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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 3 - AM SESSION
SEPTEMBER 7, 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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A P P E A R A N C E S

FOR THE TEXAS HOUSE OF REPRESENTATIVES BOARD OF MANAGERS:

Mr. Rusty Hardin
Ms. Lara Hudgins Hollingsworth
Ms. Jennifer Brevorka
Ms. Megan Moore
Mr. Daniel Dutko
Ms. Leah M. Graham
Mr. Armstead Lewis
Ms. Aisha Dennis
RUSTY HARDIN & ASSOCIATES, LLP
1401 McKinney Street, Suite 2250
Houston, Texas 77010
(713) 652-9000
rhardin@rustyhardin.com

Mr. Dick DeGuerin
Mr. Mark White, III
DEGUERIN AND DICKSON
1018 Preston
Houston, Texas 77002
(713) 223-5959
ddeguerin@aol.com

Ms. Harriet O'Neill
LAW OFFICE OF HARRIET O'NEILL, PC
919 Congress Avenue, Suite 1400
Austin, Texas 78701
honeill@harrietonelllaw.com

Ms. Erin M. Epley
EPLEY LAW FIRM, LLC
1207 South Shepherd Drive
Houston, Texas 77019-3611
erin@epley-law.com

Mr. Mark E. Donnelly
PARKER, SANCHEZ & DONNELLY, PLLC
700 Louisiana, Suite 2700
Houston, Texas 77002
mark@psd.law

Ms. Terese Buess
buesster@gmail.com

1 Ms. Donna Cameron
2 State Bar No. 03675050

3 Mr. Brian Benken
4 BENKEN LAW
5 1545 Heights Blvd., Suite 900
6 Houston, Texas 77008
7 (713) 223-4051

8 Mr. Ross Garber
9 THE GARBER GROUP LLC
10 1300 I Street, N.W., Suite 400E
11 Washington, D.C. 20005
12 rgarber@thegarbergroup.com

13 Ms. Lisa Bowlin Hobbs
14 KUHN HOBBS PLLC
15 3307 Northland Drive, Suite 310
16 Austin, Texas 78731
17 lisa@kuhnhobbs.com

18 ALSO PRESENT:

19 HOUSE BOARD OF MANAGERS:

20 Representative Andrew Murr
21 Representative Ann Johnson
22 Representative Briscoe Cain
23 Representative Terry Canales
24 Representative Erin Gamez
25 Representative Charlie Geren
Representative Jeff Leach
Representative Oscar Longoria
Representative Morgan Meyer
Representative Joe Moody
Representative David Spiller
Representative Cody Vasut

1 FOR THE ATTORNEY GENERAL:

2 Mr. Tony Buzbee
3 Mr. Anthony Dolcefino
4 Mr. Colby Holler
5 THE BUZBEE LAW FIRM
6 JP Morgan Chase Tower
7 600 Travis Street, Suite 7500
8 Houston, Texas 77002
9 tbuzbee@txattorneys.com

10 Mr. Dan Cogdell
11 Mr. Anthony Osso
12 COGDELL LAW FIRM
13 1000 Main Street, Suite 2300
14 Houston, Texas 77002
15 dan@cogdell-law.com

16 Mr. Judd E. Stone, II
17 Mr. Christopher D. Hilton
18 Ms. Allison M. Collins
19 Ms. Amy S. Hilton
20 Ms. Kateland R. Jackson
21 Mr. Joseph N. Mazzara
22 STONE|HILTON PLLC
23 1115 West Slaughter Lane
24 Austin, Texas 78748
25 (737) 465-3897
judd.e.stone@proton.me
christopher.d.hilton@proton.me

Mr. J. Mitchell Little
SCHEEF & STONE, LLP
2600 Network Blvd., Suite 400
Frisco, Texas 75034
(214) 472-2140
mitch.little@solidcounsel.com

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SENATE IMPEACHMENT TRIAL

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P R O C E E D I N G S

THURSDAY, SEPTEMBER 7, 2023

(8:57 a.m.)

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

PRESIDING OFFICER: Good morning, everyone. Please bring in the jury.

MR. OSSO: And, Judge, at this time I would -- I do have a matter I would like to bring up at the -- at the bench, if that's okay.

PRESIDING OFFICER: After the prayer.

MR. OSSO: Yes, Judge.

PRESIDING OFFICER: And after the jury comes in.

MR. OSSO: Yes, Judge.

(Jury enters the chambers.)

PRESIDING OFFICER: Good morning, Members of the Jury.

Senator Hinojosa, I understand you're going to do the prayer this morning. Please come forward.

SENATOR HINOJOSA: Good morning.

THE JURY: Good morning.

1 SENATOR HINOJOSA: Please, let's bow our
2 heads.

3 Lord, we come before you today,
4 acknowledging that our understanding is imperfect and
5 limited. We ask for your guidance and direction in
6 every aspect of our lives. As we walk down unfamiliar
7 paths, we ask for your guidance.

8 Open our eyes, sharpen our senses so --
9 so that we may use good judgment in every situation and
10 decision we encounter. Help us to be patient. Help us
11 to avoid making rash decisions and impulsive actions
12 that may lead us astray.

13 We understand that our choices have the
14 power to shape our future. For that reason, we ask for
15 your wisdom and guidance. Help us make wise decisions
16 as we trust in you.

17 In Jesus' name we pray. Amen.

18 PRESIDING OFFICER: Thank you, Senator.

19 Please be seated.

20 Counselor, you wanted to approach the
21 bench?

22 MR. OSSO: Yes, Judge.

23 (At the bench, off the record.)

24 PRESIDING OFFICER: Quiet, please.

25 (At the bench, off the record.)

1 PRESIDING OFFICER: The court will come
2 to order.

3 Members, the -- the motion made, you
4 asked if there are any statements from this witness.

5 Are there any statements from this
6 witness you have not turned over?

7 MR. HARDIN: No, Your Honor.

8 PRESIDING OFFICER: Okay. Anything you
9 have are work product notes?

10 MR. HARDIN: That's all we have. My
11 notes specifically state they're not --

12 THE REPORTER: I'm sorry?

13 PRESIDING OFFICER: Be at -- be at the
14 microphone, please.

15 MR. HARDIN: That's correct, Your Honor.
16 There are -- there are no statements from this witness.
17 We -- we have -- notes that we have are our mental
18 processes and everything as to what he said, a summary
19 of different things and issues. But no notes and no
20 statement -- and no notes have any statement from the
21 witness.

22 PRESIDING OFFICER: If there are any
23 statements you discover, they need to be turned over.

24 MR. HARDIN: That's absolutely right.

25 PRESIDING OFFICER: All right. Motion is

1 denied.

2 MR. OSSO: Yes, Judge.

3 PRESIDING OFFICER: The bailiff will call
4 the witness in.

5 (Witness enters the courtroom.)

6 THE WITNESS: Are you going to swear me
7 again?

8 PRESIDING OFFICER: No. You're still
9 under oath from yesterday, Mr. Bangert. Please be
10 seated.

11 Counselor, you can continue.

12 MR. HARDIN: Good morning. Thank you.

13 RYAN LEE BANGERT,
14 having been first duly sworn, testified as follows:

15 DIRECT EXAMINATION (CONTINUED)

16 BY MR. HARDIN:

17 Q. Good morning.

18 A. Good morning.

19 Q. Thank you. I want to go, if I can, back a
20 little bit from where we broke up yesterday, back to the
21 Mitte Foundation issue, and your involvement in that.

22 After the -- the intervention that you've
23 testified about on June the 2nd of 2020, did the
24 attorney general contact you personally about that issue
25 again?

1 A. We did have conversations subsequent to the
2 intervention, yes.

3 Q. All right. And what was the occasion? Did
4 you attend any meeting with the attorney general about
5 it?

6 A. I did attend a meeting with him. We were
7 having a senior staff meeting. We had a weekly meeting
8 every week where all of the deputies would gather in the
9 main conference room, and he did request my presence at
10 a off-site meeting to discuss the Mitte Foundation.

11 Q. Can you give us a time?

12 A. The meetings happened in the morning, roughly
13 midmorning. It was, I believe, after the intervention,
14 but it was prior to my being removed from the case by
15 First Assistant Mateer.

16 Q. All right. So what would -- what did he say?
17 Just, if you could, repeat what he said to you and asked
18 for.

19 A. He came to me in the meeting. The meeting had
20 already started. He approached me and said I need you
21 to come with me to lunch.

22 Q. And did he say any further who was the lunch
23 going to be with?

24 A. Nate Paul.

25 Q. What did he say to you as to why he wanted you

1 to go to lunch with Nate Paul?

2 A. He didn't say specifically at that time. He
3 just said we needed to go and have lunch with Nate Paul.

4 Q. Did he indicate why he wanted you to go to
5 lunch with Nate Paul?

6 A. It became clear subsequent to that what the
7 meeting was about, yes.

8 Q. What was your position at that time that --
9 that you had stated to him before the intervention and
10 even at the time of the intervention as to whether you
11 were opposed or unopposed to it?

12 A. I was very uncomfortable with the
13 intervention. We had discussed it. There were ongoing
14 conversations after the intervention that made me even
15 more uncomfortable with our position in that case. And
16 I had communicated to him what I believed were the pros
17 and cons, and we were very heavy on the con side.

18 Q. So where did you go to lunch?

19 A. I believe it was Polvos. It was a Mexican
20 restaurant downtown.

21 Q. And who went to the lunch with you?

22 A. Well, it was -- we had to go through some
23 gymnastics to even make the lunch happen. I -- it was
24 with the attorney general and Drew Wicker from the
25 attorney general's office and Nate Paul, of course.

1 Q. How many weeks after the intervention and
2 after you had expressed your opposition to it, how many
3 weeks after that would this luncheon have been?

4 A. It would have been one to two weeks after is
5 my best guess. I can't tell you precisely, but it
6 was -- it was sometime in mid-June. It was very warm.

7 Q. Did he ever ask you to go to lunch with
8 anybody that represented the Mitte Foundation?

9 A. No.

10 Q. Did he ever ask you to go to lunch with the
11 lawyers representing the Mitte Foundation?

12 A. No.

13 Q. In the entire litigation that had been going
14 on for several years, did he ever ask you to meet with
15 anybody other than Nate Paul, one of the parties to the
16 litigation?

17 A. In connection with that case, no.

18 Q. All right. Now, when you arrived at lunch,
19 can you describe the lunch for us, please?

20 A. We -- the -- attorney general drove us over to
21 Nate Paul's office, which is not far from our office,
22 and left his car there. And as I recall, we piled into
23 Nate -- Nate Paul's car. And then he drove to Polvos.

24 Q. As a lawyer, what was your reaction to being
25 asked -- did you consider it an ask or a directive? Let

1 me ask you that first.

2 MR. OSSO: Objection. Relevance.

3 MR. HARDIN: I -- I've simply asked him
4 and gave him a choice. I am not telling him what to --

5 PRESIDING OFFICER: Overruled. You can
6 ask the question.

7 MR. HARDIN: Thank you.

8 A. It was not a request to which I could say no
9 for reasons that I can explain.

10 Q. (BY MR. HARDIN) Please.

11 A. The reasons why were Jeff Mateer and I
12 discussed briefly the request that I go to lunch with
13 Nate Paul, and we very quickly determined that it would
14 be inappropriate --

15 MR. OSSO: Objection to hearsay. He's
16 talking about a conversation with Jeff Mateer.

17 MR. HARDIN: Let me reask it a certain
18 way, if I can. Thank you, Your Honor.

19 PRESIDING OFFICER: Please. Sustain
20 that, and reask.

21 MR. HARDIN: Thank you very much.

22 Q. (BY MR. HARDIN) All right. Let's go back now
23 to apparently what happened on the initial request.

24 Let's go back to when at the meeting he wanted you to go
25 to lunch with Nate Paul. What was your initial reaction

1 when he asked you that?

2 A. I was concerned that I was being asked to meet
3 with the principal of a party in a lawsuit to which we
4 had intervened.

5 Q. And so without going into what Mr. Mateer and
6 you said, who did you go to talk to?

7 A. I visited with the attorney general, and I
8 explained to him that there were ethical concerns
9 because, as counsel for the State of Texas, I would be
10 meeting with a represented party in a lawsuit to which
11 the State of Texas had intervened.

12 Q. So what did you ask him if you could do and
13 what did you do?

14 A. I explained to him that --

15 MR. OSSO: Objection. Hearsay.

16 MR. HARDIN: What? It's a conversation
17 with the attorney general.

18 MR. OSSO: It's hearsay.

19 PRESIDING OFFICER: Overruled.

20 A. I explained to the attorney general that the
21 only way that we could properly make this work under the
22 rules of ethics is if there was a waiver from
23 Nate Paul's counsel allowing me to speak directly with a
24 represented party. My assumption was that that would
25 terminate the request and we could go back to the

1 meeting.

2 Q. (BY MR. HARDIN) So was that the course that
3 you took after you privately consulted with Mr. Mateer?

4 A. Yes.

5 Q. All right. And then when you told the
6 grand -- the attorney general that, what did he do?

7 A. He went back to his office for a short amount
8 of time and emerged with a document that purported to be
9 a written waiver from Nate Paul's counsel giving me
10 permission to meet with Nate Paul without his lawyers
11 present.

12 Q. Mr. Bangert, how long did it take the Attorney
13 General of the State of Texas to go into his office,
14 contact the counsel for Nate Paul, and get a document
15 prepared that waived any objection that lawyer would
16 have to you talking directly to Mr. Paul?

17 MR. OSSO: Objection. Speculation. This
18 witness doesn't know what Mr. Paxton did in his office.

19 MR. HARDIN: I -- the question was
20 whether -- how long it took --

21 PRESIDING OFFICER: Overruled.

22 MR. HARDIN: Thank you. Excuse me.

23 Thank you.

24 A. No more than 15 minutes.

25 Q. (BY MR. HARDIN) And what was the -- what was

1 the document he brought up back to you in 15 minutes?

2 A. I will -- my recollection is it was a document
3 that had been faxed or e-mailed to him. It was not
4 something that I believe he had prepared. The
5 appearance of it was not something that he would have
6 prepared, but it was a document that had prepared --
7 been prepared by one of Nate Paul's lawyers, waiving any
8 conflicts that might arise from me, as counsel for the
9 State of Texas, meeting with a represented party.

10 Q. All right. Well, after that process and all,
11 did you feel free to decline the lunch meeting, or what
12 was your reaction? What did you do?

13 A. Well, I told Mr. Mateer that he had gotten a
14 waiver, and I was pretty much straight out of luck at
15 that point. I had to go.

16 Q. Now, when you -- when you went to Mr. Paul's
17 office -- where was his office by the way?

18 A. It was in downtown Austin, south of here, but
19 I don't recall specifically the location.

20 Q. And when you went -- I mean, actually -- you
21 guys actually went and got in his office and got in his
22 car -- and went in his car?

23 A. We went and parked in his parking lot and got
24 in his car.

25 Q. Describe the lunch for us. Where -- you know,

1 did you sit in a -- in a public area or a private area
2 or what?

3 A. We went to Polvos. Yeah, I recall the layout
4 of the restaurant. It was Polvos downtown. We went
5 into the restaurant. If I recall correctly, Nate Paul
6 wanted to sit outside even though it was warm, so we sat
7 out on the porch. It was very uncrowded. There weren't
8 many people there. And we sat down for lunch.

9 Q. And how did the conversation go? Did
10 Mr. Paxton introduce the subject, or did you introduce
11 it, or did -- somebody else did?

12 A. I was not entirely sure why I was there, but
13 it became very clear Nate Paul the moment we sat down.

14 MR. OSSO: Objection. Nonresponsive.

15 MR. HARDIN: I'll -- I'll go -- I'll take
16 care of it. Thank you, Judge. If it's okay, I'll take
17 care it.

18 PRESIDING OFFICER: Sustained. And
19 continue.

20 MR. HARDIN: Thank you very much.

21 Q. (BY MR. HARDIN) Who was the first person to
22 speak, if you recall?

23 A. Nate Paul did almost all of the talking.

24 Q. Did the attorney general do any kind of
25 introduction or anything? What was his role in this

1 conversation?

2 A. It was nothing more than, Ryan, this is
3 Nate Paul, and there are some things he would like you
4 to hear. That was effectively the upshot of it.

5 Q. There were some things -- he said -- he said
6 what?

7 A. I'm paraphrasing now, but it was to the effect
8 of, This is Nate Paul and he has some things to share
9 with you.

10 Q. So then what did Mr. Paul do?

11 A. He proceeded to lay out his theory of the case
12 on --

13 MR. OSSO: Objection. Hearsay. He's
14 talking about a statement by Nate Paul.

15 PRESIDING OFFICER: Sustained.

16 Q. (BY MR. HARDIN) Did the attorney general,
17 during this entire conversation, reject anything that
18 Mr. Paul was saying?

19 A. No.

20 Q. Did the Attorney General of the State of Texas
21 do anything to show that he did not agree with the
22 things that Mr. Paul was saying?

23 A. No.

24 Q. So once again, this conversation with Mr. Paul
25 that was held -- had in the presence of the attorney

1 general, what did Mr. Paul say?

2 MR. OSSO: Objection. Hearsay.

3 MR. HARDIN: Your Honor, the reason for
4 this is, this is all in the presence of the party, the
5 attorney general, and his silence or his statements are
6 acquiescence in -- in adopting the statements of
7 Mr. Paul. That's why I don't believe it is subject to
8 the hearsay exception.

9 MR. OSSO: Judge, permission to respond?

10 PRESIDING OFFICER: Respond.

11 MR. OSSO: There is no evidence that this
12 witness can talk about that Mr. Paxton has adopted any
13 statements made by Mr. Paul during that conversation.
14 And because of that, it is not a statement that is
15 adopted by a party opponent. And for that reason, it's
16 still hearsay. Any statement by Nate Paul is hearsay at
17 that -- at that meeting.

18 PRESIDING OFFICER: Overruled.

19 Continue.

20 MR. HARDIN: Thank you.

21 Q. (BY MR. HARDIN) What did he say?

22 A. Mr. Paul laid out his theory of grievances
23 against the Mitte Foundation. He described to me how
24 unfair it was that a charity that was a limited investor
25 would be able to assume control over assets that were

1 owned by World Class. He was very vehemently opposed to
2 the receivership.

3 He, as I recall, was more or less railing
4 on the way that Ray Chester and the counsel for Mitte
5 Foundation had handled the case. And more or less went
6 through a number of different complaints that had been
7 raised in a memorandum that had been provided to me by
8 his sister, Sheena Paul.

9 Q. I think it will become clear in later -- later
10 testimony from others, but Sheena Paul is a lawyer; is
11 that correct?

12 A. Yes.

13 Q. And she's the sister of Mr. Nate Paul; is that
14 correct?

15 A. That's correct.

16 Q. And, well, your familiarity with the case, had
17 she been actively involved in the litigation on behalf
18 of her brother?

19 A. I don't know how actively involved she was.
20 My impression was she was involved as general
21 in-house -- or in-house counsel for World Class, yes.

22 Q. All right. Fair enough.

23 How long did this expo- -- this
24 description of his complaints and his position with
25 Mr. -- by Mr. Paul, how long did that last?

1 A. The lunch lasted for a good 30, 35 minutes, if
2 not 40 --

3 Q. Did you folks --

4 A. -- in that range.

5 Q. Did you folks have food?

6 A. We did order food. I don't think I ate very
7 much.

8 Q. Did the attorney general, during this meeting,
9 ever reject or try to modify, or ask questions, or do
10 anything during the time that Mr. Paul was pleading his
11 case to you?

12 A. He did not, no.

13 Q. How did the luncheon end?

14 A. Mr. Paul completed his exposition, and that
15 was a signal for the lunch to end.

16 Q. Did you ask any questions?

17 A. I may have asked a few questions. I don't
18 recall. But it was -- it very much had the feeling that
19 I had been summoned to a lunch.

20 MR. OSSO: Objection. Nonresponsive.

21 MR. HARDIN: Excuse me. I don't know
22 whether it was or not, I don't know what the answer was.

23 PRESIDING OFFICER: I'll sustain the
24 objection.

25 Rephrase.

1 MR. HARDIN: Thank you.

2 Q. (BY MR. HARDIN) What was your impression
3 about that, what that whole meeting was about?

4 A. The strong impression that I had developed was
5 I had been summoned to that lunch by Nate Paul to hear
6 out his grievances and to convince me to get onboard
7 with the Mitte Foundation intervention program.

8 Q. So how did it -- once it ended, what did y'all
9 do?

10 A. We parted ways, drove back, got back in the
11 attorney general's car, and came back to the office.

12 Q. Did the attorney general say anything to you
13 about the case after y'all left Mr. Paul at his office?

14 A. Very little.

15 Q. Did y'all just sort of sit there silently?

16 A. I -- as I recall, it was a very quiet ride
17 back, yes.

18 Q. Then was Mr. Wicker present for this whole
19 conversation?

20 A. He was, yes.

21 Q. Did you talk to Mr. Wicker about that after
22 you came back?

23 A. I did.

24 Q. All right. Did you, yourself, express
25 yourself as to what you thought about the lunch?

1 A. Yes, I did.

2 Q. What did you say?

3 MR. OSSO: Objection. Hearsay.

4 MR. HARDIN: This man is here. It's not
5 hearsay. A statement by the witness, Your Honor, is not
6 hearsay.

7 PRESIDING OFFICER: Overruled.

8 MR. HARDIN: Thank you.

9 Q. (BY MR. HARDIN) What did you say?

10 A. I told him, Drew, that was one of the craziest
11 things I have ever seen.

12 Q. His response?

13 A. He --

14 MR. OSSO: Objection. Hearsay.

15 MR. HARDIN: Thank you.

16 PRESIDING OFFICER: Sustained.

17 MR. HARDIN: Thank you, Your Honor.

18 Thank you, Your Honor. I'll move on.

19 Q. (BY MR. HARDIN) Now, let me -- how old were
20 you at that time of that conversation?

21 A. How old was I?

22 Q. How old were you in the summer of 2020?

23 A. I was 42 or 43. I'm trying to do the math in
24 my head. Forty-two, I believe.

25 Q. How long had you been a lawyer?

1 A. I had been a lawyer since -- for about 15 --
2 well, I think I was 43 now that you mention it, because
3 I'm doing the math. I was 43. And I had been a lawyer
4 for the better part of 15 years at least.

5 Q. Had you ever, in 15 years as a lawyer,
6 experienced anything like that?

7 MR. OSSO: Objection. Relevance. And an
8 improper opinion, Judge.

9 MR. HARDIN: I'm just asking him if he,
10 in his experience, did he ever have anything similar as
11 a lawyer.

12 PRESIDING OFFICER: Overruled.

13 Continue.

14 Q. (BY MR. HARDIN) Go ahead.

15 A. It was, as we say in the Latin, *sui generis*.
16 It was one of a kind. I'd never seen anything like it.

17 Q. All right. Now, again, if -- by the way,
18 there is one fact -- I want to try to move on to another
19 subject. But at this time that y'all are spending this
20 time dealing with Mr. Paul's issues, what all is going
21 on in the attorney general's office as far as real work
22 that you guys and women were responsible for doing?
23 What -- what's happening on the landscape in the State
24 of Texas and in the attorney general's office that y'all
25 wanted to be working on?

1 A. We were working around the clock on
2 COVID-related issues. And we were also preparing a
3 major multistate lawsuit against Google.

4 Q. And is that Google lawsuit still pending?

5 A. As far as I know it is.

6 Q. But has it since been given to an outside law
7 firm?

8 A. Yes.

9 Q. At the time you were there, was it being
10 handled in-house or by an outside law firm?

11 A. In-house.

12 Q. All right. Did it remain being -- have --
13 having the inside -- inside the firm -- inside the
14 agency -- excuse me, until after all of you resigned or
15 were fired?

16 MR. OSSO: Objection. This witness
17 doesn't have personal knowledge of that.

18 Q. (BY MR. HARDIN) Let me put it this way. Of
19 the people that left on --

20 PRESIDING OFFICER: Sustained.

21 Q. (BY MR. HARDIN) -- on the top floor that were
22 all terminated ultimately, the eight, what people have
23 called colloquially the eight whistleblowers, was Google
24 ultimately farmed out to a private law firm after all of
25 y'all were gone?

1 MR. OSSO: Objection. Hearsay.

2 Objection. Lack of personal knowledge.

3 MR. HARDIN: Hearsay is a --

4 PRESIDING OFFICER: Overruled.

5 MR. HARDIN: Thank you.

6 A. I believe more than one law firm, yes.

7 Q. (BY MR. HARDIN) Pardon me?

8 A. I believe more than one, yes, outside firms.

9 Q. All right. Now, if you -- the microphone, I
10 can't tell -- I don't know whether it's being picked up
11 behind me. So if you can just -- maybe -- if it's
12 louder to me, then maybe it will be louder back there.
13 Okay?

14 In -- in addition to Google, were there
15 other major pieces of litigation going on that you were
16 responsible for?

17 A. Yes, there were.

18 Q. What?

19 A. The special litigation unit was very busy
20 handling a number of election-related lawsuits.

21 Q. All right. And were there other areas? Were
22 there -- what was y'all's experience or involvement at
23 that time in trying to cope with COVID-related legal
24 issues?

25 A. We had a section called the Disaster Counsel

1 Advice section under the general counsel. That was
2 handling a flood of requests from local officials as to
3 how to handle COVID.

4 Q. Well, when the attorney general kept raising
5 Nate Paul issues of the ones that we've gone through so
6 far and later in the future, do you have any idea what
7 kind of -- how much time or resources that were devoted
8 to dealing with Nate Paul instead of real concerns?

9 A. We were devoting far more resources to
10 Nate Paul than we ever should have, given the importance
11 of those issues.

12 Q. Do you -- can you put any kind of quantifying
13 amount on it as you sit there?

14 A. Well, certainly the opinion that we discussed
15 yesterday consumed the better part of three days of my
16 time that could have been spent working on other
17 matters. And, of course, the Mitte Foundation consumed
18 a lot more time than that.

19 Q. Now, I want to ask you if I can -- and then,
20 of course, we haven't gotten to whatever time was
21 expended on the hiring of a special -- of somebody
22 purportedly being a special prosecutor. In other words,
23 the hiring of an outside counsel, we haven't even
24 discussed that --

25 MR. OSSO: Objection. The attorney is

1 testifying --

2 MR. HARDIN: Excuse me. Let me finish my
3 question, please.

4 MR. OSSO: Judge, my objection is to
5 his --the call of his counsel --

6 MR. HARDIN: Please --

7 PRESIDING OFFICER: Counsel, let him
8 finish --

9 MR. OSSO: Yes, Judge.

10 PRESIDING OFFICER: -- and then you can
11 object.

12 Mr. Hardin, you can finish the question.

13 MR. HARDIN: Thank you.

14 Q. (BY MR. HARDIN) Do you have any idea how much
15 more time and resources were devoted to once the -- you
16 discovered this issue of a -- of an outside counsel
17 being considered and then being done?

18 A. It was many, many hours. We spent days
19 dealing with the fallout of that. And that was all of
20 us together, so seven, eight of us at least, plus
21 support -- a few support staff. So it would be hundreds
22 of manhours.

23 Q. All right. Now, Mr. Bangert, I want to go
24 to -- you mentioned the -- what some of us colloquially
25 have called "the midnight opinion."

1 Can you tell us without a, you know, not
2 necessarily a long legal description, is there a section
3 in the Government Code that deals with these opinions?

4 A. There are -- there's a very distinct section
5 in the Government Code that deals with our authority to
6 issue opinions, yes.

7 Q. All right. So when we talk about opinions
8 very briefly that come out of -- of the attorney
9 general's office, how many types of opinions would you
10 say there are involved?

11 A. There are two types -- there are a handful of
12 types of opinions involved. The first would be an
13 opinion issued pursuant to our Government Code 402
14 authority to issue opinions to individuals who are
15 authorized requestors.

16 Q. All right. Let me stop there. So Section 402
17 of the Government Code authorizes you to produce
18 opinions in response to whom?

19 A. Very specific individuals. They have to --
20 there's a list in the code, legislative -- chairmen of
21 legislative committees are one. Certain statewide
22 officials. There are a handful, I believe, of local
23 government officials who would be authorized, but it's a
24 very distinct list, and that list cannot be waived.

25 Q. And is there any distinction in the Government

1 Code between an informal and a formal opinion?

2 A. No.

3 Q. Do you recall whether or not in the opinion
4 that y'all wrote for -- at the attorney general's
5 request, do you recall any language at the end of it
6 that talked about it was an informal opinion guidance?

7 MR. HARDIN: Can I put up -- do we have
8 an exhibit number for -- can I step over just to get an
9 exhibit number, please?

10 PRESIDING OFFICER: Yes, sir.

11 MR. HARDIN: Thank you.

12 Stacy, can I ask you to put up
13 Exhibit 115, which is in evidence. And can we go to the
14 end of that opinion, please.

15 Q. (BY MR. HARDIN) Well, first of all, do you
16 recognize --

17 PRESIDING OFFICER: Counselor, has this
18 already -- on the list of admitted evidence?

19 MR. HARDIN: This has already been
20 admitted.

21 PRESIDING OFFICER: It has been admitted.
22 Okay.

23 MR. HARDIN: Yes, this is one that is
24 agreed. Thank you, Your Honor.

25 Q. (BY MR. HARDIN) Do you recognize this

1 exhibit?

2 A. I do.

3 Q. And what is it?

4 A. The first page -- this is the opinion that we
5 worked on and issued August 1st in response to the
6 attorney general's request concerning foreclosures.

7 Q. All right. And this is the opinion you've
8 talked about earlier that was completed at about
9 1:00 o'clock in the morning on that Sunday?

10 A. It is.

11 MR. HARDIN: All right. Now, if you
12 would, Stacey, would you scroll to sort of the end of
13 the opinion.

14 Q. (BY MR. HARDIN) Now, could you explain to
15 us -- I believe you just testified there's not a
16 difference -- there's not a distinction in the code
17 between informal and formal --

18 MR. OSSO: And, Judge, I'd object that
19 that is an improper legal conclusion by this witness.

20 MR. HARDIN: What? I'm sorry.

21 PRESIDING OFFICER: Overruled.

22 MR. HARDIN: Thank you.

23 Q. (BY MR. HARDIN) This opinion that you
24 drafted -- and this is actually an opinion that you
25 signed, correct?

1 A. Yes.

2 Q. And was this division and this matter under
3 your supervision and control?

4 A. It had been.

5 Q. All right. Before you became the deputy first
6 assistant, is that what you mean?

7 A. Yes.

8 Q. Okay. All right. So the language says -- I'm
9 trying to stay with the microphone to be able to read.
10 It says, Please note this letter is not a formal
11 attorney general opinion under Section 402.042 of the
12 Texas Government Code. Rather, it is intended only to
13 convey informal legal guidance.

14 Explain to me what the significance of
15 that -- is that inconsistent with your previous
16 testimony?

17 A. No, it is not.

18 Q. All right. Explain, please.

19 A. Well, I would analogize this to the practice
20 in Texas courts of issuing published and unpublished
21 opinions. We have an obligation under 402.045, which is
22 part of the opinions authority, only to issue opinions
23 to individuals if they are authorized requestors. They
24 have -- you cannot simply issue opinions as the attorney
25 general's office to any individual who asks because we

1 are not a private law firm --

2 Q. So if I walked --

3 A. -- in the best interest of the State.

4 Q. So if I walked in off the street or have
5 something in my business or so that I really want an
6 opinion for it, am I entitled to ask the attorney
7 general's office to -- to get -- give me an opinion,
8 just to give me the legal advice?

9 A. No, not unless you're one of the listed
10 statutory requestors.

11 Q. Is a legislator one of those people that is
12 authorized to ask?

13 A. The chairman, yes.

14 Q. All right. And is -- oh, it has to be a
15 chairman of a committee?

16 A. Yes.

17 Q. And in this case, as we've talked about
18 yesterday, that's what happened, correct?

19 A. Yes, I believe Senator Hughes at this time was
20 chair of the State Affairs Committee and possibly one
21 other.

22 Q. All right. Now, was there a time in the
23 history of the attorney general's office in which the
24 office did issue informal opinions?

25 A. The -- my recollection was that, yes, there

1 was a time when we would post opinions on our website
2 that were informal in nature.

3 Q. All right. And -- and are you aware that
4 the -- the -- the website -- that their website now, the
5 attorney general's website now, indicates that that
6 stopped in 1979? Is that anywhere consistent with your
7 understanding?

8 A. That would not surprise me.

9 Q. All right. Now, go here to explain to me why
10 you put this language in here then that said it's not a
11 formal attorney general opinion, it is -- rather, it is
12 intended only to convey informal legal guidance.
13 Explain why that's okay or why you put it there even.

14 A. Yes. The normal opinions process involves
15 going through the opinion committee. It's a very
16 rigorous process of drafting, review, approval. It goes
17 up through a number of different layers of review. This
18 did not follow that normal process. It did not go out
19 for briefing, for third parties to evaluate and consider
20 whether they wanted to brief on this. So none of those
21 procedural aspects were associated with this opinion,
22 nor did it receive a -- what we call a KP number, which
23 is a formal opinion assignment number for publication on
24 the website, and ultimately publication on Westlaw.

25 Q. Well, as far as the statute is concerned, is

1 there a distinction by what you did -- did on this
2 opinion that night any different? Is that opinion and
3 its consequences any different than a -- in terms of its
4 effect on the outside world?

5 MR. OSSO: Objection. It --

6 MR. HARDIN: Excuse me. Let me finish my
7 question.

8 Q. (BY MR. HARDIN) As opposed -- I don't
9 remember what it was. Let me start over.

10 Is there any difference on the impact on
11 the outside world of what you did here in this
12 particular opinion and what -- and an opinion that you
13 might have issued that went through the formal process
14 that you say takes up to six months or so?

15 A. No. All of our opinions have persuasive --

16 MR. OSSO: Objection. Improper legal
17 opinion.

18 PRESIDING OFFICER: Overruled.

19 Continue.

20 Q. (BY MR. HARDIN) Why did you say that then?

21 A. This signaled to the reader that this opinion
22 had not gone through the formal rigorous process of
23 review by the opinion committee. It had not gone out
24 for briefing. It had not gone through the normal
25 process that can take up to 180 days of time. And it

1 was also not going to be receiving a KP number. And I
2 don't believe this is published on Westlaw. I haven't
3 checked, but I would be surprised if it were.

4 Q. So why did the two of you decide to do it this
5 way, to put that sentence in there? Would you
6 ordinarily have put that sentence in a -- in an opinion
7 where, say, another chairman of another committee asked
8 for it, et cetera? Would you have normally put this
9 sentence in there?

10 A. We would not put this sentence in an opinion
11 that went through the normal formal process. There were
12 other opinions that contained this language, but all of
13 them had similar characteristics. They were requested
14 by someone who was an authorized requestor and they did
15 not go through the formal process.

16 Q. And does that not going through the formal
17 process and your communicating that to the outside
18 world, is there a reason you do that?

19 A. This signals that it did not receive the
20 rigorous review that an opinion of our office normally
21 would.

22 Q. So if lawyers in court are contesting --
23 having a controversial issue and their opposing side
24 sought to introduce this, is that sort of a signal to
25 anybody that knew about the process that they might have

1 an argument to the judge, Wait a minute. This is --
2 this is not -- there's no such thing -- may not be such
3 a thing as an informal opinion, Judge, but this opinion
4 did not go through the rigorous process a normal opinion
5 did. Would that argument be available to them?

6 A. I presume it would be. Certainly our intent
7 was to signal this had not gone through the formal
8 process.

9 Q. All right. I notice your eyebrows go up when
10 you're thinking. Does that mean that you never had
11 thought about it before I just asked this?

12 A. Oh, no. No, this is -- this is something that
13 we were dealing with en masse.

14 MR. OSSO: Objection. Nonresponsive.
15 There wasn't a question asked.

16 Q. (BY MR. HARDIN) Okay. Were you having these
17 kind --

18 PRESIDING OFFICER: Sustained.

19 MR. HARDIN: Excuse me.

20 Q. (BY MR. HARDIN) Were you having these kind of
21 questions all the time? Or not all the time. Let me
22 put it another way.

23 Were you frequently having to deal with
24 this kind of issue?

25 A. At this time, the specific moment we were

1 dealing with an unusual influx of requests for advice.

2 Q. And was there a process in which you could
3 provide -- are there other ways that you could provide,
4 rather than just this, could you do things in another
5 way, like press releases or things like that?

6 A. Certainly. If we're not providing legal
7 advice to an individual, we can send out press
8 statements, we can send out bulletins or announcements.
9 I don't see anything that would preclude us from doing
10 this. But the code 402.045 is very clear that if we're
11 providing advice to an individual, then that individual
12 must be an authorized requestor for the purpose of
13 ensuring that the interests of the State are being
14 represented by that request.

15 Q. Are you aware one way or the other whether
16 opinions like this might be used by litigants in private
17 litigation?

18 A. I assume they are because that's why they
19 are placed in Westlaw --

20 MR. OSSO: Objection. Speculation. This
21 witness was not there for the litigants.

22 MR. HARDIN: I withdraw.

23 PRESIDING OFFICER: Overruled.

24 MR. HARDIN: Your Honor, I'm going to ask
25 if the Court might -- I say this nicely -- instruct

1 counsel, when he has an objection to wait until the
2 answer is completed, and then he can object and ask
3 for some -- if the Court sustains it, he can ask for
4 other things. But this constant interrupting the
5 witness in the middle of the statement or the question
6 in the middle of the statement is unduly time-consuming.

7 MR. OSSO: Your Honor, may I respond to
8 that?

9 PRESIDING OFFICER: Yes.

10 MR. OSSO: I have to object if the
11 witness is testifying to things that shouldn't be
12 admissible into evidence. I shouldn't have to wait for
13 him to say "hearsay" before I make that objection. And
14 so I would request to wait till Mr. Hardin finishes his
15 question and then lodge my objection.

16 PRESIDING OFFICER: If you're talking
17 over each other, the court reporters can't report
18 accurately what either of you are saying, and the jurors
19 can't hear what you are saying.

20 So I understand, Counselor, but try to
21 not talk over each other.

22 MR. OSSO: Yes, Judge.

23 MR. HARDIN: Thank you, Your Honor.

24 Excuse me.

25 Q. (BY MR. HARDIN) Now, real quickly, we're

1 about through with this -- this issue, but I want to
2 know if there are other ways that y'all chose to inform
3 people. For instance, if mayors -- what was your
4 experience during this period of time if mayors of
5 cities or local government spokespersons or officers
6 were contacting you for legal guidance, how did you
7 approach those kind of issues in dealing with COVID?

8 A. Yes. The Legislature had granted our office
9 authority under Section 418 to respond to requests for
10 legal advice from certain local officials -- mayors are
11 one of them -- for issues related to a declared disaster
12 in their jurisdiction.

13 That code was passed, my understanding,
14 in response to hurricane disasters. We -- no one
15 anticipated every single county in the state of Texas
16 being placed under a simultaneous disaster declaration
17 in response to COVID, but so it was. So we effectively
18 became available to officials in 254 counties throughout
19 the state of Texas under 418.

20 Q. Do you have any knowledge one way or the other
21 to discussions and activities in the attorney general's
22 office as to whether or not the attorney general had
23 indicated he was aware of other possible ways to address
24 someone's concern about a gathering other than
25 Section 402?

1 A. Unless there was an authorized requestor under
2 418, no.

3 Q. All right. Thank you.

4 Now, at the -- at the end of the day,
5 once this process was completed, was there any
6 distinction in whatever -- however it would be
7 considered by others in this opinion and an opinion that
8 went through the very rigorous six months of research
9 and consultation?

10 A. The effect is the same. They have persuasive
11 value based on the solidness of the reasoning and based
12 on the fact that it's issued by the attorney general's
13 office. It's the persuasive value of the opinion
14 that -- that follows it.

15 Q. Thank you. Now, at the -- when we can, I want
16 to go to -- one final question. Is an opinion under
17 this Section 402 that you issued, is it considered just
18 as authoritative, though, in terms of its results as an
19 opinion that goes through the rigorous examination that
20 you described?

21 A. There's no reason it would not.

22 Q. Okay. Now, would it have the same ability and
23 the same impact if one wanted to seek to use it in
24 litigation?

25 A. Again, the reader would evaluate it for its

1 persuasive value just like a formal opinion.

2 Q. All right. Now, I want to move if I may, sir,
3 to what happens, starting in your experience -- when did
4 you become -- with the outside counsel.

5 When did you become aware that the
6 Lieutenant Governor wanted to appoint outside counsel?

7 PRESIDING OFFICER: Senator -- Counselor,
8 I almost called you Senator, so we're even.

9 MR. HARDIN: Yeah, I've done it again.

10 PRESIDING OFFICER: Yeah. I'm going to
11 be forced to hold you in contempt soon. Just kidding.

12 MR. HARDIN: I'm just -- I'm just
13 thankful I didn't put a name to it.

14 PRESIDING OFFICER: So am I. But go
15 ahead.

16 MR. HARDIN: All right. Let me start
17 again.

18 Q. (BY MR. HARDIN) When did you first become
19 aware that the attorney general was interested in --
20 concerned and wanted an outside lawyer hired to deal
21 with an investigation of Mr. Paul -- of Mr. Paul's
22 complaints?

23 MR. OSSO: Objection. Leading.

24 MR. HARDIN: I don't --

25 PRESIDING OFFICER: Overruled.

1 A. It would have been sometime in August or
2 September that I learned about the outside counsel
3 request.

4 Q. (BY MR. HARDIN) All right. There -- we have
5 seen one that would -- talks about the matrix, that a --
6 such a request would have to go through. Were you aware
7 that Mr. Vassar had drafted a contract at the request of
8 the attorney general's office before -- and if so, when
9 did you become aware of that?

10 A. I was aware of that, yes.

11 Q. And had you taken a position about whether or
12 not to hire an outside counsel?

13 A. With the attorney general --

14 Q. The microphone.

15 A. -- I had not, but I -- obviously in
16 conversations -- I shouldn't say obviously. In
17 conversations with other senior staff, we were very much
18 in agreement this is not a proper --

19 MR. OSSO: Objection. Hearsay.
20 Objection to hearsay.

21 MR. HARDIN: He hasn't -- see, that's the
22 problem with doing it. He has -- he did not talk about
23 what they said. He did not talk about any statement.
24 And this interruption of the question keeps it from
25 being clear as to what he was going to say. That's my

1 concern.

2 PRESIDING OFFICER: Overruled.

3 MR. HARDIN: Thank you.

4 Q. (BY MR. HARDIN) So -- and the question was
5 your position.

6 A. Improper.

7 Q. All right. And do you recall when is the
8 first time you told the attorney general that yourself?

9 A. I did not have occasion to speak with him
10 about this, as it was outside my line of authority.

11 Q. All right. So if your opposition that you
12 thought you were opposed to it, would that have been
13 communicated to others rather than the attorney general?

14 A. Yes.

15 MR. OSSO: Objection. Hearsay.

16 Q. (BY MR. HARDIN) I'm sorry. What was the
17 answer?

18 MR. OSSO: I'm objecting, and I would ask
19 for a ruling, Judge.

20 PRESIDING OFFICER: Counsel, you're
21 talking over him, and I can't even distinguish what
22 you're objecting to what he said or what he said.

23 So let's start over on that question.

24 MR. HARDIN: Sure. Thank you, Judge.

25 Q. (BY MR. HARDIN) Were your conversations,

1 without going into what they were, about this subject
2 with other people rather than the attorney general?

3 A. Yes.

4 MR. OSSO: Objection.

5 PRESIDING OFFICER: Overruled.

6 A. Yes.

7 Q. (BY MR. HARDIN) Thank you. Now, at the
8 end -- when did you -- when did this -- from your
9 perspective, when did this issue boil over?

10 A. When you say "boil over," could you be more
11 specific?

12 Q. Yeah. If you could -- if you could -- again,
13 it sounded to me like you moved away from the microphone
14 a little bit.

15 PRESIDING OFFICER: Mr. Bangert, you
16 could speak a little louder, I think.

17 MR. HARDIN: Yeah. That's -- I think --

18 PRESIDING OFFICER: Speak up a little bit
19 more.

20 MR. HARDIN: Thank you. Thank you very
21 much. All right. I didn't know that moved. Okay.

22 A. I think I might have broken it, so hopefully
23 not.

24 Q. (BY MR. HARDIN) All right. So -- don't mess
25 with the base of it very much or we can both get in

1 trouble.

2 So when did -- I used the phrase "boil
3 over." Let me ask you -- explain what I mean in my
4 question. What I mean is, when did this become a -- an
5 issue of concern to more than just one person in the
6 criminal justice division that you became aware of?
7 What time frame is all I'm asking you?

8 A. Increasingly through August and into September
9 it became an issue of very urgent concern for me, as
10 well as for others on the senior leadership team.

11 Q. All right. Now, tell me what it was, in fact,
12 when -- when did this issue first surface? In what
13 matter did it surface that gave you concern?

14 A. When you say the matter, it would be with
15 regards to Nate Paul?

16 Q. Yes.

17 A. My concerns had been growing exponentially
18 over the 9- to 10-month period that we were dealing with
19 matters related to Nate Paul. It began when the
20 opinion -- when we were asked -- when I was asked to
21 intervene and work with the open records requests. It
22 was uncharacteristic. It continued and was heightened
23 when I was asked to work on the Mitte Foundation
24 project. I was exceptionally concerned after the
25 opinion was issued because I felt there had been a break

1 in trust at that point.

2 And, of course, when we learned that --
3 when I became aware that the attorney general is now
4 pressing for criminal investigation of individuals in
5 the community based on allegations that all of us
6 believed, and I certainly believed were frivolous at
7 best, I was exceptionally concerned.

8 Q. Now, without going into what other people told
9 you at the time in a specific conversation, did you
10 become aware of generally the subject area or so that
11 the attorney general was seeking to hire outside counsel
12 to investigate?

13 A. Yes. It involved the law enforcement action
14 concerning Nate Paul and his properties. He was
15 concerned that he -- again, this was his same mantra
16 over and over again.

17 Q. When you say "he," are you talking about the
18 attorney general?

19 A. Well, Nate Paul, and in connection with the
20 attorney general, arguing that law enforcement had been
21 wronging Nate Paul, had been oppressing Nate Paul, and
22 had been treating him unlawfully. There was no evidence
23 that I had seen whatsoever to substantiate any of that.

24 MR. OSSO: Judge, I would object to that.
25 It's an improper opinion. It's speculation. And this

1 witness doesn't have personal knowledge of Nate Paul's
2 opinions or feelings at that time.

3 MR. HARDIN: He's -- he's expressing his
4 opinion and what gave him concern of an evolutionary,
5 evolving way, Your Honor.

6 PRESIDING OFFICER: Counselor, I think
7 he's expressing his opinions. So overruled.

8 MR. OSSO: Yes, Judge.

9 Q. (BY MR. HARDIN) Now, when exactly did you
10 start getting involved in expressing your position and
11 taking your position on this matter?

12 A. We were discussing it actively throughout the
13 month of September.

14 Q. All right. Now, at the time were you aware
15 one way or the other that Mr. Penley was refusing to
16 sign the contract that was being -- that had been
17 drafted by Mr. Vassar to retain Mr. Cammack?

18 A. Yes.

19 Q. Though you had -- it had not made its way to
20 you, had you seen the contract that was proposed?

21 A. I do not recall. Although, it -- I had
22 certainly discussed it with others.

23 Q. Did you, in fact, take any position in these
24 meetings, you yourself, of senior staff on the
25 advisability of hiring Mr. Cammack to go investigate

1 multiple public law enforcement persons? Did you?

2 A. Yes.

3 Q. And what did -- what would you say? What was
4 your position?

5 MR. OSSO: Objection. Hearsay.

6 MR. HARDIN: It is not hearsay. There's
7 no hearsay for the witness --

8 PRESIDING OFFICER: Overruled.
9 Counselor, he's asking him for his opinion.

10 MR. OSSO: Okay.

11 Q. (BY MR. HARDIN) What was your position?

12 A. There was no basis or justification for it.
13 It would not serve the public interest.

14 Q. And if you had to describe the opinion of --
15 about how many of you were involved in this issue at the
16 senior level?

17 A. Jeff Mateer. I was aware of it. David
18 Maxwell. Mark Penley. I am fairly -- Ryan Vassar,
19 obviously. Lacey Mase, because she was working with
20 Mr. Vassar. And Blake Brickman as policy would have
21 been involved as well.

22 Q. By the way, you've essentially named a group
23 of eight whistleblowers, have you not?

24 A. I don't believe I named Darren McCarty.

25 Q. All right. And was he one of those that was

1 also concerned?

2 A. He was. Although, his focus was primarily
3 civil.

4 Q. All right. Now, I don't think I asked --
5 maybe if I did, I want to be clear. Have you sued in
6 this case?

7 A. I have not sued the attorney general, no.

8 Q. And so as we look and listen to people in this
9 testimony, Mr. Mateer and you both, neither one of you
10 have sued or sought any damages or compensation; is that
11 correct?

12 A. I have not sued. And I am aware that
13 Mr. Mateer has not either.

14 Q. All right. Now, when you -- how did -- how
15 did this thing come to a crescendo, if it did -- when
16 you talk about the first week in September, what events
17 were you aware of that -- that affected what happened at
18 the end of September?

19 A. I was in Atlanta, Georgia, at a conference
20 with Mr. Mateer. We were about to join a significant
21 telephone call with our multistate partners to discuss
22 the Google litigation that was planned. The call was
23 set to begin. It was a very important call for
24 coalition building purposes. Mr. Mateer received a
25 telephone call. It was from the attorney general. And

1 I was witness to Mr. Mateer's side of the call. The
2 call had nothing to do with Google. It was all about
3 Nate Paul.

4 Q. And at that time, how big an issue and matter
5 and piece of litigation was the Google case in the
6 attorney general's office?

7 A. It was consuming substantial resources and was
8 a major initiative of the attorney general's office, and
9 it was -- yes.

10 Q. Were you -- did you two inform the attorney
11 general you were about to go into a meeting on Google?

12 A. Yes.

13 Q. What did you say?

14 A. Mr. Mateer was the one communicating directly
15 with the attorney general, but something to the effect
16 of, Do we have to do this now? Because we're about to
17 have this Google conversation.

18 Q. What was the attorney general's response?

19 A. I could not hear his response, but the phone
20 call continued for some time so I have to assume his
21 response was yes, we have to.

22 MR. OSSO: Objection to speculation.

23 MR. HARDIN: His -- his objection is
24 you're assuming, and I agree with that.

25 PRESIDING OFFICER: Sustained.

1 Q. (BY MR. HARDIN) Don't assume what happened.
2 But as a result, even though -- though the attorney
3 general was told that you were about to be involved in a
4 meeting on a very major piece of civil litigation, did
5 he terminate the call to talk later?

6 A. No.

7 MR. OSSO: Objection.

8 A. He continued for some time.

9 MR. OSSO: Speculation. He couldn't hear
10 Ken Paxton on the phone.

11 MR. HARDIN: I asked --

12 PRESIDING OFFICER: Counselor, he asked
13 if he terminated the call.

14 Continue.

15 MR. HARDIN: Thank you.

16 PRESIDING OFFICER: Overruled.

17 MR. HARDIN: Thank you.

18 Q. (BY MR. HARDIN) Now, this conversation at
19 last, were you part of it in terms of being able to
20 respond and hear the attorney general?

21 A. I could not hear the attorney general nor
22 could I respond to him.

23 Q. Could you hear the conversation in response by
24 Mr. Mateer?

25 A. Yes.

1 Q. And the conversation lasted, again, about how
2 long?

3 A. We went right up to the bell. We were almost
4 late for the Google call. It probably took about 10
5 minutes.

6 MR. HARDIN: Your Honor, I would -- I
7 would urge that this conversation which was happening
8 between the two of them is actually not hearsay in a
9 sense. The content of what the attorney general was
10 saying, or what Mr. Mateer was saying, rather, is not
11 offered for the truth of the matter of what he was
12 saying about Nate Paul, but only that that's what he was
13 telling these folks. And so I would -- I would like to
14 tender conversations as to what he was having with
15 Mr. Mateer as they were talking.

16 PRESIDING OFFICER: Hold on one second,
17 Counselor.

18 MR. HARDIN: Sure.

19 PRESIDING OFFICER: Was there an
20 objection? I don't think there was an objection. You
21 were starting this line of questioning?

22 MR. OSSO: I don't -- I didn't want to
23 speak over anybody, but I am objecting to this line of
24 questioning. And I do have a response, if the Court
25 would care to hear it.

1 PRESIDING OFFICER: What is your
2 response?

3 MR. OSSO: Well, that Mr. Bangert has
4 already testified that he could not hear Ken Paxton on
5 the other phone -- on the other side of that phone call,
6 so he can't testify to this Court that he's adopted any
7 of the statements made by Mr. Mateer. If Mr. Hardin
8 wants to submit Mr. Mateer's testimony that's not made
9 in court, that's hearsay.

10 MR. HARDIN: And if I may, may I ask
11 counsel, I didn't hear the -- understand the first part
12 of it when he characterized what the testimony was.

13 MR. OSSO: The objection is hearsay,
14 Judge.

15 MR. HARDIN: Well, I understand that.
16 But when he -- when he characterizes what Mr. Mateer's
17 testimony was, I just ask him to repeat what he said
18 there because I just didn't get it. That's what I'm
19 saying.

20 PRESIDING OFFICER: All right.

21 MR. OSSO: What I said was that
22 Mr. Bangert has already testified to you and the jury,
23 Your Honor, that he could not hear what Ken Paxton was
24 saying on the other side of that phone call. And so
25 there is no evidence that he adopted anything that

1 Mr. Mateer said. And so they're not his statements.
2 And it's still unknown as to -- whatever Jeff Mateer
3 said is still hearsay.

4 MR. HARDIN: I -- I'm sorry. We have to
5 go back on the record. That's not my memory of
6 Mr. Mateer's testimony. That's why I wanted to ask him
7 to repeat it.

8 PRESIDING OFFICER: Okay.

9 MR. HARDIN: I don't think they talked
10 for 15 minutes with Mr. Mateer, not being able to hear
11 it.

12 PRESIDING OFFICER: Well, overruled.

13 MR. HARDIN: Thank you.

14 PRESIDING OFFICER: Counselor, I'll ask
15 you to move forward.

16 Q. (BY MR. HARDIN) So this conversation it
17 was -- did Mr. Mateer give any indication he couldn't
18 hear the attorney general?

19 A. I -- it became clear to me by listening to the
20 conversation it was about Nate Paul and, in particular,
21 this question about hiring outside counsel.

22 MR. OSSO: Objection. Objection to
23 hearsay. Judge, may I be heard?

24 MR. HARDIN: Well, wait a minute. We
25 just went through that. He just ruled on this matter.

1 PRESIDING OFFICER: I've already ruled.
2 Overruled.
3 Continue.

4 Q. (BY MR. HARDIN) Go ahead, sir.

5 A. It was concerning the hiring of outside
6 counsel to investigate these allegations that Nate Paul
7 had brought to our office.

8 Q. Can you put a date on it?

9 A. The best I can recall, the conference took
10 place a week, maybe a week and a half, prior to the end
11 of September.

12 Q. Was there anything in this conversation as you
13 heard from the other end about him being disturbed that
14 Mr. Penley would not -- would not sign the contract?

15 MR. OSSO: Object. Objection. The
16 question calls for hearsay. He's asking what
17 Jeff Mateer said on the phone call.

18 MR. HARDIN: I believe the Court has
19 already ruled on this. I'm simply asking him about the
20 conversation.

21 PRESIDING OFFICER: I've already ruled on
22 this, Counselor.

23 Q. (BY MR. HARDIN) Go ahead, sir.

24 A. Mr. Paxton was frustrated that we were not
25 moving forward with the retention of outside counsel.

1 MR. OSSO: Objection to speculation. He
2 didn't -- he didn't hear Mr. Paxton on the phone call.
3 His opinion of what Mr. Paxton thought is improper.

4 MR. HARDIN: The Court has just ruled
5 three times on this issue.

6 MR. OSSO: My ruling -- my objection was
7 different, Your Honor.

8 PRESIDING OFFICER: Overruled.

9 Q. (BY MR. HARDIN) Now, at the end of the
10 conversation -- during the course of this conversation,
11 was there -- were the people for the meeting at Google
12 having to wait till General Paxton finished trying to
13 get you to approve an investigation by Mr. Cammack?

14 A. I know we went right up to the wire. We may
15 have gone a few minutes past it. I don't recall, but it
16 was close. It might have gone over.

17 Q. What I'm wondering is, at the end of the
18 conversation, did you have any new instructions as to
19 what the two of y'all were to do about Mr. Cammack?

20 A. I did not receive any instructions myself.

21 Q. All right. As a result of that conversation,
22 did you do anything new or express any new concern about
23 the hiring of Mr. Cammack?

24 A. I did nothing new. Our concern -- my concern
25 was heightened substantially.

1 MR. OSSO: Objection. Nonresponsive.

2 MR. HARDIN: Let him finish the answer,
3 please.

4 PRESIDING OFFICER: Counselor, he's
5 answering the question that was directed.

6 MR. OSSO: Yes, Judge.

7 PRESIDING OFFICER: Overruled.

8 MR. HARDIN: Thank you.

9 A. My concern, based on that occurrence, was
10 substantially heightened because we were about to move
11 into a very intense phase of the Google litigation, and
12 the attorney general's focus was on Nate Paul, not on
13 the Google case.

14 Q. (BY MR. HARDIN) So at the end of this
15 conversation, who did you understand that the attorney
16 general wanted an outside counsel to investigate?

17 A. The law enforcement action concerning
18 Nate Paul. That would have included the search of his
19 house, his properties. The theory was that there had
20 been an improper warrant obtained. And I believe there
21 were also allegations of a conspiracy --

22 Q. All right.

23 A. -- by law enforcement.

24 Q. All right. And -- and the -- did it include
25 investigating federal magistrates -- a federal

1 magistrate?

2 A. Yes.

3 Q. Did it include investigating individual law
4 enforcement officers and the FBI?

5 A. Yes.

6 Q. Did it include investigating DPS officers?

7 A. I believe so. I believe that's correct.

8 Q. And did you know at that time were there any
9 members of the Securities Board that were also part of
10 this -- that he wanted investigated?

11 A. I believe Mr. Sabban.

12 Q. And were you aware as to what both the head of
13 your law enforcement division and Mr. Maxwell, because
14 I'm not sure exactly what his title is, were you aware
15 of what their consistent positions have been all along
16 on this matter?

17 A. Yes.

18 Q. And in spite of that, was the attorney general
19 still insisting on going and investigating this -- these
20 people on behalf of Mr. Paul?

21 A. Yes.

22 Q. When you returned to -- to Austin, when was
23 the next time you had any contact or were aware of this
24 particular activity?

25 A. I was in a meeting at the governor's office.

1 I believe it was with Mr. Brickman. We had normal
2 meetings scheduled during that time to respond to COVID.

3 Q. Can you give us a date?

4 A. I believe this was September 30th.

5 Q. All right.

6 A. Toward the very end of September. I received
7 a text message telling me to return to the office, that
8 something had happened. My immediate assumption was
9 that something was Nate Paul.

10 Q. Why?

11 A. Because we had been becoming increasingly
12 concerned. We felt as if matters were coming to a head.
13 The attorney general was insisting that we move forward
14 with outside counsel. We strongly resisted that. We,
15 at that point, had become cognizant of the pattern that
16 had developed over the preceding nine months. And it
17 was clear to me that hiring outside counsel to undertake
18 this task could only benefit one person.

19 MR. OSSO: I would object to that
20 opinion. It's an improper opinion.

21 PRESIDING OFFICER: It's his opinion.

22 MR. HARDIN: Do we have a response --

23 PRESIDING OFFICER: Overruled.

24 MR. HARDIN: I'm sorry. I'm sorry, Your
25 Honor.

1 PRESIDING OFFICER: I'm sorry. I said
2 it's his opinion. Overruled.

3 MR. OSSO: Yes, Your Honor.

4 MR. HARDIN: Thank you.

5 Q. (BY MR. HARDIN) Now, when you were at the
6 governor's office, had you been aware -- or made aware
7 yet of a phone call that had been received by any of
8 your other staff the day before involving Mr. Cammack
9 and subpoenas?

10 A. If you're referring to a phone call received
11 by Ms. Mase from a banker --

12 Q. And I'm only asking were you aware of that
13 call?

14 A. I was -- the meeting at the governor's office
15 took place on the same day that Ms. Mase received the
16 phone call from the banker.

17 MR. OSSO: Objection.

18 A. So if that phone call took place on the 29th,
19 that was the day of the meeting.

20 Q. (BY MR. HARDIN) All right.

21 MR. OSSO: Objection. Nonresponsive to
22 the question.

23 PRESIDING OFFICER: Counselor, overruled.

24 Q. (BY MR. HARDIN) Now, when you were at the
25 governor's office, was there somebody else with you from

1 your -- your staff? Was there another member of the
2 attorney general's office with you?

3 A. My recollection was Blake Brickman.

4 Q. All right. And were y'all on totally
5 unrelated normal business with the governor's office?

6 A. Normal business.

7 Q. All right. So what did you do when you got
8 that text?

9 A. Excused ourselves from the meeting. And we
10 departed and went back to the office, the attorney
11 general's office.

12 Q. And what -- what time that day on the 30th of
13 September did you return to the AG's office and where
14 did you go?

15 A. We went to the eighth floor and went directly
16 to Mr. Mateer's office. And Mr. Mateer was there.
17 Lacey was there. I believe others were starting to
18 gather.

19 Q. All right. And now would you describe the
20 atmosphere in the room. What -- I mean, first of all,
21 how many ultimately ended up in the room talking about
22 this matter?

23 A. Mr. Maxwell was on vacation, but all the other
24 deputies that were involved as the whistleblowers
25 ultimately were there.

1 Q. All right. And what was the atmosphere?

2 A. Disbelief, shock, extreme concern.

3 Q. What were you most concerned about? What did
4 you learn that would -- made you most concerned?

5 A. We had been following this pattern of
6 Nate Paul and his interests metastasizing throughout the
7 agency over a period of months. It had become clear to
8 me, based on my conversations with the attorney general,
9 based on the lack of any substantiation for many of the
10 claims that were made, based on the absence of a public
11 interest in taking actions --

12 MR. OSSO: Objection. Nonresponsive.

13 A. -- that would benefit Nate Paul, based on all
14 of those concerns, I was --

15 PRESIDING OFFICER: Counselor -- I'm
16 sorry.

17 A. -- I was asking --

18 PRESIDING OFFICER: If you have an
19 objection, raise an objection, but just interrupting,
20 isn't helpful. I didn't hear an objection, and I just
21 heard interruption.

22 MR. OSSO: I apologize, Judge, but I'm
23 just intending to object because I believe that what
24 Mr. Bangert is doing on the stand is not responsive to
25 Mr. Hardin's question, and I have to lodge my objection

1 so that he doesn't testify before the jury --

2 MR. HARDIN: Counsel, I think he wants
3 you sitting so the rest of us can hear you.

4 MR. OSSO: Sorry. I just --

5 MR. HARDIN: So we can hear you.

6 PRESIDING OFFICER: Yes, please sit. We
7 can hear you better.

8 MR. OSSO: I'm objecting while
9 Mr. Bangert is speaking because he's testifying to
10 evidence that I believe is not admissible, and he's
11 telling it before the jury. And so I'm lodging my
12 objection before it gets to the jurors so it doesn't
13 affect -- inadmissible evidence doesn't come in and
14 affect their judgment in this case.

15 So I don't mean to speak over
16 Mr. Bangert, Your Honor, but I do have to lodge my
17 objection on behalf of Mr. Paxton.

18 PRESIDING OFFICER: I just did not hear
19 the word "objection."

20 MR. OSSO: Okay.

21 PRESIDING OFFICER: And if he objects,
22 Witness, stop talking where you are. Do not continue.

23 I overrule the objection, however.

24 MR. OSSO: Thank you, Judge.

25 Q. (BY MR. HARDIN) And you were -- the question

1 was, I was asking you what your concerns were and why.
2 I think you were in the process of setting that out.

3 Let me ask you this: In the course of
4 this conversation -- first of all, you, of course, were
5 not here for opening statements, were you?

6 A. No.

7 Q. And you weren't here for the cross-examination
8 of Mr. Mateer?

9 A. No.

10 Q. If someone was contending that you folks were
11 sitting around evolving in a mutiny, what would your --
12 what would be your response to the suggestion that you
13 folks were sitting around there cooking up a mutiny
14 against the Attorney General of the State of Texas?

15 A. As in we were -- I -- that would make no sense
16 to me. We were trying to protect the attorney general
17 as much as we could.

18 Q. As a matter of fact over the last nine months,
19 what had been your mission in relation to the attorney
20 general as it related to -- to Mr. Paul?

21 A. We had continually, in various ways, warned
22 him about Mr. Paul. We had discussed with him the
23 absence for any substantiated basis for taking actions
24 to benefit Mr. Paul. We had to --

25 Q. During -- during all of that time, were you

1 still a supporter of the attorney general?

2 A. Yes.

3 Q. Did you believe in the things that he was
4 publicly saying that he believed and he wanted to do?

5 A. Yes. That's why we were there.

6 Q. And -- and did you -- all that period of time
7 when you were warning him about Nate Paul, were you --
8 what is your testimony in terms of whether or not you
9 still were looking after the best interests of the
10 public but also the attorney general?

11 A. Senior staff always has to walk that line.
12 And our job, we take an oath to defend the Constitution
13 of the State, but we also are loyal to our principal.
14 And those two things, in almost all cases, are
15 consistent with each other. So our job is both to
16 protect the interest of the public and to serve at the
17 pleasure of the attorney general.

18 Q. And when this meeting was held -- by the way,
19 I think you said the 30th. And I -- I want to sort of
20 put a couple of events in your mind to see whether it's
21 possible that meeting would have been the 29th, for you
22 to let us know whether it's the 29th or the 30th.

23 You ultimately called and made an
24 appointment to visit and go to the FBI during this time
25 frame, correct?

1 A. Yes.

2 Q. And you were over at the governor's office.
3 And if the evidence is going to be unrebutted that you
4 and your group went to the FBI on the 30th, when was
5 this meeting -- when this -- what is your testimony as
6 to when this meeting that you've been describing would
7 have occurred?

8 A. It would have -- it would have been the day
9 before.

10 Q. Pardon me?

11 A. It would have been the day before, the 29th.

12 Q. Okay. So this meeting where you come back
13 over from the -- from the governor's office and you all
14 meet together was on the 29th of September?

15 A. Yes.

16 Q. How long -- by this time, had you been
17 informed of what the subpoenas that had been served by
18 Mr. Cammack were asking for?

19 A. Initially we were aware of a subpoena to a
20 bank requesting records relating to Nate Paul's
21 financial interests. That was the first one that we
22 became aware of. We subsequently became aware of
23 others.

24 Q. Did you become aware that these subpoenas were
25 actually seeking information through the grand jury, a

1 criminal state grand jury, of Mr. Paul's opponents in
2 his civil litigation?

3 A. Yes.

4 MR. OSSO: Objection. Leading. My
5 objection is that the question is leading, Judge.

6 MR. HARDIN: I'll put it another way,
7 Your Honor.

8 PRESIDING OFFICER: Sustained.

9 Please rephrase.

10 Q. (BY MR. HARDIN) Were you aware one way or the
11 other? And if so, what were you aware of in terms of
12 whether these -- the subpoenas that Mr. Cammack were
13 being used and drafted to help Mr. Paul in his civil
14 litigation?

15 A. Yes. It became -- as the subpoenas began to
16 roll in and we became aware of them, reading them, they
17 were consistent with his argument that he wanted to
18 pursue action against both the law enforcement officials
19 who had pursued the -- pursued the subpoenas of his
20 house and his properties, as well as financial interests
21 related to Mitte Foundation and I believe others.

22 Q. Now, at this time when this is all happening,
23 what was -- was it sort of a mood? When you talk about
24 shock, what were you -- why were you shocked? What were
25 you concerned about?

1 A. We were unaware -- at least I was unaware that
2 Mr. Cammack had been taking any action on behalf of our
3 office. I was unaware that he had been retained. I was
4 deeply concerned that the name and authority and power
5 of our office had been, in my view, highjacked to serve
6 the interests of an individual against the interest of
7 the broader public.

8 Q. And the fact that he had invoked the use of a
9 grand jury to try to help in -- Mr. Paul in his
10 investigation, what level of concern and why was that a
11 bother to you?

12 A. It was unconscionable in my view. You were
13 using criminal process to pursue the private enemies --

14 MR. OSSO: Objection. I'm objecting to
15 improper opinion about the unconscionability of these
16 actions.

17 MR. HARDIN: I asked why he was
18 concerned.

19 PRESIDING OFFICER: Overruled.

20 MR. HARDIN: Thank you.

21 Q. (BY MR. HARDIN) You can pick back up.

22 A. Yes. In my view, the criminal process had
23 been harnessed to pursue the business enemies of an
24 individual, Nate Paul, who also happened to be under
25 intensive investigation by law enforcement.

1 Q. So how -- how did you folks decide -- I think
2 it was -- it was seven -- was it seven guys and one
3 woman? So we're not talking about guys or women or
4 whatever. How did y'all decide -- I mean, what kind of
5 considerations did you give as to courses of action you
6 should follow?

7 A. I'll speak for myself here.

8 Q. That's all -- that's all I want you to do.

9 A. As a staffer, you have fidelity to the
10 Constitution and fidelity to your principal. Those two
11 things should always align. Unfortunately, over the
12 previous nine months, they had been drifting further and
13 further apart. One always assumes the best about their
14 principal and attempts to protect that principal's
15 interests, even at your own expense.

16 When I saw that the subpoenas had been
17 issued outside of the normal process of our office to
18 pursue criminal process against private citizens to
19 benefit one individual, it became clear to me that there
20 was nothing more I could do; that the office -- the
21 attorney general was determined to harness the power of
22 our office and to fulfill the interests of a single
23 individual against the interest of the State.

24 MR. OSSO: And, Judge, I would object to
25 that answer. That answer is speculation about his

1 opinion of what the intent was of other parties.

2 PRESIDING OFFICER: Overruled.

3 Q. (BY MR. HARDIN) Now, did y'all try to decide
4 what to do in terms of whether you hire outside lawyers
5 yourself, or what -- what kind of issues were you
6 concerned about as a course of action going forward, you
7 yourself?

8 A. We had stepped into the void at that point.
9 There's nothing -- there's no roadmap to follow when
10 that happens.

11 Q. That's sort of like what we're doing here,
12 right?

13 A. Yes.

14 Q. There's no real roadmap except for something
15 100 years ago and something in the '70s. You were
16 writing on a clean slate, weren't you?

17 A. Yes, much against our will, but our hand had
18 been forced.

19 Q. So what drove you to make the decision to go
20 to law enforcement?

21 A. In my view there was simply nothing more we
22 could do. It had -- the course of actions had played
23 themselves out. The attorney general was determined to
24 follow this course of action in favor of Nate Paul,
25 despite all of our efforts to persuade him otherwise.

1 The power of our office had been fully, at that point,
2 harnessed to advance Nate Paul's interests. And we had
3 lost the ability to, as senior staff, protect our
4 principal.

5 Q. Mr. Bangert, there's been suggestions
6 repeatedly in this proceeding that why didn't you just
7 go to the -- to the attorney general? Why didn't you go
8 to the attorney general, just talk to him? Did you?

9 A. Concerns were raised repeatedly and
10 consistently by multiple members of senior staff over a
11 course of several months. There is no question in my
12 mind based on my personal experience with him that he
13 was well aware of our objections.

14 Q. And -- and, in fact, after you went to the FBI
15 on the 30th of September, on the 1st of October, did you
16 as a group send a text message to the attorney general
17 asking to meet with him?

18 A. We did.

19 Q. And -- and before that, had you been aware
20 that he was out of town when all of this happened to
21 begin with?

22 A. Yes.

23 Q. And when I say "to begin with," the period of
24 September the 28th, 29th, do you know where the attorney
25 general was?

1 A. He was on a business trip out of the state. I
2 don't recall which state he was in, but he was out of
3 state.

4 Q. And on the 29th, the 30th, were you -- what
5 would -- what was the 30 -- what was the hurry that you
6 experienced about trying to call this to the attention
7 of law enforcement? Were you concerned what --
8 Mr. Cammack was still serving subpoenas out there to
9 private people, or what did you -- what was your
10 concern?

11 A. My concern --

12 MR. OSSO: Objection. Leading. About
13 Cammack. He's insinuating the answer in the question,
14 Judge.

15 MR. HARDIN: I asked what his concern
16 was.

17 PRESIDING OFFICER: Overruled.

18 A. My concern was we did not know what we did not
19 know. We knew that he had already been serving
20 subpoenas on banks. We were learning of additional
21 subpoenas.

22 We -- in my view, we had lost our ability
23 to speak into the situation as senior staff. We had no
24 ability to end the use of our office to advance private
25 personal interests using -- improperly using the

1 criminal process. The only way we could deal with that
2 situation was to make a report to the FBI. At least
3 that was our judgment at the time.

4 Q. (BY MR. HARDIN) Do you happen to recall why
5 you picked the FBI rather than some other agency?

6 A. My recollection was that we had a relationship
7 with some agents at the FBI who we trusted and we knew.
8 And also the FBI, in our view, would have jurisdiction
9 over these kinds of matters.

10 Q. And in addition, DPS at that time was one of
11 the people, one of the groups, was it not, that Mr. Paul
12 was seeking to -- to investigate?

13 A. Yes.

14 Q. At -- at the end of the day, how long had --
15 when y'all decided to go to the FBI, how many of you
16 went and how long were the interviews?

17 A. Seven of us went. We were interviewed
18 together.

19 Q. All right. And how long do you think the
20 interview --

21 A. Multiple hours.

22 Q. And once it -- once that interview was over, I
23 mean, did you go yourself, knowing one way or the other,
24 what type of crime might or might not be involved?

25 A. I did not have the precise -- I -- I had a

1 fairly good idea what was happening, based on the
2 evidence I had collected, yes.

3 Q. But did you one way or the other as a non -- a
4 person not experienced in criminal law, did y'all sit
5 down and decide what statute it was or anything like
6 that?

7 MR. OSSO: Objection to improper opinion
8 about what kind of crime this witness believes was
9 committed.

10 MR. HARDIN: That's fine. I'll withdraw
11 that question.

12 PRESIDING OFFICER: Sustained.

13 MR. HARDIN: Thank you, Your Honor.

14 Q. (BY MR. HARDIN) Let me ask this you this:
15 Did you consider what he had been doing on behalf of
16 Nate Paul an abuse of office?

17 A. Yes.

18 MR. OSSO: Objection to improper opinion
19 and invades the province of this jury's decision in this
20 case.

21 MR. HARDIN: Let me put it --

22 PRESIDING OFFICER: Sustained.

23 MR. HARDIN: Let me put it another way.

24 PRESIDING OFFICER: Counselor, try a
25 little bit better.

1 MR. HARDIN: Thank you, Your Honor.

2 Q. (BY MR. HARDIN) Did you yourself, when you
3 went to the FBI, have an opinion that drove you to the
4 FBI about whether -- what this conduct by the attorney
5 general did, that would -- the attorney general was
6 involved in, as to whether or not he was violating the
7 oath of office that you were familiar with and believed
8 he should be following?

9 MR. OSSO: Objection to that question.
10 Again, same objection, Judge.

11 PRESIDING OFFICER: Overruled.

12 A. Yes.

13 Q. (BY MR. HARDIN) And what did you think? You
14 personally. Just you personally.

15 MR. OSSO: Objection to improper opinion
16 about -- and relevance to what this witness thought.

17 PRESIDING OFFICER: Overruled.

18 A. I went to the FBI because I believed that the
19 attorney general --

20 Q. (BY MR. HARDIN) Just put the microphone up or
21 move forward. Just move up a little bit, if you don't
22 mind.

23 A. I went to the FBI because I believed, based on
24 my experience over the previous nine months, that the
25 attorney general had abandoned his obligation to work on

1 behalf of the interests of the people of Texas to serve
2 the interests of one person, Nate Paul. And that was
3 based on a series of events that occurred over several
4 months --

5 MR. OSSO: Objection to nonresponsive.
6 He asked his opinion, not what he based it off of.

7 PRESIDING OFFICER: Sustained.

8 Q. (BY MR. HARDIN) Now, after you folks went to
9 the FBI, were you all together when you -- and you sent
10 an e-mail the next day to the attorney general wanting
11 to meet with him?

12 A. We did.

13 Q. What was the attorney general's response?

14 A. It was a very odd response.

15 Q. What was it?

16 A. It was a text message saying that he would be
17 happy to meet with us to address any concerns we may
18 have, or something to that effect.

19 Q. Well, then did he agree to?

20 A. No. We could not meet with him.

21 Q. Did -- how did that go? Did you know
22 whether -- whether he was able to meet?

23 MR. HARDIN: Can I have the two exhibits?
24 May I, just a moment for Stacey. May I have just real
25 quickly --

1 PRESIDING OFFICER: Counsel, we're at a
2 break time. Do you want to -- I don't know how much
3 longer you have with this witness.

4 MR. HARDIN: I think only 5 or 10 minutes
5 is all I have left with this witness.

6 PRESIDING OFFICER: Okay. Well, we'll go
7 about another 10 minutes.

8 MR. HARDIN: Thank you.

9 Stacey, can you -- I believe this is in
10 evidence, is it not?

11 PRESIDING OFFICER: Before we put it up
12 on the screen --

13 MR. HARDIN: It's in -- I'm told it is in
14 evidence.

15 MR. OSSO: No objection, Judge, to 225.

16 PRESIDING OFFICER: Continue.

17 Q. (BY MR. HARDIN) All right. I want you to
18 look at Exhibit 225 and -- and explain to the jury, if
19 you can see it clearly on the screen.

20 A. Yes. I see the document.

21 Q. All right. Do you recognize this document and
22 this exchange of -- of text messages?

23 A. It's been a while, but I -- I recognize it.

24 Q. All right. What I'm going to ask you to do,
25 each -- each text message identifies the sender. I'm

1 going to ask you to publish this to the jury and the
2 public, but keeping your voice up. It's a -- it's a
3 trick because you've got to look in there.

4 First of all, if you would, just start
5 out with Mr. Mateer, identify the speaker, and then
6 publish this exhibit to the public.

7 A. Yes. The text message is dated
8 September 29th, 2020. It begins at 3:02 p.m. The first
9 text message is from Jeff Mateer to a group of us on a
10 group text.

11 Quote, We have a major problem. The kid
12 has served a subpoena on a bank. Showed up there in
13 person at the bank.

14 Jeff then sends a separate text, With
15 someone from World Class.

16 And then he sends --

17 Q. Did you later discover -- excuse me, sir. Did
18 you later discover the person with him?

19 A. Michael Wynne.

20 Q. Was Michael Wynne Nate Paul's lawyer?

21 A. Yes. Michael Wynne.

22 Q. So you're -- you have him out there serving
23 subpoenas with the lawyer of the person that's asked for
24 the investigation, correct?

25 A. That is correct.

1 Q. Who you know is under federal investigation
2 as -- as you're going along?

3 A. That is correct.

4 Q. Go ahead.

5 A. The next text from Jeff, I need you guys to
6 come back.

7 Q. All right. And let's go to the next time.
8 And go.

9 A. Same day, September 29th, 2020, 9:05 p.m.
10 Jeff Mateer writing to the group, from Maxwell.

11 Q. And what does that -- do you have any idea
12 what that's referring to? Do you remember?

13 A. I believe Maxwell had been communicating with
14 us at that time about the events of the day and had
15 provided his evaluation as to a letter that we had been
16 writing.

17 Q. And he was actually in Colorado on vacation,
18 was he not?

19 A. He was vacationing.

20 Q. Yeah. All right. Go ahead.

21 A. Then Jeff pasted in this -- this language,
22 Read the letter, not sufficient. A request letter must
23 allege specific allegations that are in violation of
24 state law to include documentation of criminal act. The
25 only thing you have is what happened today that is

1 documented.

2 Q. And what letter are you talking about there?
3 Or is he talking -- yeah, that you're talking about. Do
4 you recall?

5 A. My recollection is that there was a letter
6 that had begun to be circulated amongst senior staff,
7 but I am reaching into my memory to recall the specific
8 time frame.

9 Q. Were you at that time drafting a document to
10 be told -- to -- to be sent to either law enforcement or
11 to the attorney general announcing? Do you recall? If
12 you don't recall, just tell me you don't remember.

13 A. At some point during that day or the next, I
14 was more or less helping scriven. I was a scrivener
15 writing up documents including allegations concerning
16 what had happened that day, yes.

17 Q. All right. Go ahead.

18 A. There's a text from someone who is
19 unidentified as the person whose phone -- from whose
20 phone this text was produced. It says, Lots of undue
21 influence.

22 I'm assuming that's Mr. Brickman.

23 Q. All right. So now read what -- so go ahead.

24 A. I then respond, Okay. Sounds like we need to
25 beef up the specific allegations.

1 Q. Go ahead.

2 A. I then text again, So do we need to lay out
3 the facts that led up to today's events: KP taking
4 NP -- that would be Ken Paxton and Nate Paul -- to
5 Moore -- that would be Margaret Moore -- obtaining the
6 referral, demanding that we investigate facially bogus
7 charges, refusing to take our advice that there is no
8 prosecutable offense, demanding that we hire outside
9 counsel, overriding our advice a second time, and
10 apparently now authorizing an improper fishing
11 expedition by private attorneys into a civil matter.

12 Q. All right. And then -- and then you have
13 another one right after that, do you not?

14 A. I do.

15 Q. Go ahead.

16 A. I then continue, Or do we need to go further
17 and describe the constant demands that we put the
18 resources of the office at the service of NP's private
19 interest -- that's Nate Paul -- personally intervening
20 in open records issues, demanding intervention in a
21 charitable dispute over the objection of staff,
22 demanding an informal opinion to apparently (after the
23 fact) benefit Nate Paul. And now finally seeking
24 criminal investigation of federal officials involved in
25 a criminal investigation of Nate Paul.

1 Q. Keep on going.

2 A. Would you please scroll?

3 Q. Yeah.

4 A. I then send another text. All the while over
5 the objection of staff. Its pattern and practice
6 evidence strongly suggestive of an improper motive.

7 Q. All right. Let me -- let me stop you there a
8 second. You believed the attorney -- did you believe at
9 this time that the attorney general that could enter
10 into contracts, even if all members of his staff
11 objected, did you have any question about that in your
12 mind?

13 A. He is the principal, and I believe he could.

14 Q. All right. What was your position as to
15 whether either ultimately, however, there might come a
16 time where the attorney general, in exercising what he
17 believed he had the legal authority to do, could do
18 something that became illegal by being used for an
19 improper purpose? Did you have an opinion on that?

20 A. I did.

21 Q. And what was it?

22 A. Yes. The attorney general could use the
23 lawful powers and authorities of our office for a
24 patently improper purpose, such as using the power of
25 our office to benefit the interests of one individual

1 citizen at the expense of the public interest. That is
2 improper.

3 Q. If, in fact, you reached a conclusion that
4 that has repeatedly been done, in spite of consistent
5 advice against it by the staff, in your -- what is your
6 opinion when there ever comes a time that staff has to
7 complain and say enough is enough, you can't proceed?

8 MR. OSSO: Objection. Improper opinion.

9 MR. HARDIN: All right.

10 PRESIDING OFFICER: I'm sorry.

11 Overruled. He has the opportunity to offer his opinion.

12 MR. OSSO: Yes, Judge.

13 A. Yes. And that is precisely what we did.

14 Q. (BY MR. HARDIN) Did you consider it a mutiny?

15 A. It was not a mutiny.

16 Q. How would you characterize it?

17 A. We were protecting the interest of the State
18 and, ultimately, I believe, protecting the interest of
19 the attorney general. And, in my view, signing our
20 professional death warrant at the same time.

21 Q. What was the stated awareness of all of you
22 that knew the consequences of what you were doing when
23 you staked out this position and decided to go to law
24 enforcement?

25 A. We understood the gravity of that act. We

1 were fully cognizant of it. It was something that we
2 did not want to do. It was something that we tried
3 earnestly to avoid ever having happen. But when the
4 moment came and we realized there was no other choice,
5 that is the duty of a public employee, to ultimately
6 make that incredibly hard choice to serve the public
7 interest, even at the expense of your principal because
8 he has insisted on improper, and we believed, unlawful
9 course of conduct.

10 Q. Mr. Bangert, did every single one of you pay
11 an extreme price for what you did?

12 MR. OSSO: Objection. Improper opinion.
13 It goes and invades the province of the jury with regard
14 to an article.

15 PRESIDING OFFICER: Sustained.

16 Rephrase.

17 Q. (BY MR. HARDIN) Mr. Bangert, what happened
18 with you? How did you end your employment with the
19 attorney general's office?

20 A. I resigned from my position immediately after
21 the 2020 election. By the time I resigned, all of my
22 duties had been taken from me. I was simply an employee
23 in name only.

24 Q. When you -- after you went to law enforcement,
25 how do you mean your duties were taken from you?

1 A. Over the course of several weeks, I was
2 excluded from and ultimately removed from any
3 responsibility by the new first assistant. And then
4 subsequent to that in the middle of October, I was
5 informed that I would no longer be overseeing the
6 special litigation unit. I objected to that, and that
7 was to no avail.

8 PRESIDING OFFICER: Counselor, we're --
9 you said about 10 minutes. We're --

10 MR. HARDIN: I see.

11 PRESIDING OFFICER: For the benefit of
12 the jury and the staff, do we need to break here or do
13 you need a few more minutes?

14 MR. HARDIN: That's fine. I only have a
15 few minutes, but that's fine. That's fine.

16 PRESIDING OFFICER: If you have a few
17 minutes, finish with the witness. If you're going to go
18 longer, then tell me and we'll break.

19 MR. HARDIN: Thank you so much. I
20 always -- I never want to be in the way of people taking
21 a restroom break.

22 PRESIDING OFFICER: All right.

23 MR. HARDIN: Thank you.

24 PRESIDING OFFICER: We will break until
25 11:00 o'clock sharp. That's a 20-minute break, Members.

1 (Recess: 10:39 a.m. to 11:02 a.m.)

2 PRESIDING OFFICER: Court will come to
3 order.

4 Mr. Hardin, you can continue.

5 MR. HARDIN: Thank you very much, Your
6 Honor.

7 Stella, can I have hard copy exhibits for
8 the Court and the other side on Exhibit 571. And can
9 you give the witness one so that it doesn't have to be
10 put up on the screen.

11 PRESIDING OFFICER: Is this already in
12 evidence?

13 MR. HARDIN: It is not. That's what I'm
14 going to seek to introduce. Thank you, Your Honor.

15 Q. (BY MR. HARDIN) So now without going into
16 specific contents, do you recognize this exhibit?

17 A. Yes.

18 Q. And without talking about the contents as to
19 what it says, how -- would you -- would you identify it
20 in terms of what it is?

21 A. This is a text message that was sent --

22 Q. The microphone, I'm sorry.

23 A. This is a text message that was sent by the
24 group of us to the attorney general.

25 Q. All right. And does it also contain the

1 attorney general's response?

2 A. Yes.

3 Q. Are you aware of people -- of any instance
4 where there's been criticism that -- that you did not
5 seek to meet with the attorney general?

6 A. I --

7 Q. Are you aware that there's been that
8 criticism?

9 A. I'm aware of that, yes.

10 Q. All right.

11 MR. HARDIN: Now, Your Honor, we would --
12 we -- we move to introduce 571, with the understanding
13 this witness participated in sending this along with the
14 other group of people we've been talking to as the
15 whistleblowers.

16 PRESIDING OFFICER: Any objection?

17 MR. OSSO: No objection, Judge.

18 PRESIDING OFFICER: Continue. It's
19 admitted into evidence.

20 (HBOM Exhibit 571 admitted)

21 MR. HARDIN: Can I have it up on the
22 screen, please.

23 Q. (BY MR. HARDIN) The first page, would you
24 show who all -- would you, for the record, explain who
25 all it says is sending this?

1 A. The -- beginning at the top of the page --

2 Q. Yes. Yes.

3 A. -- Lacey Mase, deputy for administration, is
4 sending this e-mail, which contains a screenshot, to
5 Jeff Mateer, Blake Brickman, Ryan Vassar, Ryan Bangert
6 myself, Mark Penley, and Darren McCarty.

7 Q. All right. If you would look at the
8 screenshot on that first page, if we turn -- does this
9 exhibit contain a screenshot of the text messages that
10 you as a group, the addressees up at the top, sent to
11 the attorney general?

12 A. Yes.

13 Q. And did you send it -- on what date, if you
14 would look up there?

15 A. The date is not listed, but this would have
16 been --

17 Q. The screenshot is dated, is it not?

18 A. The screenshot --

19 Q. Can you see it?

20 Yeah, the first page.

21 A. Yes. This is -- the e-mail is dated
22 October 1st.

23 Q. All right. Right. The e-mail has sent -- has
24 been sent around. But if you look at the second page of
25 this exhibit, does it contain correspondence with --

1 where each of you -- give me -- let me back up. Strike
2 that.

3 And I apologize, Mary, ma'am.

4 If you would just give the jury the
5 background of why y'all sent this and when you sent it.

6 A. Yes. We sent this message to the attorney
7 general after we had made a good-faith report to the
8 FBI. We wanted to speak with him. We wanted to bring
9 him back to the office. We wanted to invite him back to
10 the office to speak with us so that we could address
11 these concerns head-on.

12 We wanted -- we were hoping that we could
13 finally resolve these issues, and in our view, end this
14 unlawful use of our office's resources.

15 Q. All right. Now, the screenshot is dated
16 October 1st. And, in fact, you -- we -- your group --
17 your group went to the FBI, I believe you testified, on
18 September the 30th, correct?

19 A. That's right.

20 Q. This e-mail that Jeff sent on -- Jeff Mateer
21 sent on behalf of all of you, would you read that out
22 loud, publish to the jury, please?

23 A. The text message?

24 Q. Yes.

25 A. Yes. Jeff Mateer at 12:49 p.m.

1 General Paxton, yesterday, each of the individuals on
2 this text chain made a good-faith report of violations
3 of law.

4 Q. Nice -- nice and slow.

5 A. I'll begin again.

6 General Paxton, yesterday each of the
7 individuals on this text chain made a good-faith report
8 of violations of law by you to an appropriate law
9 enforcement authority concerning your relationship and
10 activities with Nate Paul. We request that you meet
11 with us today in the eighth floor conference room at
12 3:00 o'clock p.m. to discuss this matter.

13 Q. Now, at that time, since when it says
14 "yesterday" here, and I believe you testified that the
15 two of you went to the FBI on the 30th, correct?

16 A. The group of us did.

17 Q. Yes. And then -- and then on the 1st, you
18 send this text. So when we see on there today
19 12:49 p.m., this message from Mr. Mateer on behalf of
20 all of you, would have been sent on what date?

21 A. The following day, the 1st.

22 Q. October the 1st.

23 And at that time, did you know whether or
24 not the attorney general was back in Austin from his
25 trip out of town?

1 A. Yes. My recollection is that he had returned
2 late the previous evening.

3 Q. Late the evening of the 30th?

4 A. Yes, that's my recollection.

5 Q. Okay. Would you publish to the jury what he
6 responded to you about three hours after you sent it?

7 A. Yes. At 3:08 p.m., Jeff, I am out of the
8 office and received this text on very short notice. I
9 am happy as always to address any issues or concerns.
10 Please e-mail me with those issues so that they can be
11 fully addressed.

12 Q. And so did you e-mail him with those issues?

13 A. I don't believe we did. I don't recall. We
14 wanted to meet with him personally.

15 Q. And if you did not, would you -- why would you
16 not have?

17 A. He was well aware.

18 Q. And how did you take that, asking for the
19 issues?

20 A. I interpreted that message as he was not going
21 to engage with us on this.

22 Q. Did he ever reach out to you and try to?

23 A. No, not to me.

24 Q. And -- and as a former deputy first assistant,
25 you remained still with the office available to talk to

1 him for how long?

2 A. I remained with the office until after the
3 2020 election in November, early November.

4 Q. At any time after -- after you sent that text,
5 did the attorney general ever attempt to discuss any of
6 these issues with you?

7 A. One time.

8 Q. When was that?

9 A. I had turned in my notice and -- of
10 resignation. I was in the process of gathering up the
11 things in my office. And I was alone in my office, and
12 he walked into the office unannounced and closed the
13 door behind him, and was pacing to and fro in the
14 office. He was very agitated, in my view.

15 And he said to me, Ryan, I just want you
16 to know that you're only sitting in this office today
17 because of me.

18 Q. What else did he say?

19 A. He said this was not Jeff Mateer who put you
20 here. It was me.

21 Q. He said what?

22 A. He said, Jeff Mateer didn't put you in this
23 office. It was not his decision. It was my decision.
24 I put you here.

25 Q. Okay.

1 A. And he was -- it was a very odd conversation.
2 I wasn't quite sure how to respond. So I just told the
3 attorney general that it was my hope that God would work
4 things out in the end. That was the only time that he
5 spoke to me alone about these issues. And that was it.

6 Q. What is your observation as to whether
7 encounters of unpleasant or difficult issues, the
8 attorney general's characteristic is as to whether -- as
9 to how he acts in issues of conflict or whether he
10 avoids them?

11 MR. OSSO: Objection to relevance.

12 PRESIDING OFFICER: Sustained.

13 Q. (BY MR. HARDIN) After you left, can you
14 describe for the jury the impact of all of this has been
15 on you?

16 A. Yes. That month was a very unsettling month.
17 I was waiting to be terminated. Instead, I just had my
18 job duties stripped from me and was left more or less a
19 man without a portfolio in the office. I watched as my
20 fellow whistleblowers were placed under administrative
21 leave and investigated. I watched as certain members of
22 the staff, the new staff, treated them in a belligerent
23 manner, including myself.

24 And ultimately, I had to -- I resigned.
25 It was incredibly heartbreaking because I had believed

1 in Ken Paxton and what he has -- had been doing for
2 years. I had moved my family here to Austin
3 specifically to go to work for him.

4 And I watched all of these things that we
5 had done as a leadership team slowly begin -- begin to
6 unravel. And it was absolutely heartbreaking to see
7 that happen to an office that had been, in my view, a --
8 a beacon for the conservative legal movement for years.

9 Q. Have you noticed he's not even here today?

10 MR. OSSO: Objection. Relevance.

11 MR. HARDIN: That's very relevant. I
12 want the record to reflect --

13 MR. OSSO: Objection. Relevance.

14 MR. HARDIN: If I could, I'll ask that
15 question again.

16 PRESIDING OFFICER: Sustained.

17 MR. HARDIN: All right. I want the
18 record to reflect that Attorney General Paxton was not
19 here.

20 MR. OSSO: Objection.

21 MR. HARDIN: Your Honor, I -- I'm just
22 making this for the record. I think we're entitled to
23 point out --

24 MR. OSSO: I'm objecting to the attorney
25 testifying.

1 MR. HARDIN: Excuse me. Let me finish,
2 please.

3 PRESIDING OFFICER: Quit talking over
4 each other. Court reporters cannot record.

5 I sustained his objection.

6 MR. HARDIN: Yes, sir. I understand, and
7 I'm not any longer trying to ask that question.

8 I do want the record to reflect that
9 neither yesterday nor today has the attorney general
10 graced us with his appearance. That's all. I wanted to
11 make that statement, please, for the record.

12 I thank you very much, Your Honor. I'll
13 pass the witness.

14 MR. OSSO: Judge, may I have a moment to
15 just prepare my exhibits up on the bench -- or the
16 podium?

17 PRESIDING OFFICER: Yes.

18 MR. OSSO: May I proceed, Judge?

19 PRESIDING OFFICER: You may proceed.

20 CROSS-EXAMINATION

21 BY MR. OSSO:

22 Q. Mr. Bangert, we heard a lot about your
23 background. Obviously you have a very esteemed career
24 and resume, correct?

25 A. My resume is what it is.

1 Q. Okay. Mine is not like yours, and so I'm just
2 going to try and do a courtesy to you and ask you short
3 and simple questions. Okay? And I would ask that if I
4 ask you a yes or no question, that you simply respond
5 yes or no. All right?

6 A. Understand.

7 Q. Okay. Now, you are currently represented by
8 an attorney, correct?

9 A. I am.

10 Q. Okay. That attorney is Johnny Sutton?

11 A. Yes.

12 Q. That is the same attorney that represents
13 Jeff Mateer, correct?

14 A. It is my understanding that he also represents
15 Jeff Mateer, yes.

16 Q. So you and Jeff Mateer both have the same
17 attorney?

18 A. We do.

19 Q. Okay. As a matter of fact, Mr. Sutton is here
20 today in the building, right?

21 A. Yes.

22 Q. He's probably watching your testimony?

23 A. I assume so.

24 Q. Okay. And as a matter of fact, the two of you
25 were just in the restroom together about 15 minutes ago?

1 A. You would know that because you were there
2 too.

3 Q. I know, right? But that's a yes, correct?

4 A. That is a yes.

5 Q. Okay. So you guys have been in contact during
6 your testimony in this trial?

7 A. We have.

8 Q. All right. Now, you stated on direct
9 examination that you did not provide any statements with
10 regard to what you've testified in court today, right?

11 A. Would you please reframe. I don't understand
12 the question.

13 Q. Sure. And I think the record reflects when
14 Mr. Hardin asked if you made any statements in this
15 case, and when the Judge clarified if you had made any
16 statements before this testimony, you said that you
17 hadn't.

18 A. I do not recall testifying to that effect.

19 Q. Okay. So you've made statements previous to
20 your testimony today, right?

21 A. Again, when you say "statements," have I
22 spoken to anyone?

23 Q. I mean, you have made an out-of-court
24 statement, Mr. Bangert.

25 A. Are you talking about under oath?

1 Q. I'm asking you, yes or no, if you made
2 statements about this case to anyone?

3 MR. HARDIN: Objection.

4 PRESIDING OFFICER: Don't answer the
5 question.

6 What's your objection?

7 MR. HARDIN: My objection, Your Honor, is
8 if he would just, please, express what he means by
9 "statements." That has a legal significance and a
10 practical one.

11 PRESIDING OFFICER: Overruled.

12 MR. HARDIN: This witness is not aware of
13 the issue.

14 PRESIDING OFFICER: Overruled.

15 Answer the question.

16 Q. (BY MR. OSSO) So it's a yes or no question.

17 A. It's not a yes or no question, sir.

18 Q. Well, then, let me ask you a more specific
19 question. Were you interviewed by the House Board of
20 Managers in their preparation and investigation of this
21 case?

22 A. Yes, I was.

23 Q. Okay. Were you interviewed by Mr. Hardin and
24 Mr. DeGuerin prior to your testimony for this case?

25 A. Prior to my testimony today?

1 Q. Yes.

2 A. I was, yes.

3 Q. Okay. So those are two statements that you've
4 made to people about your testimony in this case, right?

5 A. I'm not trying to fight with you, Counsel.
6 I'm simply pointing out that the word "statement"
7 carries legal significance --

8 Q. Well, hearsay --

9 A. -- under oath.

10 Q. Well, hearsay --

11 A. Those are not under oath. Yes.

12 PRESIDING OFFICER: Witness, answer the
13 question. Don't argue with the counsel.

14 Q. (BY MR. OSSO) You've made two interviews
15 prior to testifying today, right?

16 A. I have given -- I have given interviews, yes.

17 Q. Okay. Two of them?

18 A. I have spoken both with the House Managers'
19 counsel, and I've spoken with Mr. Hardin and
20 Mr. DeGuerin.

21 Q. Yes or no, Mr. Bangert, were either of those
22 interviews recorded?

23 A. No.

24 Q. Did you ask that those interviews not be
25 recorded?

1 A. No.

2 Q. Did your lawyer ask that those interviews not
3 be recorded?

4 A. Not to my recollection, no.

5 Q. So you don't know why they were recorded --
6 why they were not recorded?

7 A. I do not.

8 Q. Okay. If Mr. Hardin or Mr. DeGuerin had any
9 objection to you being recorded during your interviews,
10 would that have been a problem? Yes or no?

11 A. I -- I don't understand the import of the
12 question. Would that have been a problem for me?

13 Q. My question is: If Mr. Hardin or Mr. DeGuerin
14 had said, Mr. Bangert, you're giving an interview with
15 regard to testimony in an impeachment trial, can we
16 record you? Would that have been a problem for you or
17 Mr. Sutton?

18 A. I can speak for myself. I would -- I would
19 have no problem with that.

20 Q. Okay. And despite your lack of objection to
21 that, Mr. Hardin and Mr. DeGuerin chose not to interview
22 you during your interviews with regard to this case?

23 A. Chose not to record me, yes. I assume that
24 was their choice, but I was not recorded.

25 Q. Okay. And additionally, prior to that

1 interview when you met with the House Board of Managers,
2 it's safe to say you wouldn't have had an objection to
3 them recording you either, correct?

4 A. I can't think of any at the time, no.

5 Q. Okay. And it just so happens that the House
6 Board of Managers, the investigators in this case, chose
7 not to record your statement either?

8 A. As far as I know, they did not.

9 Q. Okay. So you would have to agree that there
10 are a lot of things that you testified to when
11 Mr. Hardin was directing you that we were hearing for
12 the first time on this side of the trial, correct?

13 A. I honestly cannot answer that question. I do
14 not know what you know and what you do not know.

15 Q. Well, you had information that you produced
16 actually to both sides of this trial within the last two
17 days, correct?

18 A. There was a text chain that was produced by my
19 counsel.

20 Q. Okay. We didn't see Mr. Hardin produce those
21 text messages during his direct, did we?

22 A. Mr. Hardin producing his text messages to
23 whom?

24 Q. During his direct examination of you, he did
25 not ask you about text messages that you produced

1 yesterday during this trial. Yes or no?

2 A. No, he did not.

3 Q. Okay.

4 MR. OSSO: Your Honor, may I approach the
5 witness?

6 PRESIDING OFFICER: Yes.

7 Mr. Bangert, don't speak to him now.

8 Just give it to him and then speak from
9 the microphone. Thank you, Counselor.

10 Q. (BY MR. OSSO) I'm handing you --

11 PRESIDING OFFICER: Hold on. Everyone
12 wants to hear you.

13 Q. (BY MR. OSSO) I'm handing you what has been
14 premarked as Attorney General's Exhibit 1000, and I
15 believe, 3, correct?

16 A. It is marked AG 1003, yes.

17 Q. Okay. Now, you recognize this document, do
18 you not?

19 A. I do.

20 Q. These are text messages from your cell phone,
21 right?

22 A. Yes.

23 Q. You produced these to both sides in court
24 yesterday?

25 A. Mr. Sutton, my attorney, produced them

1 yesterday.

2 Q. Okay. And you would agree that these are a
3 fair and accurate --

4 PRESIDING OFFICER: Counselor, excuse me.
5 We do not have a copy of what you have.

6 MR. OSSO: Yes, Judge. I'll get a copy
7 for the Court.

8 PRESIDING OFFICER: Thank you.

9 Continue.

10 MR. OSSO: Yes, Judge.

11 Q. (BY MR. OSSO) You would agree that these are
12 a fair and accurate reflection --

13 MR. HARDIN: Your Honor, pardon me. Your
14 Honor, we were not given a copy of those. Could we have
15 a copy of them, please?

16 MR. COGDELL: I've got a copy.

17 MR. OSSO: Okay. I've got a copy.

18 MR. COGDELL: Give it to them then.

19 MR. OSSO: I'd ask the record to reflect
20 that I've tendered to opposing counsel a copy of their
21 witness' text messages.

22 PRESIDING OFFICER: Let the record
23 reflect.

24 Q. (BY MR. OSSO) Now, Mr. Bangert, you would
25 agree that these are a fair and accurate reflection of

1 the text messages between you and Ken Paxton in July and
2 August of 2020, correct?

3 A. Give me a moment.

4 With the only modification that the first
5 text message is in June.

6 Q. Okay. Well, you produced -- your attorney
7 produced these. So presumably, he got them from you,
8 right?

9 A. Yes.

10 Q. Okay. Otherwise, a fair and accurate
11 reflection?

12 A. Yes, they appear to be.

13 MR. OSSO: Judge, at this time, I would
14 move to admit AG Exhibit 1003.

15 PRESIDING OFFICER: Any objection?

16 MR. HARDIN: No objection, Your Honor.

17 PRESIDING OFFICER: I'll show the exhibit
18 being entered into the record.

19 MR. OSSO: Okay.

20 PRESIDING OFFICER: Admitted into
21 evidence, excuse me.

22 (AG Exhibit 1003 admitted)

23 MR. HARDIN: Thank you, Judge.

24 Q. (BY MR. OSSO) Mr. Bangert, you talked about
25 two very, very, very specific conversations that you had

1 with Mr. Paxton that I think stood out during your
2 testimony. The first one of those was a conversation at
3 Polvo's, correct?

4 A. We did -- well, Nate Paul was part of that.

5 Q. Right.

6 A. But we were at Polvos at lunch together with
7 Mr. Paxton, Drew Wicker, and Nate Paul.

8 Q. Okay. And the second conversation was
9 essentially a conversation that you overheard
10 Jeff Mateer was having, right?

11 A. The conversation at the RAGA meeting in
12 Atlanta, yes.

13 Q. Okay. Two separate conversations?

14 A. Yes.

15 Q. Did you provide -- I don't recall. Did you
16 provide dates of those -- specific dates of those
17 conversations during your direct examination?

18 A. I do not believe I did.

19 Q. Okay. Now, you talked a lot about your
20 experience in your resume. I think you've clerked.
21 You've worked at -- was it Baker Botts, as a partner,
22 right?

23 A. I've both clerked and worked at Baker Botts as
24 a partner, yes.

25 Q. You've worked at executive -- executive-level

1 positions in two attorney general's offices?

2 A. Yes.

3 Q. You didn't get there because you don't have an
4 attention to detail, right, Mr. Bangert?

5 A. I would like to think that I pay sufficient
6 attention to detail.

7 Q. Right. And you document things that are
8 important to you, do you not?

9 A. Not always.

10 Q. Not always. Okay.

11 Well, let's talk about that. You had
12 documented in this case something that you thought was
13 very important, the foreclosure opinion, did you not?

14 A. I made a document that outlined my concerns
15 about -- oh, I'm sorry. You said the foreclosure
16 letter?

17 Q. Yes, the foreclosure letter.

18 A. Well, let me -- I was shown the foreclosure
19 letter today, yes.

20 Q. Okay.

21 MR. OSSO: At this time, I would ask,
22 Erick, if you could publish the House Board of Managers'
23 Exhibit 119.

24 Q. (BY MR. OSSO) Mr. -- Mr. Bangert, this is an
25 e-mail that you sent to Ryan Vassar on September 30 --

1 PRESIDING OFFICER: Counselor, excuse me.
2 Has this been entered into evidence?

3 MR. OSSO: My understanding is it has.
4 If not, Judge, I'll ask -- I'll ask to enter it. It's
5 the House Board of Managers' exhibit. At this time, I
6 would offer it.

7 MR. HARDIN: We do not object, Your
8 Honor.

9 PRESIDING OFFICER: Okay. Admitted into
10 evidence.

11 (HBOM Exhibit 119 admitted)

12 MR. OSSO: Thank you, Judge.

13 Q. (BY MR. OSSO) Now, Mr. Bangert, this is an
14 e-mail that you wrote to Ryan Vassar on September 30th
15 of 2020, true?

16 A. Yes.

17 Q. September 30th of 2020 is after you had the
18 meeting with the other executives about going to the FBI
19 with regard to Ken Paxton, true?

20 A. This is at 9:29 a.m. that morning. I do
21 not -- we had not visited the FBI at that point.

22 Q. Okay. It's the same day that you had a
23 conversation with the other executive-level AGs about
24 going to the FBI, right?

25 A. We did on that day.

1 Q. Okay. And September 29th -- or excuse me,
2 September 30th, that's two months after you ever drafted
3 the foreclosure opinion that you talked about during
4 your direct examination, correct?

5 A. Slightly under, but about two months later,
6 yes.

7 Q. Do you typically write memorandums about
8 things that happened two months ago; yes or no?

9 A. No.

10 Q. Does it stand out to you or does it seem odd
11 to you to wait until the day that you go to the FBI or
12 the day before you go to the FBI to write a memorandum
13 about something that happened two months ago?

14 A. No.

15 Q. Not odd at all?

16 A. No.

17 Q. Okay. Now, to be clear, yesterday during
18 Mr. Hardin's testimony, he at one point said, I think by
19 the end of July, beginning of August, you had been a
20 part of three issues that related to Nate Paul, right?

21 A. Well, depending upon how you count the open
22 records issue, it's one or two.

23 Q. Okay. Well, you have the open records issue,
24 correct?

25 A. Yes.

1 Q. You were involved in Mitte?

2 A. I was involved in Mitte as well, yes.

3 Q. Okay. And then you've got your foreclosure
4 opinion involvement?

5 A. Yes, that is correct. I was involved in all.

6 Q. And as a matter of fact, a lot of those almost
7 overlapped each other, true?

8 A. At the edges and at the margins, they did
9 overlap.

10 Q. Okay. Now, yesterday you testified to the
11 jury that you had a boiling concern about this, correct?

12 A. I did have a boiling concern about this.

13 Q. Now, to be clear, House Board's 119, your
14 e-mail to Ryan Vassar, is the only memorandum and
15 summary that you drafted with regard to any of your
16 involvement with Mitte, open records request, or the
17 foreclosure opinion? Yes or no?

18 A. I can't recall.

19 Q. You can't recall.

20 Okay. Well, we didn't see any other
21 memorandums, have we?

22 A. I haven't seen any in the trial today.

23 Q. Okay. Well, you would have produced it, so
24 you would know about it, wouldn't you?

25 A. I produced everything I had.

1 Q. Okay. And all we got was this e-mail?

2 A. I produced far more than this e-mail.

3 Q. Okay. Now, I want to backtrack a little bit,
4 and we'll go back to that correspondence between you and
5 Mr. Vassar.

6 You talked a little bit about a time from
7 when you guys came out to the FBI and what happened to
8 you after. Okay. I want to talk about that.

9 MR. OSSO: Erick, would you mind pulling
10 up Article VI of the Articles of Impeachment.

11 Q. (BY MR. OSSO) Article VI accuses Mr. Paxton
12 essentially of terminating or taking adverse personnel
13 action against employees for making a good-faith report
14 to law enforcement.

15 Would you agree with that, Mr. Bangert?

16 A. It says he violated the duties of his office
17 by terminating and taking adverse personnel action
18 against employees of his office in violation of the
19 State's whistleblower law.

20 Q. Okay. So kind of what I just said, right?

21 A. I -- I defer to the document.

22 Q. Okay. Well, if we read from it, it talks
23 about terminating or taking adverse personnel action.
24 So I would like to talk about what happened to you.

25 Now, at no point after you reported to

1 law enforcement were you terminated from your position?
2 It's a yes or no question, Mr. Bangert. Were you fired
3 or were you not fired?

4 A. I was constructively discharged.

5 Q. No. I asked you whether you were fired or not
6 fired. Yes or no?

7 PRESIDING OFFICER: Answer the question.

8 A. I was constructively discharged.

9 Q. (BY MR. OSSO) Did Ken Paxton say you are no
10 longer an employee of the Office of Attorney General?

11 A. He did not say that.

12 Q. Okay. Thank you.

13 As a matter of fact, you left. You
14 resigned from the Office of Attorney General as the
15 Deputy First Assistant Attorney General, did you not?

16 A. I did resign.

17 Q. Okay. And you resigned under the title Deputy
18 First Assistant Attorney General?

19 A. That was my title at the time I resigned.

20 Q. Okay. So you were not demoted from your
21 position as First Assistant Attorney General?

22 A. I did not lose my title.

23 Q. Okay. And as a matter of fact, you were never
24 suspended after you reported to the FBI, were you?

25 A. I was not.

1 Q. Okay. You talked about Mr. -- I think maybe
2 Webster, but certainly Ken Paxton stripping you of some
3 of your responsibilities, right?

4 A. Yes.

5 Q. One of those responsibilities was the fact
6 that you were in charge of the special litigation
7 division, true?

8 A. I was.

9 Q. Now, that role was actually moved out from
10 underneath you, correct?

11 A. That is correct.

12 Q. And they put it in charge of the division
13 chief that was running that division at the time, right?

14 A. My understanding was that Patrick Sweeten was
15 put in charge of that division, yes.

16 Q. So essentially Brent Webster promoted an
17 under-level assistant attorney general? Yes or no?

18 A. I do not know if he promoted Patrick or not.

19 Q. He certainly added some responsibility for
20 Patrick, correct?

21 A. That was my impression, yes.

22 Q. And that bothered you? Yes or no?

23 A. It came without explanation or warning, so,
24 yes, it was troubling to me.

25 Q. It's possible that Mr. Webster just was

1 promoting somebody that had been, I don't know, doing an
2 exceptional performance at their job?

3 A. That was the excuse that he attempted to give
4 me.

5 Q. That's not what I asked you. I asked you if
6 it was possible.

7 A. I don't think so.

8 Q. Okay. Certainly they wouldn't take a job from
9 Ryan Bangert, right?

10 A. That's not exactly what I said.

11 Q. Okay. It sounded like it.

12 You said that the environment -- did you
13 describe it as being hostile after you reported to the
14 FBI?

15 A. Yes, it was.

16 Q. Toxic, right?

17 A. It was.

18 Q. Affecting the ability for people to get their
19 work done?

20 A. It was.

21 Q. Okay. Now, you left and you went to work for
22 the Alliance Defending Freedom, didn't you?

23 A. I did.

24 Q. And in your time -- well, that would have been
25 2020, true?

1 A. Say again?

2 Q. When you left the Office of Attorney General
3 and you went to Alliance Defending Freedom --

4 PRESIDING OFFICER: Counselor, can you
5 make -- raise that microphone a little bit closer to
6 you?

7 MR. OSSO: Okay. Is that better, Judge?

8 PRESIDING OFFICER: That's much better
9 for the jurors.

10 Q. (BY MR. OSSO) Okay. When you -- when you
11 left the Office of Attorney General and went to Alliance
12 Defending Freedom, that was in October or November of
13 2020?

14 A. November of 2020.

15 Q. November of 2020.

16 And since your time in November 2020, all
17 the way up until I believe 2023, isn't it true that you
18 have brought cases from the Alliance Defending Freedom
19 to be co-handled with the Office of Attorney General?

20 A. We have.

21 Q. Okay. And some of those cases you have worked
22 directly with Brent Webster, have you not?

23 A. There have been some, yes.

24 Q. Specifically State of Texas v. Xavier Becerra?

25 A. I believe that's the title of the case in

1 Lubbock, Texas.

2 Q. Okay. And that was one of a few cases, true?

3 A. Yes.

4 Q. And all the while that you were bringing cases
5 from Alliance Defending Freedom back to the Office of
6 Attorney General, Brent Webster was acting as first
7 assistant, true?

8 A. That is my understanding, yes.

9 Q. And Ken Paxton was acting as attorney general?

10 A. Yes.

11 Q. All right. I want to talk to you about the
12 open records request. Okay. You kind of gave us an
13 explanation of how the process works, so I just want to
14 rehash that out.

15 My understanding is that if an individual
16 makes a request to a State agency, that State agency has
17 a certain time period to go to the Office of Attorney
18 General and make a request for a ruling, right?

19 A. There is a statutory time period to request a
20 ruling, yes.

21 Q. Right. So in this case, the statutory time
22 period -- well, for example, when Nate Paul went to the
23 Department of Public Services in March of 2020, if that
24 was March 3rd, they had until March 13th essentially to
25 request your office give an opinion, true?

1 A. I do not recall the specific dates, nor do I
2 recall whether it was Nate Paul or one of his attorneys
3 who made that request.

4 Q. Okay. I just want to clarify. You do not
5 recall the specific dates in which the DPS request by
6 Nate Paul's attorney was made?

7 A. It was in the spring of 2020, but I don't
8 recall the precise dates. I would have to see some
9 documents for that.

10 Q. Okay.

11 MR. OSSO: Erick, would you mind pulling
12 up Article III.

13 Q. (BY MR. OSSO) While we're doing that, just
14 for a little background, Mr. Bangert, the request by
15 Nate Paul's attorneys for the records involved in the
16 investigation, all -- it was for the -- initially the
17 Texas State Securities Board, right?

18 A. Yes, the initial request went to SSB.

19 Q. That was in 2019?

20 A. Is that a question?

21 Q. Yeah. That was in 2019?

22 A. Yes, yes. Yes, it was.

23 Q. Then you've got DPS. That request was made in
24 the spring of 2020?

25 A. That is correct.

1 Q. And sometime later, arguably the end of May,
2 there was a request made for FBI's comment or brief on
3 the DPS request that was originally filed in the spring,
4 right?

5 A. I believe it was part of the second request.

6 Q. Okay. So we're talking about three different
7 records requests, correct?

8 A. I would classify it as two, with a secondary
9 request attached to the second.

10 Q. Okay. And then you also have to throw in the
11 request for reconsideration, right, on the Texas State
12 Securities Board?

13 A. That was part of the first file.

14 Q. So essentially the Office of Attorney General
15 makes four separate decisions about records relating to
16 Nate Paul?

17 A. We made at least three. I don't know if it
18 was four.

19 Q. Okay. Well, let's go back to the fall of
20 2019. Texas State Securities Board, at that time was
21 Ken Paxton the office -- was the -- he was the AG of the
22 attorney general's office, right?

23 A. Yes, he was.

24 Q. Now, when Nate Paul made that request through
25 Aaron Borden, his attorney, in the fall of 2019, that --

1 that initial request was denied by the Office of
2 Attorney General, was it not?

3 A. Yes, the ORD did -- well, when you say denied,
4 it sustained the request for exemptions and exceptions
5 by the board, true.

6 Q. Meaning that the Texas State Securities Board
7 while Ken Paxton was AG was not required to turn over
8 records to Nate Paul?

9 A. That's right. The November request did not
10 require a turnover of records.

11 Q. Let's move forward to 2020. You had a
12 conversation with Justin Gordon about a request for
13 reconsideration of the Texas State Securities Board
14 records, true?

15 A. I did.

16 Q. And ultimately you ended up having
17 conversations with Ken Paxton about that request for
18 reconsideration?

19 A. I did.

20 Q. And ultimately the Office of Attorney General
21 again did not rule that the Texas State Board -- the
22 Texas State Securities Board was going to have to turn
23 their records over to Nate Paul, did they?

24 A. We did not require them to turn their records
25 over.

1 Q. Okay. So up until -- that puts us in February
2 or March of 2020. Would you agree?

3 A. We're ballpark in that area, yes.

4 Q. Ballparking it because yesterday you stated it
5 was right around the time COVID started.

6 A. Yes.

7 Q. That's a whole other convo we'll get into in a
8 little bit.

9 Okay. So the Texas State Securities
10 Board records are not given to Nate Paul. Let's move on
11 to DPS.

12 Now, to be clear, the ultimate ruling
13 in -- the ultimate decision by the Office of Attorney
14 General with regard to the DPS records was that they
15 refused to rule in that situation?

16 A. It was a no decision.

17 Q. Okay. Now, I want to talk to you about what
18 that means. If the Office of Attorney General refuses
19 to rule on a records request, that means that the State
20 agency that was requested does not have to turn their
21 records over to the individual, right?

22 A. We did not require disclosure based on that
23 ruling.

24 Q. Okay. And so as a result of that ruling, the
25 Department of Public Safety did not turn their records

1 over to Nate Paul or his attorneys, true?

2 A. That ruling did not require disclosure.

3 Q. Okay. Well, you're aware that there was a
4 writ of mandamus filed by Nate Paul's attorney for those
5 records they were trying to get from you, correct?

6 A. You're going to have to -- the writ of
7 mandamus, I believe, occurred with respect to the
8 initial request. I don't recall one on the second
9 request, but it may have happened.

10 Q. You would agree there was a writ of mandamus
11 filed?

12 A. At some point it was my understanding that a
13 writ had been filed.

14 Q. Okay. And you're not going to tell this jury
15 when that suit was resolved, are you?

16 A. No.

17 Q. As a matter of fact, it could have been
18 pending into the winter of the next year, true?

19 A. As far as I know. And for clarity, when you
20 say "writ of mandamus," I'm assuming you're talking
21 about federal practice --

22 Q. No. I'm talking about --

23 A. -- from the Fifth Circuit.

24 Q. No. A writ of mandamus in the district court
25 for the Department of Public Safety records.

1 A. You're talking about the second issue then.

2 Q. Okay.

3 A. Yeah. No. Yeah, there was a -- there was a
4 pending action in the district court.

5 Q. Okay. So they weren't just going to the
6 Office of Attorney General to try and get these records
7 that they were after, right?

8 A. Could you repeat one more time?

9 Q. They weren't just going to the Office of
10 Attorney General, Nate Paul and his lawyers. They were
11 also going to district court to try and get the records
12 they were after, correct?

13 A. That was my understanding.

14 Q. Okay. Now, DPS was not required to disclose
15 records after this refusal to rule, right?

16 A. Our refusal to rule did not require them to
17 disclose.

18 Q. Okay. You stated that that was contrary to
19 precedent at the attorney general's office, true?

20 A. I did.

21 Q. But you would have to admit that this specific
22 request made by Nate Paul and his attorney, Gerald
23 Larson, had some unique circumstances, true?

24 A. I don't recall any unique circumstances.

25 Q. Well, you worked with Justin Gordon pretty

1 closely on this case, didn't you?

2 A. I worked with him very closely on the first
3 file for SSB, and somewhat but less closely on the
4 second file.

5 Q. Okay. Could you kind of -- I mean, so you
6 really delegated it to Justin Gordon to handle, right?

7 A. No.

8 Q. He was the man in charge of this decision, was
9 he not?

10 A. He was the head of open records answering to
11 Ryan Vassar, the deputy for legal counsel at the time.

12 Q. And he drafted opinions -- and he drafted the
13 opinion to refuse to rule that you edited, true?

14 A. I did edit the opinion.

15 Q. Okay.

16 MR. OSSO: Your Honor, may I approach the
17 witness?

18 PRESIDING OFFICER: Yes, you may.

19 Just don't talk on your way up or back.

20 MR. OSSO: Yes, Judge.

21 Q. (BY MR. OSSO) I guess the point I'm getting
22 at, Mr. Bangert, is that not every -- like you said
23 yesterday, you said that pretty much all of these
24 requests are kind of the same. They're easy to rule on
25 when it comes to law enforcement material, true?

1 A. They're not all easy, but we get a lot of
2 them.

3 Q. Right. You referenced the -- you referenced
4 the opinion -- the law enforcement exception, true?

5 A. Yes, I believe that's correct.

6 Q. That doesn't --

7 A. When you say "the opinion," which one are you
8 referring to, though? I want to make sure I'm answering
9 accurately.

10 Q. Well, the DPS opinion.

11 A. I believe that's correct. I need to see it
12 again.

13 Q. And the FBI comment.

14 A. Again, I -- I need to see the document.

15 Q. To be clear, there was an initial request for
16 DPS records in March of -- or spring of 2020, true?

17 A. That is my understanding, yes.

18 Q. Okay. There was a later -- you -- you're
19 aware that DPS did not notify the FBI about the
20 records, true?

21 A. I don't recall that. You would have to
22 refresh my memory on it.

23 Q. So it sounds like you don't know every little
24 detail about the records request, do you?

25 A. No. And that's perfectly normal for a senior

1 executive not to know every detail.

2 Q. Okay. So yesterday when you said that the
3 decision was not consistent with precedent, you didn't
4 know every little fact about what was going on within
5 this request, did you?

6 A. I knew enough to make that determination.

7 Q. Well, you didn't know everything, did you,
8 Mr. Bangert?

9 A. I am not omniscient so, no, I do not know
10 everything, but I knew enough to make that
11 determination.

12 Q. And it's fair that maybe Mr. Gordon had a
13 different opinion about what went on with regard to
14 those records requests?

15 A. Mr. Opinion -- Mr. Gordon was working on that.
16 I do not recall what his opinion was.

17 Q. Okay. Are you aware that ultimately the
18 Office of Attorney General did disclose the FBI comment?

19 A. I do not recall that.

20 Q. Okay. Are you familiar with June Hadden
21 (sic)k?

22 A. June Hadden, the name is familiar. I believe
23 she worked in the open records division.

24 Q. Okay. Would it surprise you to find out that
25 she ruled that the FBI's brief on the DPS records should

1 be disclosed to Nate Paul and his attorneys?

2 A. I'm not aware of that, but I would have to see
3 the ruling.

4 Q. Okay. You hadn't heard her name with regard
5 to this litigation or case today, have you?

6 A. No, not until today.

7 Q. Okay. And you have no opinion as to whether
8 Ken Paxton brought in June Hadden to turn those records
9 over to Nate Paul, do you?

10 A. I have -- you'll have to ask the question
11 again. It was coming fast.

12 Q. There's no evidence -- you don't know of any
13 evidence -- or you have no opinion that Ken Paxton told
14 June Hadden to turn the FBI comment over?

15 A. I'm not aware of any conversation to that
16 effect.

17 Q. Okay. Is it safe to say that in conclusion
18 every single request for records from Nate Paul's
19 lawyers, none of those resulted in him getting the
20 records with regard to DPS and Texas State Securities
21 Boards, right?

22 A. I'm not aware of any --

23 Q. Okay.

24 A. -- disclosures that were made.

25 Q. Okay.

1 A. Not at least by our office formally.

2 Q. So essentially every ruling that was made with
3 regard to those records was the same -- had the same
4 effect as if you refused to require DPS or Texas State
5 Securities Boards to turn those records over?

6 A. The net result was they did not have to
7 disclose the documents.

8 Q. Okay. You were involved with Mitte as well,
9 right?

10 A. Yes.

11 Q. Now, you talked about the fact that Ken Paxton
12 directly ordered you to intervene into the
13 lawsuit, true?

14 A. Yes.

15 Q. Now, you would agree that if you thought
16 something was illegal, you wouldn't want to delegate it
17 to a lower-level attorney, true?

18 A. That, I -- I don't even know how -- no, I --
19 that does not --

20 Q. Yes or no, would you delegate illegal activity
21 to a lower-ranking attorney?

22 A. The question doesn't make sense because I
23 wouldn't carry out illegal activity.

24 MR. OSSO: Judge, I've asked --
25 nonresponsive. I've asked him a question.

1 PRESIDING OFFICER: Answer the question.

2 Q. (BY MR. OSSO) Yes or no?

3 A. I would not instruct anyone to carry out
4 illegal activity.

5 Q. Right. That's why you didn't have Ryan Vassar
6 sign that opinion in July of 2020?

7 A. I did not have him sign that opinion because I
8 had a very bad feeling of where that was headed.

9 Q. Okay. Well, let's talk about what you did in
10 the Mitte case. You had no problem instructing -- well,
11 let me rephrase that.

12 You did instruct Justin -- excuse me,
13 Josh Godbey to intervene into the Mitte case, did you
14 not?

15 A. I did.

16 Q. And when Ken Paxton asked you to file a motion
17 to say -- stay, you told the jury that you were opposed
18 to filing that motion to stay, did you not?

19 A. I did.

20 Q. But you turned around and you asked
21 Joshua Godbey to file a motion to stay in that case, did
22 you not?

23 A. I don't recall that.

24 Q. Okay. He filed the motion to stay, didn't he?

25 A. That is my understanding. Eventually a motion

1 to stay was filed.

2 Q. Okay. You didn't walk up to Ken Paxton and
3 say, Ken, I don't agree with what you're doing and so
4 I'm not going to do it?

5 A. I did not have that conversation with him, no.

6 Q. And at no point did Ken Paxton say to you that
7 if you do not intervene into the Mitte case, that you're
8 going to be fired?

9 A. No, we never had that conversation.

10 Q. You are aware that Mitte has been previously
11 of interest to the Office of Attorney General, true?

12 A. You'll have to refresh my recollection.

13 Q. Okay. Well, when Greg Abbott was the attorney
14 general, you're aware that the Office of Attorney
15 General filed suit against Mitte?

16 A. Yes, that did happen.

17 Q. Okay. So you are aware that their background
18 isn't necessarily squeaky clean?

19 A. I wouldn't put it that way.

20 Q. Okay. You wouldn't -- you would not tell --
21 you've got no knowledge that Ken Paxton was entering
22 into the Mitte litigation for the purposes of benefiting
23 Nate Paul -- Nate Paul, would you?

24 A. Oh, I disagree with that.

25 Q. Okay. Do you have personal knowledge; yes or

1 no?

2 A. I do.

3 Q. You do?

4 A. Yes.

5 Q. Well, Jeff Mateer made you aware of the fact
6 that the Mitte -- I mean, excuse me. Jeff Mateer made
7 you aware that World Class was disgruntled and not happy
8 with Joshua Godbey's performance in the intervention in
9 Mitte, true?

10 A. That was some time later, but I received an
11 e-mail. I was copied on an e-mail in which Jeff
12 responded to counsel for World Class complaining about
13 Joshua Godbey.

14 Q. Okay. So World Class was complaining about
15 Joshua Godbey, true?

16 A. They were.

17 Q. Okay. Now, at some point you stopped talking
18 to Joshua Godbey. I want to say that that was -- excuse
19 me. Let me -- let me back up.

20 You stopped talking to Justin Gordon
21 about the open records request, true?

22 A. At some point the issue came to a rest.

23 Q. Right.

24 A. So I would have no occasion to talk to him
25 after.

1 Q. Probably when you made the final ruling not to
2 disclose the records in the Department of Public Safety
3 request?

4 A. When the no decision was issued, yes, that's
5 when it would have terminated.

6 Q. Now, about one or two days after that, it
7 might have been June 2nd, you started talking to
8 Joshua Godbey about the Mitte Foundation case, true?

9 A. That sounds about right, yes.

10 Q. And Ryan Vassar has his hands in the open
11 records request at that time too, true?

12 A. He was overseeing the open records division.

13 Q. Because he took your position, right?

14 A. He did, when I was promoted.

15 Q. Okay. So Ryan Vassar is also probably aware
16 of these different interactions with Nate Paul between
17 the Office of Attorney General and Nate Paul, correct?

18 A. You'll have to ask him that question.

19 Q. Okay. Well, safe to say that he worked on the
20 open records request with you, right?

21 A. He worked on it, yes.

22 Q. And he worked on the foreclosure opinion with
23 you, true?

24 A. He did.

25 Q. Okay. So those are two different scenarios

1 where you and him both worked on Nate Paul issues, true?

2 A. At least those two.

3 Q. Okay. And it's fair to say that you and
4 Mr. Vassar were discussing the fact that you both had
5 been involved with Nate Paul?

6 A. At what time?

7 Q. At some point when you were working on these
8 cases.

9 A. We had discussion around those two instances.
10 We discussed the -- the work that we were doing.

11 Q. Okay. So you would not tell our jury, the
12 senators, that the executive level attorney generals did
13 not know that different divisions or facets of the
14 office were involved with or working on cases regarding
15 Nate Paul, would you?

16 A. We began to piece together the linkages
17 between these matters over time.

18 Q. Okay. But you didn't do anything about it
19 until September, I want to say, 30th of 2020, true?

20 A. That's false.

21 Q. Well, you didn't go to the FBI until
22 September 30th of 2020?

23 A. We didn't go to the FBI.

24 Q. Okay. Let's talk about that foreclosure
25 guidance.

1 MR. OSSO: Erick, would you mind pulling
2 up Article II.

3 Q. (BY MR. OSSO) And to be clear, Ken Paxton is
4 allowed to intervene into a lawsuit if he thinks it's
5 appropriate, true?

6 A. Our office has authority to intervene.

7 Q. Okay. And he's in charge of the office, is he
8 not?

9 A. He is the elected attorney general.

10 Q. Okay. So if he wants to intervene in a
11 lawsuit, he is allowed to do so?

12 A. He has authority to do so.

13 Q. Okay. Looking at Article II, it alleges that
14 Mr. Paxton misused his power to issue written legal
15 opinions under Subchapter C, Chapter 402 of the Texas
16 Government Code. You are aware of this, right?

17 A. Yes. I -- I see the article on my screen,
18 yes.

19 Q. Okay. Now, we actually looked at a copy of
20 that exhibit.

21 MR. OSSO: Erick, would you mind
22 posting -- entering Exhibit 192, AG 192.

23 And, Judge, for the record, I believe it
24 is an exact copy of the House Board of Manager exhibit
25 that they have already published.

1 Would you scroll to the second page,
2 Erick.

3 Q. (BY MR. OSSO) And just to be clear,
4 Mr. Bangert, when we talk about that very last
5 paragraph, you actually signed this opinion, right?

6 A. Yes.

7 Q. Okay. And by signing it, you would agree that
8 you have adopted the statements within it, true?

9 A. Not necessarily.

10 Q. Okay. So you just signed things at will?

11 A. No.

12 Q. No? Okay. And you signed this document,
13 right?

14 A. I did sign this document.

15 Q. And the very last sentence or paragraph in
16 that document says it is not a formal opinion under
17 Subchapter C of Chapter 402 of the Texas Government
18 Code, true?

19 A. Could you scroll down to the last paragraph?

20 Q. Well, you -- you wrote the opinion, and you
21 read it a minute ago.

22 A. I would like to see the -- I would like to see
23 the document.

24 Q. I've got a copy.

25 A. Ah, there it is.

1 Q. You wrote, We trust this letter provides you
2 with the advice you were seeking. Please note this
3 letter is not a formal attorney general opinion under
4 Section 402.042 of the Texas Government Code. Rather,
5 it is intended only to convey informal legal guidance.

6 A. Yes.

7 Q. You -- you wrote that, right?

8 A. I did.

9 Q. That was on this letter when you issued it in
10 2020, right?

11 A. It was.

12 Q. Okay. So the very face of the document that
13 you signed specifically states that it is not an opinion
14 under 402, true?

15 A. No. That's not correct.

16 Q. Specifically, it's not a formal attorney
17 general opinion under Section 402.042 of the Texas
18 Government Code?

19 A. It is not a formal attorney general opinion --

20 Q. Okay.

21 A. -- under Section 402.

22 It's very different.

23 Q. Okay. Let's talk about formal opinions.
24 There's a specific place on the attorney general website
25 for a formal opinion, is there not?

1 A. Opinions that are issued are listed on our
2 website, yes. They're assigned KP numbers, and they're
3 accessible by the public.

4 Q. They're assigned KP numbers.

5 MR. OSSO: At this time, Judge, I would
6 move to offer AG Exhibit 6 after I provide a copy to
7 opposing counsel.

8 Judge, I believe I have one more copy.

9 PRESIDING OFFICER: If you have one more
10 copy for us, we would appreciate it.

11 MR. OSSO: I've got one more copy for the
12 Court.

13 MR. HARDIN: I have no objection, Your
14 Honor.

15 PRESIDING OFFICER: I still would like to
16 see it.

17 MR. OSSO: Yes, Judge.

18 PRESIDING OFFICER: Just so we can follow
19 along. Thank you, sir. I admit this exhibit into
20 evidence.

21 (AG Exhibit 6 admitted)

22 MR. HARDIN: No objection.

23 MR. OSSO: And, Erick, if you would
24 publish, and just stay on the first page.

25 Q. (BY MR. OSSO) So up here in the top left

1 corner, we've got Opinion Number KP-0322, true?

2 A. Yes, it says, Opinion Number KP-0322.

3 Q. Okay. And that is an opinion number that is
4 associated with a formal opinion?

5 A. I have not seen the rest of this document, but
6 I'm assuming that this has the form and shape of a
7 formal opinion.

8 Q. Okay. Did you state yesterday during direct
9 examination that Ken Paxton doesn't have a hand in
10 signing or dealing with formal opinions?

11 A. I don't believe I said that, no.

12 Q. Okay. So you would agree that he does pay
13 attention to what he signs and what he issues on his
14 office letterhead, correct?

15 A. He is required -- well, I should say he has a
16 practice of signing formal opinions himself.

17 Q. Okay. And that opinion has his name on
18 it, true?

19 A. I cannot see it, but I -- I would be welcome
20 to look at the signature block.

21 MR. OSSO: Erick, would you flip back to
22 the signature line.

23 Q. (BY MR. OSSO) You see Ken Paxton's signature
24 on that opinion, right?

25 A. Yes.

1 Q. Okay. He has to sign these formal opinions,
2 does he not?

3 A. I believe that is the practice of the office.

4 Q. Unless he's been recused in which event
5 Jeff Mateer would sign the formal opinions, true?

6 A. That was the practice of the office.

7 Q. Now, I want to talk to you about the opinions
8 in this case. Originally Ryan Vassar drafted the
9 formal -- or not formal, excuse me -- the informal
10 guidance letter with regard to foreclosure sales,
11 correct?

12 A. The document -- yes, the -- the informal
13 opinion that was issued on October -- August 1st. He
14 did draft the initial draft, yes.

15 Q. Now, the way that that record ruled -- or,
16 excuse me, that that letter ruled was essentially that
17 you didn't attack the 10-person restriction from the
18 executive order, right? You just said that judicial
19 foreclosure sales were excepted from the rule and could
20 go on without restriction?

21 A. I would need to see the document to refresh my
22 recollection on the precise contours of the opinion.

23 MR. OSSO: Erick, would you pull up
24 Exhibit 192.

25 Q. (BY MR. OSSO) Mr. Bangert, you drafted this

1 opinion, did you not?

2 A. No. Mr. Vassar drafted it, and I provided
3 edits and corrections to it.

4 Q. Okay. So you're familiar with the content?

5 A. I was -- I was three years ago.

6 Q. Okay. Well, if you take a look at it, you
7 would agree that it ruled that foreclosure sales could
8 still go on despite the fact that there was an executive
9 order restricting public gatherings outside to
10 10 people, true?

11 A. Would you please go to the next page?

12 There were very limited circumstances
13 under which foreclosure sales could proceed, but we were
14 subjecting those to the hard 10-person cap.

15 Q. But you testified with regard to the subject
16 matter of this yesterday, didn't you?

17 A. I did.

18 Q. So you would agree that you said that despite
19 the fact that 10 people at max can gather in public,
20 foreclosure sales can still occur, true?

21 A. That misrepresents the opinion.

22 Q. Well, if there are -- you said that
23 foreclosure sales could still go on, did you not? Is
24 that not what that opinion says?

25 A. No.

1 Q. It doesn't seek to invalidate the 10-person
2 rule, does it?

3 A. You need to go to the next page of the
4 opinion.

5 MR. OSSO: Go to the next page, Erick.
6 Thank you.

7 A. The second full paragraph on page 3 shows
8 operative language.

9 Q (BY MR. OSSO) Elaborate on that.

10 A. Pardon me?

11 Q. Tell us about that.

12 A. If a foreclosure sale is subject to and not
13 exempted from the 10-person attendance limit imposed in
14 Executive Order GA28, it should not proceed if one or
15 more willing bidders are unable to participate because
16 of the attendance limit.

17 Q. So how are you saying that when Ken Paxton
18 asked you to change the opinion, that it's -- it is
19 contrary to precedent and the position of the Office of
20 Attorney General at that time?

21 A. It made the ability to proceed with those
22 types of sales more restrictive under the COVID
23 limitations than our previous draft would have.

24 Q. It made it more restrictive?

25 A. Yes.

1 Q. Right. Which means that, in a sense, it
2 benefited people that maybe didn't have their jobs at
3 the time and didn't have money to pay their mortgages
4 off, true?

5 A. I do not know who this was benefiting. At
6 least at the time I was writing it, I didn't know who it
7 was benefiting.

8 Q. Well, did you lose your job during COVID,
9 Mr. Bangert?

10 A. Say again?

11 Q. Did you lose your job during COVID?

12 A. I did not.

13 Q. Did you struggle with the ability to pay a
14 mortgage during COVID?

15 A. I did not.

16 Q. You would have to agree with me that many
17 people did lose their jobs during COVID, true?

18 A. I understand that that did happen.

19 Q. Okay. And as a result of losing their jobs,
20 many people probably couldn't afford rent, and they
21 couldn't afford their mortgage, right?

22 A. I also understand the finance -- the financial
23 institutions were suffering because of restrictions on
24 their ability to foreclose on their loans.

25 Q. That's not what I asked

1 MR. OSSO: Objection. Nonresponsive.

2 MR. HARDIN: Excuse me. May he please
3 answer the question, Your Honor? May he be allowed to
4 answer?

5 PRESIDING OFFICER: Is that an objection,
6 or are you just making a comment?

7 MR. HARDIN: It is. It is an objection.

8 PRESIDING OFFICER: Overruled. But let
9 him clearly answer the question.

10 Please answer the question directed.

11 Q. (BY MR. OSSO) Yes or no -- my question was:
12 Yes or no, could that affect people and their ability to
13 pay their mortgages and their rent?

14 A. Could what affect them?

15 Q. A ruling that foreclosure sales -- or excuse
16 me -- that COVID was in existence?

17 A. COVID was in existence at that time.

18 Q. And it caused people not to have money and not
19 to be able to afford rent and not to be able to pay
20 their mortgages, true?

21 A. I believe the economic disruption caused by
22 COVID had some of those effects.

23 Q. Okay. And the job of the Office of Attorney
24 General is, in part, to protect the public, true?

25 A. The attorney general's office is a sacred

1 trust, and it's always to be used for the public
2 benefit.

3 Q. Right. Now --

4 A. All of the public.

5 MR. OSSO: Erick, could you publish 119
6 again.

7 Q (BY MR. OSSO) This is your memorandum of what
8 happened with regard to the foreclosure opinion. And
9 you stated in Exhibit 119 that you are not certain why
10 Ken Paxton wanted this foreclosure opinion issued, true?

11 A. There is no exhibit on my screen.

12 MR. OSSO: 119. 119, Erick.

13 MR. HARDIN: May we see it, please?

14 MR. OSSO: I think it's been entered,
15 Rusty.

16 MR. HARDIN: I said we don't have it.

17 MR. OSSO: Oh, I understand. Erick is
18 pulling it up.

19 MR. HARDIN: We don't have a copy.

20 MR. OSSO: It's -- it's y'all's exhibit.

21 MR. HARDIN: Is it in evidence? I don't
22 think it's in evidence.

23 MR. OSSO: It's in evidence, Judge. I've
24 already referenced it during this examination.

25 PRESIDING OFFICER: He submitted it

1 earlier. You didn't object, I believe. I believe
2 that's the case.

3 MR. OSSO: No. This --

4 MR. HARDIN: If that's the case, we're in
5 error, but I -- I don't think we had it marked it's in
6 evidence. Thank you very much.

7 PRESIDING OFFICER: Yes.

8 Q. (BY MR. OSSO) You stated that you were
9 uncertain why Ken wanted the foreclosure opinion
10 issued, true?

11 A. He had provided me a rationale --

12 Q. It's a yes or no. You said in this memorandum
13 right here you were uncertain?

14 A. I was uncertain.

15 Q. Okay. Now, you did not include the fact that
16 Ken Paxton was texting you all the while you were
17 editing and drafting that report, did you?

18 A. I don't believe I mentioned text messages in
19 this document, no.

20 Q. And yesterday you told all of the senators
21 that it was contentious between you two on the phone at
22 some points, did you not?

23 A. Oh, I don't recall saying that.

24 Q. Okay. So it was calm and collected the entire
25 time?

1 A. It was not calm and collected the entire time.

2 Q. Okay. Well, you stated to them that you were
3 objecting vehemently over the phone with
4 Ken Paxton, true?

5 A. I did not say that.

6 Q. You were objecting to Ken Paxton, were you
7 not?

8 A. I was having conversations with him in which
9 he was frantically telling me to make edits,
10 corrections, and changes.

11 Q. It's a yes or no question. It's a yes or no
12 question, Mr. Bangert. You disagreed with Ken Paxton
13 over the phone, true?

14 A. I had conversations with him about the
15 contours of the opinion.

16 Q. Okay. So you're not saying you disagreed with
17 him then, are you?

18 A. I was trying to understand what he wanted as
19 his subordinate.

20 Q. Okay. You didn't mention text messages
21 yesterday, did you?

22 A. I did not.

23 Q. All right.

24 MR. OSSO: Erick, if you would flip to
25 AG 1003 for me.

1 Q. (BY MR. OSSO) Now, Mr. Bangert, you stated on
2 direct examination yesterday that, quote, unquote,
3 Ken Paxton was acting like a man with a gun to his head,
4 did you not?

5 A. I did say that.

6 Q. Okay. Now, looking at the last set of text
7 messages here --

8 MR. OSSO: If you would flip to the last
9 page, Erick.

10 Q. (BY MR. OSSO) -- I'm just going to read from
11 the exhibit.

12 Thank you again. I can't express in
13 words how much I appreciate your work especially over
14 the weekend. I am grateful because I feel like hundreds
15 of people will be protected from harm and maybe
16 devastation. You and Ryan deserve all the credit.
17 Thank you. I hope that your Sunday is relaxing and
18 enjoyable with your family.

19 He texted that to you that day, didn't
20 he?

21 A. 12:19 on Sunday, yes.

22 Q. Okay. Now, did you mention that to the House
23 Board of Managers when you were interviewed about this
24 case?

25 A. I don't recall if I mentioned this text

1 message.

2 Q. Did you mention these text messages in your
3 interviews with Mr. Hardin or Mr. DeGuerin when you were
4 preparing for testimony in trial?

5 A. I don't see why I would have.

6 Q. Okay. And did you include it in your
7 memorandum to Ryan Vassar that was produced?

8 A. There's no reason why I would have.

9 Q. No reason to include a text message of him
10 showing gratitude and why he wanted to have this
11 foreclosure opinion worded the way he did?

12 A. I don't believe this was what he actually -- I
13 don't believe that he was telling the truth, no.

14 Q. Well, there's certainly not a text message
15 from you in these texts objecting or saying that you
16 disagreed with Mr. Paxton, is there?

17 A. I do not agree -- I do not disagree with him
18 here.

19 Q. You don't disagree with him here?

20 A. I do not state it in writing here.

21 Q. Okay. And you signed the opinion that was
22 ultimately issued in this case, true?

23 A. I did sign it.

24 Q. And that opinion has no binding effect?

25 A. It is a persuasive opinion.

1 Q. Persuasive at best?

2 A. Persuasive opinion.

3 Q. Okay. Did you tell the FBI about these
4 documents?

5 A. I believe they were provided to the FBI.

6 Q. Okay. We just didn't get a copy of them until
7 today?

8 A. I did not have them in my possession.

9 Q. Oh, okay.

10 A. They were in the possession of my counsel who
11 found them --

12 Q. Did you delete your texts?

13 A. No.

14 Q. So you would have had them on your
15 phone, true?

16 A. No. I did not intentionally delete my texts.

17 Q. Okay.

18 A. My texts were no longer --

19 Q. Your texts were deleted, yes or no?

20 (Simultaneous crosstalk)

21 PRESIDING OFFICER: Gentlemen, don't talk
22 over each other.

23 Q. (BY MR. OSSO) Your texts were deleted, yes or
24 no?

25 A. I no longer have access to texts --

1 Q. It's a yes or no question.

2 A. I no longer have access to texts past one
3 year.

4 Q. Okay. So in the year, you didn't think to
5 take screenshots of these?

6 A. Excuse me?

7 Q. You didn't think to screenshot these messages?

8 A. These were screenshotted back in 2020.

9 Q. Okay. Just -- you just didn't keep a copy?

10 A. I did not.

11 Q. And you're not going to sit here and tell us
12 that you know that the foreclosure opinion ultimately
13 affected or benefited Nate Paul, are you?

14 A. Oh, I believe it did affect and benefit him.

15 Q. You have no personal knowledge of that, do
16 you?

17 A. I have -- I have since learned that it did
18 benefit him.

19 Q. You wrote in that memorandum that you learned
20 through the *Austin Statesman*, did you not?

21 A. May I see the memorandum again?

22 MR. OSSO: Erick, would you please pull
23 up the memorandum.

24 Q. (BY MR. OSSO) That's a newspaper, correct?

25 A. The *Austin American Statesman*?

1 Q. Yes.

2 A. Yes.

3 Q. Okay. So you got your information from a
4 newspaper, did you not, if we're believing your
5 memorandum?

6 A. If I could see my memorandum, I can tell you.

7 MR. OSSO: Erick, would you -- 119,
8 Erick. Thank you.

9 Q. (BY MR. OSSO) I think it says on the
10 following week on August 4th, the *Austin Business*
11 *Journal* -- excuse me. I stand corrected.

12 The *Austin Business Journal* reported that
13 World Class had placed several properties into
14 bankruptcy.

15 Are you aware of when the foreclosure was
16 supposed to take place?

17 A. I was not aware of any foreclosures of the
18 Nate Paul properties when I was writing the opinion.

19 Q. No. I'm talking about after. I'm talking
20 about August 3rd and August 4th. Were you aware?

21 A. I subsequently learned that that was taking
22 place.

23 Q. That the foreclosure was supposed to take
24 place on August 4th?

25 A. That, I don't know for sure, but it would have

1 been the statutorily appointed date, whenever that was
2 in 2020.

3 And, yes, now that I'm looking at my
4 document, I do say August 4th, so that would have been
5 the date.

6 Q. Okay.

7 MR. OSSO: May I approach the witness,
8 Judge, just to hand him a document?

9 PRESIDING OFFICER: Yes, you may.

10 MR. OSSO: And, Judge, at this time, I
11 would offer AG Exhibit 295.

12 PRESIDING OFFICER: Any objection?

13 MR. HARDIN: May I have just a second?
14 I'm sorry, Judge. Thank you.

15 PRESIDING OFFICER: Sure.

16 MR. HARDIN: No objection.

17 PRESIDING OFFICER: We'll enter -- what
18 was the number on that? I don't have the number on it.

19 MR. OSSO: 295, Judge.

20 PRESIDING OFFICER: Enter 295 into
21 evidence.

22 (AG Exhibit 295 admitted)

23 MR. OSSO: Erick, would you mind
24 publishing AG 295.

25 Q. (BY MR. OSSO) That is a letter from Sheena

1 Paul to the judge regarding the bankruptcy proceeding --
2 excuse me -- the foreclosure proceeding occurring the
3 next day dated April -- excuse me -- August 3rd of 2020,
4 correct?

5 A. This is executed by Brian Elliott.

6 Q. Attorney for World Class, right?

7 A. I assume so because it has World Class' -- one
8 of their property names at the top of the letterhead.

9 Q. Okay. You would agree that this document has
10 the letterhead of August 3rd, right?

11 A. It is dated August 3rd.

12 Q. Now, you were not present in the district
13 court when this document was filed, were you?

14 A. No.

15 Q. So you have no idea what impact it had on the
16 district court judge in that proceeding, do you?

17 A. I have not talked or spoken with Judge
18 Campbell about this, no.

19 Q. Now, the very next day, the day that the
20 foreclosures are supposed to occur, you find out that a
21 bunch of Nate Paul properties are put -- excuse me --
22 World Class properties are put into bankruptcy, right?

23 A. That's what the business journal reported.

24 Q. Okay. You have been in civil practice for
25 quite a long time, true?

1 A. Over a decade at that point.

2 Q. You are very, very aware of what happens to
3 properties when you file bankruptcy, are you not?

4 A. I was not a bankruptcy practitioner.

5 Q. Well, you're -- surely you're aware that when
6 you put a document -- or, excuse me, you file bankruptcy
7 on something, it causes a motion to stay, does it not?

8 A. There's an automatic stay that's applied based
9 on my recollection.

10 Q. There you go. Which would prevent any type of
11 foreclosure sale, would it not?

12 A. Again, I am not a certified bankruptcy
13 practitioner. I know that there are exceptions to that.
14 I can't even begin to speak to the legalities of these
15 properties or how those would have applied in these
16 cases.

17 Q. Well, you knew a lot of law, I mean, under
18 direct examination from Mr. Hardin, and now you don't
19 know about bankruptcy proceedings?

20 A. Mr. Hardin did not ask me about bankruptcy
21 proceedings.

22 Q. You had no problem putting in your memorandum
23 that the -- that the properties went into bankruptcy?

24 A. The properties were going into bankruptcy,
25 that's correct.

1 Q. Okay. Is it possible --

2 A. I'm sorry. They were going into foreclosure.
3 Foreclosure.

4 Q. It's possible -- it's possible that the
5 bankruptcies -- it's possible that the bankruptcy
6 filings did not -- or those are what prevented the
7 foreclosures, true?

8 A. I don't know.

9 Q. Okay. Well --

10 A. But I do -- I think it's interesting that
11 World Class submitted a copy of our --

12 MR. OSSO: Objection to nonresponsive.

13 A. -- opinion.

14 MR. OSSO: Objection to nonresponsive.

15 PRESIDING OFFICER: Sustained.

16 MR. OSSO: May I approach the witness,
17 Judge?

18 PRESIDING OFFICER: Yes, you may.

19 MR. OSSO: Well, really just for the
20 Court, I would like to offer AG Exhibits that I've
21 handed to both opposing counsel as well as Your Honor.
22 I believe it's 262, 265, 275, and 283.

23 PRESIDING OFFICER: Hold on, slow down.
24 283, 275, 265, 262?

25 MR. OSSO: Yes.

1 PRESIDING OFFICER: Okay.

2 MR. HARDIN: I can shorten this a little
3 bit if he represents that these are their exhibit
4 numbers that were originally agreed to. We said we
5 would not object to any of your exhibits.

6 MR. OSSO: Okay.

7 MR. HARDIN: If they're covered by that
8 objection -- I mean, if they're covered by that
9 agreement, then we have no objection.

10 PRESIDING OFFICER: Are they covered?

11 MR. OSSO: They are covered, Judge.
12 Well, I take that back. No, they're not. That's why
13 I -- that's why I intend to offer right now. We have
14 not previously agreed to these.

15 MR. HARDIN: I understand. Just give me
16 a couple more minutes.

17 No objection, Your Honor.

18 PRESIDING OFFICER: Can you just clarify
19 for the record? We have one with a number and what the
20 other numbers are.

21 MR. OSSO: Judge, if I may have the
22 copies that I handed you.

23 PRESIDING OFFICER: You may have the
24 copies back.

25 MR. OSSO: So for purposes of the record,

1 we're offering 262, 283, 275 -- I only gave you -- and
2 then also 269.

3 PRESIDING OFFICER: No objection?

4 269 was a new number from the one you
5 repeated back to me.

6 MR. OSSO: Yeah. 269, 275, 283, and 262.

7 PRESIDING OFFICER: I think I said 265.
8 You repeated what I said. I was incorrect. It's 269.

9 MR. OSSO: Okay.

10 PRESIDING OFFICER: There's been no
11 objection? I believe they said no objection.

12 Mr. Hardin, you said no objection?

13 MR. HARDIN: Correct. I'm sorry, Judge.

14 PRESIDING OFFICER: Please enter those
15 documents into the record.

16 MR. OSSO: Okay. Thank you.

17 PRESIDING OFFICER: Into evidence.

18 Excuse me.

19 (AG Exhibits 262, 269, 275, 283 admitted)

20 MR. OSSO: May I approach the witness,
21 Judge?

22 PRESIDING OFFICER: Yes, you may.

23 Q. (BY MR. OSSO) These are all bankruptcy
24 filings by Nate Paul and his attorneys made on
25 August 4th and August 5th, okay?

1 A. If you say so.

2 Q. All right. Now, if these bankruptcy filings
3 were filed on August 4th, the day that the foreclosures
4 were supposed to occur, that would stay the foreclosure
5 sale, would it not?

6 A. I don't -- I -- I would have -- I don't know.

7 Q. You don't know?

8 A. Perhaps.

9 Q. So it's possible that Ken's issuance of the
10 informal guidance letter didn't cause the foreclosure
11 sales to go away? It's possible?

12 A. I do not know what effect that letter had --

13 Q. Okay.

14 A. -- on the foreclosure sales.

15 Q. Are you a Trump fan?

16 A. I'm sorry?

17 Q. Are you a fan of Donald Trump?

18 A. I voted for President Trump.

19 Q. Okay. You're a staunch conservative, are you
20 not?

21 A. I am.

22 Q. Are you aware that only a week after you guys
23 issued this opinion, he issued an executive order that
24 basically mimicked the attitude towards foreclosure
25 sales?

1 A. I'm -- I'm not familiar with that executive
2 order.

3 Q. Okay. And so that brings us into the fall of
4 2020, right? August, September?

5 A. September is the beginning of fall.

6 Q. Okay. And you didn't really have any contact
7 with issues regarding Nate Paul from August of 2020 up
8 until September 28th, right?

9 A. Oh, I disagree with that.

10 Q. Well, you weren't working on the foreclosure
11 sales --

12 PRESIDING OFFICER: witness, please speak
13 up.

14 A. Yes, I disagree with that.

15 Q. (BY MR. OSSO) You were not working on the
16 foreclosure opinion?

17 A. That was completed on August 1st.

18 Q. Okay. You weren't working on Mitte?

19 A. Mr. McCarty had assumed responsibility for
20 that.

21 Q. You were not working on Mitte?

22 A. I was not working on Mitte at that time in
23 August.

24 Q. And you were not working on the open records
25 request, true?

1 A. Those were finished.

2 Q. Okay. So you were not personally working on
3 any matters that involved Nate Paul at that time?

4 A. I was actively speaking with other members of
5 the executive team about what was happening at that time
6 which was the desire to hire outside counsel.

7 Q. So everybody, I assume, is on the eighth floor
8 at this time, right?

9 A. We had -- COVID orders were still in place. I
10 don't recall who was there every day. I was there every
11 day the office was open.

12 Q. And let's talk about that, because the OAG's
13 position at that time was that everything should open
14 up, was it not?

15 A. We wanted everything to be as open as possible
16 consistent with public safety and the Governor's order.

17 Q. Even after you left the Office of Attorney
18 General, your employees at the Office of Attorney
19 General weren't even present?

20 A. There were some who were not present.

21 Q. There were some? There were most of them that
22 were not present?

23 A. My recollection was there were periods of time
24 where a large majority of them -- large majorities of
25 them were not working from the office.

1 Q. Periods of time that postdated your employment
2 at the Office of Attorney General?

3 A. I cannot speak to that.

4 Q. Okay. because you weren't there?

5 A. Because I was not there.

6 Q. Okay. So that's not really inconsistent with
7 the situation that was going on at the Office of
8 Attorney General, was it? Yes or no?

9 A. That the -- that the attorneys were not
10 present?

11 Q. Yes or no?

12 A. Oh, that had nothing to do with our policy.

13 Q. Okay.

14 A. Nothing.

15 Q. All right. So you were not personally a part
16 of the hiring of Cammack, were you?

17 A. No.

18 Q. You found this out on September 29th of 2020?

19 A. That he had been retained by the attorney
20 general directly?

21 Q. No. That he was filing subpoenas with Michael
22 Wynne.

23 A. Yes. I learned about that on the 29th.

24 Q. And you were saying that that is the very
25 point that it kind of stood out to you--all what was

1 going on, right? That was the test point?

2 A. That crystalized a number of things.

3 Q. Okay. Now, when you say it crystalized a
4 number of things, you did not have all the facts with
5 regard to that investigation, did you?

6 A. I personally did not.

7 Q. Okay. You didn't investigate that case, did
8 you?

9 A. Was I -- what do you mean by I wasn't
10 investigating that case?

11 Q. You didn't investigate the referral that was
12 given by the Travis County District Attorney's Office,
13 did you?

14 A. I was not the primary responsibility for that.

15 Q. Everything that you took with regard to that
16 investigation came from Mr. Penley or Mr. Maxwell?

17 A. No.

18 Q. Those were the people responsible for
19 investigating it, were they not?

20 A. They were responsible.

21 Q. Okay. You were not responsible?

22 A. That was not part of my responsibility at that
23 time.

24 Q. Okay. So you weren't responsible. Now,
25 despite that fact, you went to the FBI on

1 September 30th, correct?

2 A. I did go to the FBI on -- on September 30th,
3 yes.

4 Q. You went to the FBI without talking to
5 Ken Paxton first, true?

6 A. Oh, I talked to him many times prior to that.

7 Q. You didn't talk to him about the fact that you
8 were going to go to the FBI, did you?

9 A. We did not talk to him. We did not tell him
10 we were going to the FBI immediately prior to going,
11 right.

12 Q. So when you and Mr. Hardin were talking about
13 the conversations you had with Ken Paxton about the fact
14 that you wanted to talk to him, that was all after you
15 had already gone and reported your boss to law
16 enforcement, true?

17 A. The text messages that we reviewed today were
18 sent after we made our good faith report.

19 Q. Okay. So you did not take the time to hear
20 his side of things out before you went to law
21 enforcement?

22 A. I disagree.

23 Q. And at that point, you took it upon yourself
24 to send a letter to Brandon Cammack as well, did you
25 not?

1 A. I -- if I can recall correctly, I was the one
2 who did send the e-mail containing Jeff's letter.

3 Q. Okay.

4 A. I mean, I'm stretching my memory, but I think
5 I was the one who sent it.

6 Q. Okay. Now, prior to doing that, you talked
7 earlier about a set of text messages.

8 MR. OSSO: I would ask to admit -- to
9 publish House Board of Managers 225.

10 Erick, would you -- it's been admitted,
11 Judge.

12 PRESIDING OFFICER: And, Counselor, we're
13 going to be going to lunch, but I've gone a little
14 longer, a few more minutes. Do you want to break now,
15 or do you want to continue for a few more minutes?

16 MR. OSSO: I'm fine to break now, Judge.

17 PRESIDING OFFICER: It's good for you
18 now?

19 MR. OSSO: Yes.

20 PRESIDING OFFICER: Okay. We'll break
21 for lunch now.

22 MR. HILTON: Your Honor, I apologize.
23 Can I raise one issue? I apologize, Your Honor. Can I
24 raise one issue before we break for lunch --

25 PRESIDING OFFICER: Yes.

1 MR. HILTON: -- that may just help speed
2 things along with this witness?

3 You admonished Mr. Hardin at the
4 beginning of the day that if there were any statements
5 that Mr. Bangert had provided that we haven't seen, that
6 he was to turn them over to us. The witness has
7 testified that there were actually two interviews that
8 he gave to the House. We still don't have any
9 information related to those.

10 To the extent that there's work product
11 mixed with that, I think they can redact that and
12 provide us the -- the statements. But I just request
13 that we get those over the lunch break, and that may
14 allow us to not have to recall the witness later.

15 PRESIDING OFFICER: Just continue to look
16 during the lunch break for those documents, if you have
17 those.

18 MR. HARDIN: Thank you very much.

19 PRESIDING OFFICER: And if you do, turn
20 those over by the end of lunch.

21 MR. HARDIN: Sir, we do not have, but
22 I'll continue to be sure. Thank you.

23 PRESIDING OFFICER: We will return at
24 1:00 -- 1:10.

25 (Recess at 12:26 p.m.)

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 7th day of September, 2023.

/s/ *Mary Oralia Berry*

Mary Oralia Berry, Texas CSR #2963
Texas Certified Shorthand Reporter
CSR No. 2963 - Expires 10/31/24
email: maryoberry@gmail.com