don't.

23 Q. Okay.

24 MR. BUZBEE: Go back, Erick, to AG
25 Exhibit 170.

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: Erick, 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

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. Erick could.

20 A. -- Erick?

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

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

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

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 Erick gets it
18 on our screen.

19 MR. BUZBEE: Exhibit 3, Erick, 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, Erick.

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?

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?

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

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.

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.

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

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, Erick, 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?

1 A. If they can enlarge that.

2 MR. BUZBEE: Erick, 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

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, Erick.

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.

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?

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.

1 Q. Okay. Let's go -- we're looking at Board of
2 Managers' 558.

3 MR. BUZBEE: And, Erick, 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

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?

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.

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

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, Erick, 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?

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.

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, Erick.

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: Erick, please go to the
14 first 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.

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, Erick.

10 And bring up, Erick, 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,

1 was there?

2 THE WITNESS: Can you highlight that,
3 Erick?

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

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.

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?

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: Erick, 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.

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

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 --

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?

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.

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, Erick, if
8 we 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.

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.

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: Erick, 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?

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 -- Erick 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.

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

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?

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, Erick.

17 Go all the way to the bottom, Erick.
18 It's very difficult to point this out, but it's the --
19 the sentence starts: The subpoena sought information
20 that involved financial records at local banks. Bring
21 that -- go to Number 4, Erick. I'm sorry, Erick.
22 It's -- you're two pages off.

23 There we go. Erick, just go to the
24 second-to-last page, please. The second-to-last page of
25 the document.

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

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?

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

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?

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.

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

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?

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, Erick.

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,

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

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

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

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. Erick, 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.

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.

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

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.

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?

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

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.

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, Erick.

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

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.

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,

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

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

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,

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 Erick, 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

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

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.

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, Erick. Can we have it bigger, Erick? 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

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, Erick.

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?

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 --

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,
10 Erick. 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

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.

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, Erick, 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

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, Erick.

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,
21 Erick. Actually, third page.

22 It's the last page, Erick. 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.

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?

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, Erick.

23 Wait a minute. Hold up, Erick. Let me
24 make sure I've got it right.

25 Q. (BY MR. BUZBEE) Let me just -- before I grab

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.

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,

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

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

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

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's 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

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

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.

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.

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.

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,

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.

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?

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

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.

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?

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 RECROSS-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?

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.

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

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

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.

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

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

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, Erick.

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, Erick.

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?

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?

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 --

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

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, Erick, let's look
6 at 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?

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

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.

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

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

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

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

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

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

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?

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

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

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.

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.

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.

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.

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.

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?

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

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,

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

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?

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.

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

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

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.

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

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

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

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

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

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

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?

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

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

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.)

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

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?

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.

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

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.

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 not
8 missing a word.

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.

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.

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.

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 --

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

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

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

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

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

1 anything that was viewed as unfavorable to the
2 requestor. As a result of that, an option 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

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

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.

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

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

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

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?

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

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?

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

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

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

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

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 --

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.

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?

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

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

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

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

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.

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.

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?

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.

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.

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

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

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.

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 --

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.

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

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

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.

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

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,

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

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

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

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. Midafternoon 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

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

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

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?

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.

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?

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.

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.

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

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

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

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.)

C E R T I F I C A T E

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 6th day of September, 2023.

/s/ *Mary Oralia Berry*

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