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

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

TRIAL
VOLUME 3 - PM 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
Lorrie A. Schnoor, CSR, RDR, CRR

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VOLUME 3 -- PM SESSION
SENATE IMPEACHMENT TRIAL

| | | | | | |
|------------------------------|---------------|--------------|------------------|-------------|-------------|
| SEPTEMBER 7, 2023 | | | | <u>PAGE</u> | <u>VOL.</u> |
| PROCEEDINGS | | | | 6 | 3 |
| <u>HBM WITNESSES:</u> | <u>Direct</u> | <u>Cross</u> | <u>Voir Dire</u> | | <u>Vol.</u> |
| RYAN LEE BANGERT (CONTINUED) | | | | | |
| BY MR. OSSO | -- | 8 | -- | | 3 |
| BY MR. HARDIN | 32 | -- | -- | | 3 |
| BY MR. OSSO | -- | 59 | -- | | 3 |
| RYAN VASSAR | | | | | |
| BY MR. HARDIN | 63 | -- | -- | | 3 |
| BY MR. LITTLE | -- | 172 | -- | | 3 |
| PROCEEDINGS RECESSED | | | | | 243 |
| REPORTER'S CERTIFICATE | | | | | 244 |

1 P R O C E E D I N G S

2 THURSDAY, SEPTEMBER 7, 2023

3 (1:13 p.m.)

4 PRESIDING OFFICER: A little bit on
5 scheduling. We will go 6:30 to 7:00 this evening,
6 depending on where the right break is. Tomorrow, I
7 planned to adjourn at 5:00, but a number of members said
8 traffic -- if you leave at 6:00, you don't gain any more
9 traffic leaving an hour earlier, so we'll go to 6:00
10 tomorrow. And I've had a request to extend lunch to 60
11 minutes for the court so people have more time, so we'll
12 start that tomorrow. So today 6:30 to 7:00, tomorrow to
13 about 6:00, and then an extra 20 minutes for lunch.

14 So we are ready to resume?

15 MR. OSSO: Ready, Judge.

16 PRESIDING OFFICER: Counselor, could you
17 come forward for one moment.

18 (Bench conference off the record)

19 PRESIDING OFFICER: Bailiff will bring in
20 the witness.

21 (Witness enters the courtroom.)

22 PRESIDING OFFICER: You may begin.

23 MR. OSSO: Judge, at this time I'd like
24 to approach the Court and opposing counsel with just a
25 piece of law, Your Honor; statute.

1 MR. HARDIN: Can I have an exhibit number
2 again?

3 MR. OSSO: It's not an exhibit. I don't
4 intend to offer it as an exhibit. It's just a statute.
5 I'd be happy to, if you'd like me to.

6 MR. HARDIN: I'm -- I'm not sure I'm
7 going to object, but I -- can I understand what the
8 purpose -- I mean, you're going to ask the witness about
9 it or --

10 MR. OSSO: I do intend to ask the witness
11 about the law on nonjudicial foreclosures.

12 MR. HARDIN: Are you perhaps having it
13 here for him to refer to in case he doesn't know it?

14 MR. OSSO: I have a copy in case he --

15 PRESIDING OFFICER: Counselor, if you can
16 address the Court.

17 MR. OSSO: Sure.

18 PRESIDING OFFICER: If both of you can
19 address the Court.

20 MR. OSSO: I'd be happy -- yes, Rusty.
21 And I'd be happy to offer it as AG 1005.

22 MR. HARDIN: If it's not being introduced
23 to evidence, I don't have any objection to what we're
24 doing, I don't think. I just don't know what the
25 statute -- the Court -- if this Court has it. I don't

1 know whether the Court has it.

2 PRESIDING OFFICER: We do have it. I
3 thought I heard you just say if it's not being offered
4 as evidence, you have no objection.

5 MR. HARDIN: That's correct. That's
6 correct.

7 PRESIDING OFFICER: Okay. So --

8 MR. OSSO: At this time I don't intend to
9 offer it into evidence.

10 RYAN LEE BANGERT (CONTINUED),
11 having been previously duly sworn, testified as follows:

12 CROSS-EXAMINATION (Continued)

13 BY MR. OSSO:

14 Q. Mr. Bangert --

15 MR. HARDIN: Yeah. So did you just say
16 now that you are offering it?

17 MR. OSSO: No, I --

18 MR. HARDIN: You're not offering it?

19 MR. OSSO: I wasn't offering it at this
20 time.

21 MR. HARDIN: Thank you.

22 MR. OSSO: I might change my mind here in
23 a second. We'll see.

24 MR. HARDIN: All right. Fair enough.

25

1 Q. (BY MR. OSSO) Mr. Bangert, you are somewhat
2 familiar with nonjudicial foreclosure law, correct?

3 A. Did you ask am I familiar with nonjudicial
4 foreclosure law?

5 Q. Yes. I asked you if you were familiar with
6 nonjudicial foreclosure law.

7 A. It's been a while.

8 Q. Okay. Well, you did write a memorandum about
9 it and issue an informal legal opinion on the matter,
10 correct?

11 A. If you're referring to the August 1st letter,
12 I did assist Mr. Vassar in putting that together.

13 Q. Okay. And in doing so, you probably had to
14 research the law on nonjudicial foreclosure opinions,
15 true?

16 A. Not necessarily.

17 Q. Okay. You're aware of when nonjudicial
18 foreclosures take place, correct?

19 A. Based on the document that I prepared, I
20 believe it was the first Monday or Tuesday of every
21 month.

22 Q. Okay.

23 A. But that's my recollection.

24 Q. Okay. If we said it was Tuesday, would you
25 agree with that?

1 A. I would have no reason to disagree.

2 Q. Okay. Now, the fact that that occurs every
3 single Tuesday, that singular Tuesday of every month,
4 that's a -- that's a reason that Ken Paxton could have
5 said, Mr. Bangert, we need to get these done this
6 weekend, true?

7 A. Yes, that could have been a reason.

8 Q. Okay. And to be fair, Nate Paul is not the
9 only person that had properties that were subject to
10 potential foreclosures on that date, was he?

11 A. I don't know for a fact, but it seems
12 reasonable to assume there would be other properties
13 that would be -- would have been subject to foreclosure.

14 Q. Okay. Potential homeowners, correct?

15 A. Again, I -- I don't know of any particulars,
16 but it's entirely possible.

17 Q. So it's safe to say that it could have been
18 someone that didn't have a job and didn't have money to
19 pay their home loan, correct?

20 A. I have no reason to agree or disagree with
21 that. I don't know.

22 Q. Okay. After that informal guidance was
23 issued -- and to be clear --

24 MR. OSSO: Erick, would you mind pulling
25 up House Board's 119?

1 Q. (BY MR. OSSO) That was not issued like a
2 legal opinion was normally issued, correct?

3 A. Are you referring to --

4 Q. No. I'm asking -- I'm asking you personally.
5 That was not issued like a formal legal opinion,
6 correct?

7 A. It did not go through the formal process.

8 Q. It was --

9 PRESIDING OFFICER: To the witness --
10 excuse me -- if you could just answer yes or no when you
11 can. Okay.

12 Q (BY MR. OSSO) It was just a news post, right?

13 A. The -- which document are you referring to?

14 Q. I'm referring to the informal guidance
15 regarding the nonjudicial foreclosure sales that you
16 signed instead of Ryan Vassar?

17 A. No.

18 Q. It was a post on the website, right?

19 A. I believe it was made available to the public
20 via our website.

21 Q. Okay. And if we look at House Board 119, you
22 state, We compromised by urging that -- excuse me.

23 We agreed to compromise by placing a
24 short noteworthy post on the website, correct?

25 A. Yes, I wrote those words.

1 Q. Okay. Now, after that noteworthy post was
2 issued -- we're in August of 2020, true?

3 A. We are in August of 2020, and I -- I do think
4 I need to correct the record on something that --

5 Q. It's just a yes-or-no question. Was it August
6 of 2020?

7 A. We are in August.

8 Q. Okay. You had no knowledge about anything to
9 do with the renovations with regard to Ken Paxton's
10 house at that time, did you?

11 A. The knowledge I had would have been through
12 conversations with Mr. Mateer via Mr. Wicker.

13 Q. You have no personal knowledge of that, do
14 you?

15 A. I did not discuss that with Mr. Paxton, nor
16 was I at his house.

17 Q. You do not know who paid for the renovations
18 to the Paxtons' house?

19 A. At that time I was unaware of who was paying
20 for the renovations.

21 Q. You don't know, you haven't seen any
22 documents, have you?

23 A. I -- I have seen documents that include
24 testimony from individuals who have described --

25 Q. It's a yes-or-no question --

1 A. I have seen documents --

2 Q. Have you seen documents that specifically show
3 and prove who paid for those? Have you seen receipts?

4 A. I have seen documents strongly suggestive of
5 who paid for that.

6 Q. Okay. When did you first send your
7 application for the Alliance Defending Freedom?

8 A. It would have been sometime in October.

9 Q. Okay. Was it prior to leaving the attorney
10 general's office?

11 A. Yes. I was in conversation with ADF prior to
12 leaving the attorney general's office.

13 Q. Okay. So when you said earlier that what you
14 did with regard to reporting Ken to the FBI, going to
15 the FBI being a death warrant for you, it did not affect
16 your ability to get another job, did it?

17 A. It ended my ability to be employed by the
18 attorney general's office.

19 Q. Well, no, because you resigned. You didn't
20 get terminated, true?

21 A. I was constructively terminated.

22 Q. Okay. You submitted a letter of resignation,
23 did you not?

24 A. I did.

25 Q. And then you went to work for a company or a

1 firm that you had already applied for, true?

2 A. I did.

3 Q. All right. At the end of the day, you would
4 have to agree that Ken makes the final -- Mr. Paxton
5 makes the final call on what opinions are issued by the
6 Office of Attorney General, true?

7 A. I wouldn't put it quite that way.

8 Q. Well, he has to sign the document, doesn't he?

9 A. Mr. Paxton has authority to issue -- make the
10 final signature on the document.

11 Q. Okay. So in the context of a legislator, a
12 senator, perhaps, if there is a piece of legislation
13 that they don't like or -- let me rephrase that.

14 If there is a piece of legislation that
15 one of their staff members does not like and they want
16 it to go through, the senator overrules his staff
17 member, true?

18 A. I do not know how the senators make their
19 decisions. I can only assume that senators, much like
20 statewide elected officials, have ultimate authority in
21 their offices.

22 Q. Have you had any conversations with any
23 statewide officials or legislators regarding this case?

24 A. Nothing specific.

25 Q. Nothing specific. Is there any record of

1 that, of what you actually said?

2 A. No.

3 Q. So it's kind of like your conversations with
4 Mr. Hardin and the House Board of Managers?

5 A. No.

6 MR. OSSO: May I approach you, Your
7 Honor?

8 At this time, Judge, I would offer
9 Attorney General's Exhibit 1004.

10 MR. HARDIN: We have no objection.

11 PRESIDING OFFICER: No objection, it will
12 be admitted into evidence.

13 (AG Exhibit 1004 admitted)

14 MR. OSSO: May I approach the witness,
15 Judge?

16 PRESIDING OFFICER: Yes, you may.

17 Q (BY MR. OSSO) Mr. Bangert, I've highlighted
18 in orange on this document. I'm going to hand it to
19 you. I'm going to ask you to read it, okay, the
20 highlighted portion. Okay?

21 I wanted you to read it aloud,
22 Mr. Bangert.

23 A. The highlighted portion?

24 PRESIDING OFFICER: One moment. Does
25 Erick have it?

1 MR. OSSO: Erick does not have it, Judge.
2 This is more of a rebuttal exhibit, if you will.

3 Q. (BY MR. OSSO) So, Mr. Bangert, if you could
4 read aloud so that our jurors could hear, the
5 highlighted portion.

6 MR. HARDIN: Pardon me, Your Honor. May
7 I approach and ask him to highlight the portion that
8 he's highlighted for the witness so I know what he's
9 talking about? I just want a highlight on my copy.

10 Thank you.

11 Q (BY MR. OSSO) I'm going to ask you to read
12 the highlighted portion now aloud, Mr. Bangert.

13 A. The highlighted portion states: Accordingly,
14 my administration, to the extent reasonably necessary to
15 prevent the further spread of COVID-19, will take all
16 lawful measures to prevent residential evictions and
17 foreclosures resulting from financial hardship caused by
18 COVID-19.

19 Q. That is an executive order issued by the Trump
20 administration, Mr. Bangert. Were you aware of this
21 executive order when you filed or sent Mr. Vassar that
22 email on September 30th of 2020?

23 A. Look at the date of the order. It's
24 August 8th. I don't recall if I was aware of this
25 order, but it was irrelevant.

1 Q. It was irrelevant?

2 A. Yes.

3 Q. Okay. It was a week after you just issued an
4 opinion with regard to foreclosure sales, was it not?

5 A. It was one week after the August 1st opinion.

6 Q. Okay. But it's your opinion that it's not
7 relevant to your summary of what happened on that
8 foreclosure opinion you drafted?

9 A. Completely irrelevant.

10 Q. Okay. I'll take that back from you.

11 MR. OSSO: May I have a brief moment,
12 Judge?

13 (Pause)

14 MR. HARDIN: Point of inquiry, please,
15 Your Honor. I'm looking at the record as it was. Maybe
16 Counsel wants to have an opportunity to correct it.

17 I think he referred to the order in a
18 question that is an executive order issued by the Trump
19 administration, Mr. Bangert. I suspect he meant to say
20 the Abbott administration. But I just -- I just want to
21 make sure the record is correct. I don't know which he
22 meant.

23 MR. OSSO: No. It's a federal order. I
24 meant the Trump administration.

25 MR. HARDIN: Pardon me?

1 MR. OSSO: It's a federal order. I meant
2 the Trump administration.

3 MR. HARDIN: Thank you.

4 MR. OSSO: Okay.

5 Q. (BY MR. OSSO) I want to talk to you more
6 about your representation by Johnny Sutton, Mr. Bangert.
7 Was it after you ended your employment at the Office of
8 Attorney General that you hired Mr. Sutton?

9 A. I began working with him prior.

10 Q. You began working for him prior?

11 A. I began working with Mr. Sutton prior to
12 ending my employment, yes.

13 Q. You searched for Mr. Sutton on September 22nd
14 of 2020, did you not?

15 A. He was recommended to me.

16 Q. Okay.

17 A. I -- I can't recall searching for him on
18 September 22nd.

19 MR. OSSO: Okay. At this time, Your
20 Honor, I would offer Attorney General Exhibit 312.

21 PRESIDING OFFICER: Any objection?

22 MR. HARDIN: No objection.

23 PRESIDING OFFICER: It is admitted into
24 evidence.

25 (AG Exhibit 312 admitted)

1 Q. (BY MR. OSSO) Okay. Mr. Bangert, this is a
2 download of your computer. And I'm going to approach
3 you with it. I'm going to have you look at it and
4 refresh your recollection.

5 Oh, you can see it.

6 MR. OSSO: I didn't realize Erick had --
7 Erick, you got it published, don't you? Okay. Thank
8 you.

9 Q. (BY MR. OSSO) We see here on September 22nd
10 of 2020 that you actually searched Johnny Sutton's law
11 firm?

12 A. That's what the document represents, that I
13 searched the -- for the ashcroftlawfirm.com.

14 Q. And that is where Johnny Sutton is employed,
15 true?

16 A. He's one of the named partners there.

17 Q. Okay. That is eight days before you decide
18 that you're going to go to the FBI and report Ken
19 Paxton?

20 A. We went to the FBI eight days later, yes,
21 that's correct.

22 Q. So you were searching for an attorney before
23 you even knew that Brandon Cammack was issuing subpoenas
24 at those banks?

25 A. Oh, oh, no, I don't believe this had anything

1 to do with looking for Mr. Sutton to retain him.

2 Q. Oh, it's just a coincidence? Yes or no?

3 A. It probably is, yes. And there's no reason --
4 we were not searching for a counsel prior to that. I
5 was not.

6 Q. I'm going to ask you a question that
7 Mr. Buzbee has stated earlier: Have you ever heard the
8 term there's no coincidences in the city of Austin?

9 A. I've never heard that term before. And there
10 are plenty of coincidences.

11 Q. It was a yes-or-no question, Mr. Bangert. You
12 said you'd never heard of it?

13 A. Never heard of it.

14 Q. So September 30th you guys go to the FBI,
15 true?

16 A. We did.

17 Q. All right. Now, that is before you become
18 aware of a second referral made to the Travis County
19 District Attorney's Office, true?

20 A. Trying to recall when we became aware of that
21 second referral. It -- it may have been. I just don't
22 recall precisely the order of events, but I believe it
23 was.

24 Q. I mean, you seem to have a great recollection
25 of the order of events when Mr. Hardin had you on direct

1 examination. Are you saying that you're forgetting now?

2 A. No. I'm telling you that I'm trying to recall
3 specifically when I learned that fact, but I did learn
4 that there was a second referral.

5 Q. Okay. And it was after you went to the FBI?

6 A. That is entirely possible, yes.

7 Q. Okay. And then the next day, that is when you
8 guys decide to reach out to Ken Paxton, after you've
9 already outed him to the feds, right?

10 A. We reached out to him the next day.

11 Q. Okay. That's what I said. So that's a yes,
12 right?

13 A. We did reach out to him the next day.

14 Q. You were pretty --

15 PRESIDING OFFICER: To the witness --
16 once again, Witness, when you can answer yes or no, if
17 you can, answer yes or no.

18 A. I cannot answer yes or no to that question.
19 I'm answering what I can.

20 Q. (BY MR. OSSO) Okay. You were pretty active
21 on October 1st?

22 A. I was active on October 1st, yes.

23 Q. Okay. And you guys -- when I say "you guys,"
24 I mean the executive-level administration. You had a
25 group chat going, did you not?

1 A. We did.

2 Q. And you participated in that group chat,
3 right?

4 A. Yes.

5 Q. We heard you talking to Mr. Hardin about some
6 of the text messages in that group chat, right?

7 A. Yes.

8 Q. And specifically they were talking about a
9 draft that was circulating between you and the other
10 executive-level attorney generals, right?

11 A. Yes.

12 MR. OSSO: Erick, would you mind pulling
13 up House Board 225.

14 Q. (BY MR. OSSO) And in that message -- well,
15 it's safe to say that the first draft that you-all
16 created did not go to the FBI, right?

17 A. I don't -- no, this letter that's being
18 referred to here, no.

19 Q. Right. It was revised and edited to an
20 extent.

21 A. The document -- I don't recall if it ever went
22 to the FBI. We were working on an internal document.

23 Q. Okay.

24 A. To memorialize our complaints.

25 Q. Right. And the first version of that

1 complaint -- well, from what we look at in House 225,
2 Jeff Mateer says, from Maxwell, read the letter. Not
3 sufficient. A request letter must allege specific
4 allegations that are in violation of State law to
5 include documentation of criminal act. The only thing
6 you have is what happened today and that is documented.

7 Is that true?

8 A. You added the word "and."

9 Q. Okay.

10 A. Apart from that, you read it correctly.

11 Q. Excuse me. But that's what the -- that's what
12 the text says, right?

13 A. That is what the text says, yes.

14 Q. And presumably that's regarding the initial
15 draft that you guys created to memorialize your
16 complaint to the FBI, right?

17 A. I -- I don't recall specifically, but that's
18 what this was.

19 Q. Are you forgetting all of a sudden? Because
20 you had a crystal clear recollection when Mr. Hardin had
21 you on direct examination, Mr. Bangert.

22 Do you not remember this? I mean, do
23 you -- you're here to testify in the Court of
24 Impeachment. Do you not remember the day that you went
25 behind Ken Paxton's back to the FBI? Do you not

1 remember that?

2 A. Sir, we did not go behind the attorney
3 general's back.

4 Q. Did you tell him you were going to the FBI;
5 yes or no?

6 A. Sir, we did not --

7 Q. Yes or no.

8 Mr. Bangert, I'm asking you yes-or-no
9 questions. Did you tell Ken Paxton you were going to
10 the FBI; yes or no?

11 A. I cannot answer that question with a yes or
12 no.

13 PRESIDING OFFICER: Witness shall answer
14 the question.

15 Q. (BY MR. OSSO) Yes or no, Mr. Bangert.

16 A. Provided him with ample opportunity --

17 Q. That's not what I asked you.

18 Did you tell Ken Paxton you were going to
19 the FBI; yes or no?

20 A. We gave him ample opportunity --

21 Q. That's not what I asked.

22 MR. OSSO: Objection. Nonresponsive,
23 Your Honor. I'd ask that he answer the question before
24 him.

25 PRESIDING OFFICER: The witness is

1 ordered to answer the question yes or no.

2 Q. (BY MR. OSSO) Mr. Bangert, it's a very simple
3 question. Did you tell Ken Paxton that you were going
4 to go to the FBI?

5 A. On September 30th --

6 Q. It's a --

7 A. -- we did not.

8 Q. -- yes-or-no question, Mr. Bangert. It is a
9 yes or no --

10 A. It is not a yes-or-no --

11 Q. It is a yes or no.

12 A. -- question, Counsel.

13 MR. HARDIN: Excuse me. Excuse me, sir.

14 Your Honor, he said -- he answered the
15 question, but because he was talking on top of him, he
16 didn't hear it. He said on September the 30th, we did
17 not. And he starts interrupting him halfway before.
18 And the court reporter probably had trouble hearing "we
19 did not."

20 So I just ask him to let him finish what
21 he's saying and not talk on top of him, if for no other
22 person than the court reporter.

23 PRESIDING OFFICER: You can ask the
24 question one more time.

25 Q. (BY MR. OSSO) Mr. Bangert, it is a yes-or-no

1 question, and I want a yes-or-no answer. Did you tell
2 Ken Paxton that you were going to the FBI?

3 A. I did not tell Ken Paxton before I went to the
4 FBI.

5 Q. Okay. Your next message after we're talking
6 about the first draft of y'all's complaints says, Okay.
7 Sounds like we need to beef up the specific allegations.
8 Does it not?

9 A. Yes, that's what I wrote.

10 Q. So you actually had to go back in there and
11 put more words and more filler into that complaint,
12 didn't you?

13 A. No.

14 Q. No? Well, the first -- the first complaint
15 clearly wasn't sufficient if we're to go off your text
16 messages, right?

17 A. You said the word "filler." That's an
18 inaccurate characterization --

19 Q. You had to --

20 A. -- of what we were doing.

21 Q. Well, let's look down there.

22 MR. OSSO: Erick, if you could hop off of
23 the -- zoom in.

24 Q. (BY MR. OSSO) To sound like we need to beef
25 up the specific allegations. You needed to beef them

1 up, right? You needed to make them sound stronger; true
2 or no?

3 A. We needed to include additional allegations to
4 substantiate what had happened.

5 Q. Okay. And so it's after that that you started
6 talking about other things that Ken Paxton had done
7 previously that you didn't think to include in the first
8 version of the complaint, right?

9 A. I wouldn't put it that way.

10 Q. You wouldn't put it that way.

11 And to be clear, this is all coming to
12 fruition because Brandon Cammack is serving subpoenas on
13 a bank, true?

14 A. That was in part, but not entirely.

15 Q. And all the while you didn't even know that
16 the Travis County District Attorney's Office sent a
17 complaint directly to Mr. Cammack that did not go to the
18 Office of Attorney General?

19 A. That would have been much more concerning if I
20 had known that.

21 Q. So you didn't know that?

22 A. No.

23 MR. OSSO: Okay. Erick, would you mind
24 pulling up Article VI -- or excuse me, Article V.

25 Q. (BY MR. OSSO) The allegation in Article V is

1 that Paxton misused his official powers by violating the
2 laws governing the appointment of prosecuting attorney
3 pro tem. You would agree with that, right, that that's
4 the allegation?

5 A. Yes, that is the allegation.

6 Q. Mr. Bangert, Mr. Paxton -- excuse me --
7 Brandon Cammack was not an attorney pro tem. True or
8 not true?

9 A. It's difficult to --

10 Q. True or --

11 A. -- classify what he was.

12 Q. -- not true?

13 A. I don't personally believe he was properly
14 ever appointed a prosecutor pro tem.

15 Q. And the Travis County District Attorney's
16 Office never recused themselves officially and formally
17 from the complaints made by Nate Paul to their office.
18 True or not true?

19 A. I'm not aware of any recusal.

20 Q. Okay.

21 MR. OSSO: May I approach you, Your
22 Honor?

23 PRESIDING OFFICER: Yes.

24 Q. (BY MR. OSSO) I want to go back to your last
25 answer, and I'm going to re-ask you this. Brandon

1 Cammack was not -- he wasn't just not improperly
2 appointed as an attorney pro tem. Brandon Cammack was
3 not appointed as an attorney pro tem at all.

4 A. Not to my knowledge.

5 MR. OSSO: At this time, Judge, I would
6 offer AG Exhibit 95.

7 PRESIDING OFFICER: I think that's on our
8 list of already admitted.

9 MR. HARDIN: It is. No objection.

10 MR. OSSO: Okay.

11 PRESIDING OFFICER: It's already
12 admitted.

13 MR. OSSO: Thank you, Judge.

14 Erick, would you mind pulling up the
15 first page to AG 95.

16 Q. (BY MR. OSSO) Mr. Bangert, we talked about
17 you being heavily active on October 1st of 2020, and you
18 agreed, right?

19 A. I was.

20 Q. And one of the many actions you took that day
21 was that you took it upon yourself to email Jeff
22 Mateer's letter to Brandon Cammack terminating his
23 employment, did you not?

24 A. I did not take it upon myself. I agreed with
25 Mr. Mateer that this would be an appropriate way to

1 handle this.

2 Q. Okay. So you and Mr. Mateer were both of
3 agreement to do that?

4 A. We were in agreement to do this.

5 Q. All right. I want you to flip to the second
6 page of that correspondence. You would agree that --

7 MR. OSSO: And, Erick, if you would do
8 the same.

9 Q. (BY MR. OSSO) You would agree that that is
10 the letter that Jeff Mateer provided to terminate
11 Brandon Cammack's employment, right?

12 It's produced by the House, Mr. Bangert.

13 A. Correct. I'm reading -- I want to make sure
14 that the word "terminate" is accurate here. We were
15 told to cease and desist.

16 Q. Third line, notice of termination effective
17 immediately.

18 A. Yes.

19 Q. Yeah.

20 A. We do say that, yes.

21 Q. Okay. And just to be clear, you don't know
22 all the work that Brandon Cammack put into that
23 investigation, do you?

24 A. At that time I was not aware of what he was up
25 to.

1 Q. And you were willing to just fire him without
2 even thinking to pay him or compensate for his time and
3 his services as a lawyer?

4 A. We -- we terminated him in this letter and
5 told him to cease and desist.

6 Q. Without even thinking about giving the guy a
7 little bit of money for the time and effort he spent on
8 this investigation, yes or no?

9 A. I would not put it that way.

10 Q. Okay. You didn't pay him, did you?

11 A. No, we did not.

12 Q. All right. But the thing I really want to
13 focus on, Mr. Bangert, because you're a man that has
14 attention to detail, right?

15 A. I do my best.

16 Q. I want you to look right under that attorney
17 general seal at the top of that exhibit, okay? Do you
18 recognize anything that should be there?

19 A. It's been several years since I worked with
20 letterhead. It has the seal of the attorney general's
21 office there.

22 Q. How about your boss's name? You see that
23 there?

24 A. His name is not here, no.

25 Q. Yeah. You went ahead and sent it without his

1 name, didn't you?

2 A. I'm trying to recall. I think there was a
3 version --

4 Q. You're looking at the document, Mr. Bangert.

5 MR. HARDIN: Excuse me. He's trying to
6 answer the question. Can he please let him before he --

7 PRESIDING OFFICER: Overruled.

8 Q. (BY MR. OSSO) You're looking at the document.
9 Is Ken Paxton's name on that document you sent to
10 Brandon Cammack or not?

11 A. His name is not on this letterhead, no.

12 And just for the record, I do want to
13 point out his name does appear --

14 MR. OSSO: Objection, Judge.
15 Nonresponsive. I didn't ask this witness a question.

16 PRESIDING OFFICER: Sustained.

17 MR. OSSO: And I'll pass Mr. Bangert.

18 REDIRECT EXAMINATION

19 BY MR. HARDIN:

20 Q. Mr. Bangert, I want to start to try to ask you
21 a few questions again to go back to this opinion that
22 sometimes it's been referred to as "the midnight
23 opinion."

24 Originally --

25 MR. HARDIN: If I can, I would like to

1 bring up, please, Stacey, Exhibit 112.

2 Q. (BY MR. HARDIN) Can you look at this and
3 determine -- and help me out and tell me whether or not
4 this is the original draft that you-all did on -- and
5 presented to the attorney general on that Saturday
6 afternoon. And do you need a moment to look at it, or
7 can -- or would it help you to have a hard copy?

8 A. A hard copy would be helpful, yes, sir.

9 MR. HARDIN: Can we -- Stacey, do we
10 perhaps have a hard copy for the Court?

11 A. But I can tell you without looking at it that
12 this is not the original version that we sent.

13 Q (BY MR. HARDIN) Let me follow up on what your
14 observation is. What -- what order would this draft
15 have been?

16 A. I'm assuming this is the final draft. It
17 would have been the very last thing that was produced.

18 Q. Would you look at the first page, please, and
19 the last page, if that helps you.

20 A. Ah, no. This is not the final draft. I
21 cannot -- I can now see there's no signature on it.

22 Q. Right. Would you look at the opening
23 paragraph and see what that seems to be saying in terms
24 of the original position you took?

25 A. Yes. This refreshes my recollection.

1 Q. Pardon me?

2 A. Yes, this does refresh my recollection.

3 Q. All right. And now that you look at the
4 language in the first paragraph of Exhibit 112, what
5 does that tell you in terms of which draft order it was?

6 A. This was one of the early --

7 Q. Now, let me tell you a problem for you to keep
8 in mind. When you look to the left for the -- there you
9 go. Perfect. There you go.

10 A. There we go.

11 Q. All right.

12 A. Yes. This was -- this was one of the early
13 drafts.

14 Q. And in the first paragraph, would you look at
15 the sentence that begins with, We conclude.

16 MR. HARDIN: Would you highlight for me,
17 Stacey? Would you highlight for me, Stacey?

18 Q. (BY MR. HARDIN) Read this paragraph out loud
19 to the jury, please.

20 A. Yes. We conclude that a foreclosure sale of
21 residential or commercial real property constitutes a
22 service to which no occupancy limit applies under
23 Executive Order GA-28 and local governmental bodies
24 therefore lack authority to restrict in-person
25 attendance at these sales.

1 Q. All right. Now, at that time, what was the
2 legal basis for you concluding that there wasn't a
3 restriction and that it could be conducted?

4 A. It was GA-28, the governor's order.

5 Q. All right. And what was it about GA-28, the
6 governor's order? And I may have a copy there. I
7 couldn't locate it on my desk. If somebody finds it,
8 they can bring it up to me.

9 But what was it about the governor's
10 order, and when was that order, that you concluded would
11 allow essentially the foreclosure sales to go forward
12 particularly outside?

13 A. Yes. There was an -- there were a number of
14 exceptions in the governor's order to in-person
15 gathering restrictions.

16 MR. HARDIN: With the Court's -- with the
17 Court's permission, I'm going to mark this as an
18 exhibit, Number 631. Thank you so much.

19 631 or 633? 631. Thank you. I'm going
20 to tender it to counsel, Your Honor, because I don't
21 have an extra copy right now.

22 MR. OSSO: No objection, Judge.

23 PRESIDING OFFICER: 631 shall be admitted
24 into evidence.

25 (HBOM Exhibit 631 admitted)

1 MR. HARDIN: Thank you, Your Honor.

2 Do we have a copy by chance for the Court
3 to have up there?

4 PRESIDING OFFICER: Always nice for the
5 Court to have a copy.

6 MR. HARDIN: This only came up during the
7 lunch hour. I apologize.

8 PRESIDING OFFICER: Thank you, sir.

9 MR. HARDIN: And one for him. Thank you
10 very -- thank you very much.

11 Now, I don't know whether or not -- and
12 I'm going to ask as we go along -- whether Ms. Manela
13 can figure out a way to balance these.

14 First of all, if there's a way to do a
15 split screen here, Stacey, 112 and 115. And I believe I
16 will represent 115 is the final order. And I believe
17 115 is in evidence.

18 Q. (BY MR. HARDIN) Now, if you could, if you
19 could look at these two orders, is the one on the left
20 the draft we talked about, Exhibit 112, what your first
21 finding was?

22 A. Yeah. So our first finding is summarized in
23 the first paragraph. We conclude that a foreclosure
24 sale -- yeah, there we go. Thank you.

25 We conclude that a foreclosure sale of

1 residential or commercial real property constitutes a
2 service to which no occupancy limit applies under
3 Executive Order GA-28 and local governmental bodies
4 therefore lack authority to restrict in-person
5 attendance at these sales.

6 Q. All right. Now, I'm going to ask you --

7 MR. HARDIN: If you could leave that up,
8 please, Stacey, first.

9 Q. (BY MR. HARDIN) And then I want you, if you
10 would, I want you to look over to the government's
11 executive order on Page 3.

12 A. Okay. And I don't have a copy of the order.

13 MR. HARDIN: Do we have one more, Mark?

14 Thank you.

15 And I believe that 112, which was never
16 discussed as one of those that you did not object to,
17 I'm going to tender it to you again to look at. I just
18 looked -- make sure. I'm told that 112 is not in
19 evidence. And I apologize.

20 MR. OSSO: No objection, Judge.

21 PRESIDING OFFICER: No objection, 112
22 will be submitted to evidence.

23 (HBOM Exhibit 112 admitted)

24 MR. HARDIN: And I apologize for having
25 published that before I realized that. That's my fault,

1 not anybody else's.

2 Q. (BY MR. HARDIN) Now, I want to ask you, you
3 referred in your testimony just a moment ago that in
4 your first draft in which you basically had a ruling
5 that said these foreclosures, particularly outside,
6 would be allowed. And then you said that was partly
7 based on the governor's executive order that he had
8 previously issued. And you talked about it as General
9 Order 28. Correct?

10 A. Yes. No occupancy limit applies.

11 Q. I'm sorry?

12 A. Yes. No occupancy limit applies --

13 Q. All right.

14 A. -- under GA-28.

15 Q. And what role -- can you point us in the
16 governor's General Order 28 to the section that you
17 relied on in that initial opinion that said they could
18 be open to the public -- they could -- foreclosure
19 proceedings could be open?

20 A. Yes. May I see the second page of --

21 Q. Pardon me?

22 A. May I see the second page of Exhibit 112?

23 Q. All right.

24 MR. HARDIN: Move to the second page.

25 Thank you, Stacey.

1 A. Yes. Yes. We reference it here. We address
2 your question.

3 MR. HARDIN: No, I'm sorry, Stacey. What
4 I want to do now is go to -- if you have -- I don't know
5 if you have 631 loaded. Do you?

6 If you do have 631 loaded, could you go
7 to the second page of that?

8 And just you can sacrifice the one on the
9 right, and take down 115 and put in the governor's
10 general order.

11 And by the way, the executive order --
12 before you move, Stacey, that is dated.

13 Q. (BY MR. HARDIN) Can you see on there what
14 date it is? Is it June -- can you see June 20th --

15 A. I can. It's June 26th, 2020.

16 Q. All right. Now, so that executive order, did
17 it not, existed at the time that you were drafting your
18 opinions at the request of the attorney general?

19 A. They did.

20 Q. All right. Now, what is it on Page 2 of the
21 governor's executive order that led y'all to conclude
22 and say in your first draft the foreclosure sales could
23 be conducted?

24 A. Yes. If you will go to Page 2 of Exhibit 112.

25 MR. HARDIN: All right. Stacey, if you

1 go to Page 2 of the general order.

2 A. The first full paragraph.

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

4 A. The first full paragraph. We point out that
5 Executive Order 28 has a baseline limitation that does
6 not apply to --

7 MR. HARDIN: Well, no -- I don't -- I'm
8 confused here. This is probably my fault, Stacey.

9 May I approach, please?

10 Q. (BY MR. HARDIN) As usually Ms. Manela is more
11 on top of it than I.

12 You directed me -- it's my fault. You
13 directed me to Page 2 of --

14 A. Exhibit 112.

15 Q. -- 112, your initial draft opinion.

16 A. The initial opinion.

17 Q. And I was trying to go over to the governor's
18 order.

19 A. Ah.

20 Q. But let's stay with 112 first.

21 A. Okay.

22 MR. HARDIN: So now, Stacey, let's put up
23 112 and the governor's order. Those are going to be the
24 two on the screens. Go ahead.

25 Q. (BY MR. HARDIN) All right. Tell me what it

1 is about 112 that -- that you think is relevant to what
2 we're saying.

3 A. Yes. This paragraph that is highlighted --
4 second paragraph --

5 Q. Moving away from that microphone. You got to
6 move into it.

7 A. Yes, sir.

8 Q. There you go.

9 A. The paragraph calls out the executive order
10 baseline limitations on gatherings. In this -- it says
11 this limitation does not apply to any services listed of
12 the U.S. Department of Homeland Security's cybersecurity
13 and infrastructure workforce Version 3.1 or subsequent
14 version. CISA guidance is how we referred to that.

15 Among the services listed in Version 3.1
16 of CISA are residential and commercial real estate
17 services including settlement services --

18 (Simultaneous crosstalk)

19 Q (BY MR. HARDIN) Go down to --

20 A. Yeah.

21 Q. You go down to -- about a sentence or two down
22 there, you say you're not -- And there is no better
23 indication of that intent than the words that are
24 chosen. Correct?

25 A. That is correct.

1 Q. All right. Now let's stop there. And let's
2 go over to the second page of the -- and, by the way,
3 could you just explain to us laypeople what CISA is,
4 C-I-S-A, what does that stand for?

5 A. It's the cybersecurity infrastructure -- CISA
6 is a -- I'm trying to recall exactly what that acronym
7 stood for. But there was a guidance document issued by
8 an agency within the federal government that called out
9 essential services and infrastructure that should be
10 exempt from COVID limitations.

11 Q. Okay. So for -- for us laypeople, essentially
12 are you saying that you are going from your draft that
13 you did to show why the government's proclamation or
14 executive order would have exempted it, as far as you
15 were concerned when you draft the original draft; is
16 that right?

17 A. That's exactly right. We were trying to
18 demonstrate, and we did demonstrate here, that a
19 straight application of the governor's executive order
20 excluded these types of foreclosure sales from
21 limitations.

22 Q. All right. Stay with me. I -- I don't want
23 to tell everybody how to build a Swiss village when we
24 are trying to just do what time it is. But if we go to
25 Page 2 of the governor's order, where in there does it

1 point people to the legal basis you made for your
2 original order?

3 A. Paragraph 1A.

4 MR. HARDIN: Stacey, can you -- yeah, on
5 the left? Can you do 1A? Thank you.

6 Can you highlight 1A for me? There you
7 go.

8 Q. (BY MR. HARDIN) Mr. Donnelly wants to make
9 sure that I let you know that we can't give you a copy
10 of the CISA document because it's a government
11 confidential document. Okay? But having said that,
12 would you explain in this highlighted language how this
13 tells you --

14 MR. OSSO: Objection to that sidebar
15 about the CISA document. I don't believe it's
16 confidential.

17 PRESIDING OFFICER: Sustained.

18 Q. (BY MR. HARDIN) Can you explain in the
19 highlighted portion here?

20 A. Say again?

21 Q. Yes. Explain in the highlighted portion how
22 that impacted your original opinion you recommended in a
23 draft to the attorney general?

24 A. Yes. This was part of the exemptions from
25 occupancy limits. And the CISA guidance called out a

1 number of essential services infrastructure, among
2 which, as we point out in our original draft guidance,
3 are residential and commercial real estate services,
4 including settlement services.

5 Q. So explain to the Court what that meant as far
6 as the conclusion that you ultimately reached and
7 recommended to the attorney general?

8 A. Based on a plain-text interpretation of the
9 governor's order, foreclosure sales would not be subject
10 to occupancy limitations.

11 Q. If, in fact, any real estate?

12 A. Yes. And that was a straightforward textual
13 interpretation.

14 Q. So your original one, did you actually base it
15 upon an exception to the governor's executive order had
16 given to say that it was -- should be open to the
17 public?

18 A. Yes. It was a straightforward application of
19 the governor's executive order.

20 Q. Now, how did you get around that, then, when
21 you were ordered to come up with a different answer?

22 MR. HARDIN: And if we can, Stacey, let's
23 now put -- take down the governor's executive order and
24 put up Exhibit 115, please.

25 Q. (BY MR. HARDIN) Now, tell us what it is about

1 one -- how did you -- what did you do that -- since you
2 had based it on a specific reading of the governor's
3 statute and now you're being asked to give an opposite
4 view, how did you do that?

5 A. Could you go to Page 2 of Exhibit 115?

6 Q. Yes. Where do you want to be?

7 A. If you'll look at the third paragraph, we
8 simply jumped straight to the general occupancy limits.

9 Q. Pardon me?

10 A. We jumped right to the general occupancy
11 limits --

12 Q. All right.

13 A. -- excluding conversation about CISA.

14 Q. Direct us and Ms. Manela where to highlight
15 that you're talking about.

16 A. The language, This general limitation,
17 however, is subject to several exceptions.

18 Q. Are you --

19 A. One such exception is found in Paragraph 5 of
20 the order, which limits outdoor gatherings to ten
21 persons or fewer without approval by the mayor or the
22 unincorporated territory.

23 So we switched out the applicable
24 exceptions in the order to eliminate any reference to
25 the CISA guidance.

1 Q. So what you did is you just wrote out a
2 paragraph, did you not, of the governor's order?

3 A. We -- we determined, based on the attorney
4 general's instructions to us, that we would no longer
5 apply the exception that had been granted by the
6 governor's order.

7 Q. When you say "based on his instruction," did
8 he actually talk about that language?

9 A. No. He told us to reach a different
10 conclusion, and that was the only way to do it.

11 Q. All right. Now, finally, I want to make
12 sure -- I don't -- I don't know that I need to introduce
13 this, but had you read --

14 MR. HARDIN: May I approach the witness
15 very briefly?

16 PRESIDING OFFICER: Yes.

17 MR. HARDIN: I'm going to approach you
18 and show you what we have just marked as a new exhibit,
19 House Board of Managers Exhibit 632 is a new listing.
20 I'll tender to the Court and to counsel, with the
21 admonition that I don't intend to read all this.

22 Q. (BY MR. HARDIN) So my question to you,
23 though, without having introduced it yet --

24 MR. HARDIN: I will actually make it for
25 ease move to introduce it. We move to introduce House

1 Board of Managers Exhibit 632.

2 MR. OSSO: Judge, I would object to this
3 witness testifying to this document. And additionally
4 this document has not been produced. There's no Bates
5 stamps on this document.

6 MR. HARDIN: No. That's certainly right.
7 It has not been produced. We never foresaw this issue.
8 So we've just gathered this during the lunch hour and
9 printed it out here and we've tendered it to him.
10 Whatever his position is is fine. But he's certainly
11 right, it's never been produced. We did not foresee
12 this issue.

13 MR. OSSO: It's a 40-page document
14 riddled with hearsay, Judge.

15 MR. HARDIN: It's a government record. I
16 think probably stands on its own. It's a public
17 government record.

18 PRESIDING OFFICER: Mr. Osso, do you need
19 time to review this 40-page document?

20 MR. OSSO: Judge, if I could have one or
21 two minutes.

22 MR. HARDIN: If I may, I think that's a
23 reasonable question. So if I could speed it along, what
24 I'll do is I'll hold, withdraw, or wait on the motion to
25 admit it. See if I can elicit testimony that gets the

1 same, but it may not become an issue ultimately. But if
2 I do want to, I'll give him notice so he has time to
3 read it.

4 PRESIDING OFFICER: Hold one second.

5 MR. OSSO: Judge, we're ready to go.

6 MR. HARDIN: Thank you.

7 Now --

8 PRESIDING OFFICER: You withdraw the
9 objection then?

10 MR. OSSO: No, Judge. Judge, may we have
11 five minutes to just look through this document real
12 quick?

13 MR. HARDIN: Fine.

14 PRESIDING OFFICER: We will stand at ease
15 for five minutes.

16 (Brief recess)

17 PRESIDING OFFICER: Mr. Osso.

18 MR. OSSO: Your Honor, I have no -- Your
19 Honor, I have no objection to this exhibit. Just for
20 clarification, it was House Exhibit -- what's the
21 number, Rusty?

22 No objection to House Exhibit 652 --
23 excuse me, 632.

24 PRESIDING OFFICER: No objection to 632.
25 Do you want to admit it into evidence?

1 MR. HARDIN: Yes, please.

2 PRESIDING OFFICER: Okay. House
3 Exhibit 632 is admitted.

4 (HBOM Exhibit 632 admitted)

5 Q. (BY MR. HARDIN) I want, if I can, I'm going
6 to walk up to you and I'm going to show you a page. I
7 have -- by the way, I mistakenly called this a
8 confidential document. I've looked at it. It is not.
9 It's a public document. There's nothing confidential
10 about it. It's one of 230 mistakes I'll make during
11 this trial.

12 MR. OSSO: Objection. Sidebar, Judge.
13 Object to that sidebar.

14 PRESIDING OFFICER: What is the
15 objection?

16 MR. OSSO: Sidebar. And I just move to
17 strike Mr. Hardin's comments.

18 PRESIDING OFFICER: Sustained.
19 You know -- you know better than that.
20 There you go.

21 MR. HARDIN: That makes -- that makes it
22 237. Thank you.

23 Q. (BY MR. HARDIN) I want to walk up. I'm going
24 to show you with a tab. I'll show counsel where I'm
25 pointing you to. I'll go by him, show him what I'm

1 about to address you to, because I can't send you to a
2 page number. Just a second.

3 Now, on Exhibit 632, can you -- is there
4 a provision of it -- and I showed you a tab so there is
5 no secret about this. Is there a provision in this
6 document that you relied on in coming to your
7 conclusions that you presented in your first draft to
8 the attorney general --

9 A. Yes.

10 Q. -- and shown in Exhibit -- can you explain
11 and --

12 MR. HARDIN: I don't know that -- Stacey,
13 you don't have this loaded, do you?

14 Do you really? All right. Let me show
15 you where I'm going, Stacey, because, again, I don't
16 have a page number.

17 May I approach her?

18 Q. (BY MR. HARDIN) Now, if you would, on the
19 screen that she's already anticipated, is there
20 somewhere on this screen that you can direct the viewers
21 to that has any language that used -- you used as a
22 basis for your original opinion that you delivered to
23 the attorney general on that Saturday afternoon?

24 A. Yes. The very last bullet point, Residential
25 and Commercial Real Estate Services, Including

1 Settlement Services.

2 Q. And what did that mean to you?

3 A. We interpret that in the original opinion.

4 Q. And, again, you read the portion of
5 Exhibit 112 --

6 MR. HARDIN: Stacey, can you split it for
7 me?

8 Q. (BY MR. HARDIN) 112, in your opinion that was
9 really based on this segment -- this one little excerpt
10 out of 632?

11 A. Yes. Second paragraph, second page, A court's
12 main objective in construing the law is to give effect
13 to the intent of its provisions.

14 And then we footnote, And there is no
15 better indication of that intent than the words that are
16 chosen.

17 Then we footnote, Where text is clear,
18 text is determinative of that intent.

19 Q. Microphone. Microphone.

20 All right.

21 A. Oh.

22 Q. Keep going.

23 A. One dictionary defines a service as work that
24 is done for others as an occupation or business. Real
25 estate is defined as land and the buildings and

1 permanent fixtures attached to it. Thus, real estate
2 services include services performed for others as an
3 occupation or business that pertain to land or the
4 buildings and permanent fixtures attached to the land,
5 insofar as the performance of auction or foreclosure of
6 sale services related to commercial or residential real
7 property, such services are one specific iteration of
8 residential and commercial real estate services.

9 Q. All right. So to reduce it down to its
10 basics, and recommending or in your drafting to the
11 attorney general, saying that there should be no
12 restriction on the foreclosure sales, did you rely on a
13 government document as guidance as to why it would be
14 considered an essential service or activity that was
15 exempted based on the governor's executive order?

16 A. Yes. The specific government document
17 referenced and incorporated into the governor's order.

18 Q. All right. So in effect in y'all's opinion at
19 that time, was your recommendation that it would be open
20 and they could have foreclosures based on a combination
21 of the governor's order? And if you go to the basic
22 item that they're referring to in the governor's order,
23 that would have said essential services that would have
24 included foreclosure sales for either commercial or real
25 estate property?

1 A. Yes.

2 Q. Residential property, excuse me.

3 A. Yes. We conclude that it is not -- there's no
4 occupancy limit applicable pursuant to Executive Order
5 GA-28.

6 Q. Now, when you then were directed to come to
7 the opposite conclusion in the drafting, that is the
8 final product, and the exhibit that we've been using I
9 think is 515 -- 115, you had a challenge to write around
10 the basis for your first -- your first opinion. So what
11 did you do?

12 MR. OSSO: Objection to leading and
13 assuming the answer in the question.

14 PRESIDING OFFICER: Sustained.

15 Rephrase.

16 Q. (BY MR. HARDIN) What did you do to come up
17 with the opposite conclusion you had originally arrived
18 at?

19 A. Couple of things. If you go to Page 2 of
20 Exhibit 115, we first point to the general occupancy
21 limitations in the third paragraph. Next, we do point
22 ultimately to CISA at the bottom paragraph.

23 And if you would go to the next page, at
24 the very bottom of the first full paragraph -- this is
25 really the kicker -- the Court's main objective in

1 construing the law is to give effect to the intent of
2 its provisions --

3 Q. Slow down, please, on behalf of the court
4 reporter --

5 A. Yes. My apologies.

6 Q. -- and the volume on behalf of the people on
7 the floor. Could you speak a little louder, please?

8 A. Yes.

9 We repeat our commitment to textualism,
10 which was a guiding star of our office at all times. We
11 then point out that based on our analysis of the words,
12 we believe that outdoor foreclosure sales, last
13 sentence, are not exempted from the ten-person
14 attendance limitation.

15 Q. And --

16 A. And completely reversed it.

17 Q. Excuse me, I'm sorry.

18 What was the only thing that changed
19 since you had the original opinion?

20 A. The direction from the attorney general.

21 Q. All right. Now, you had questions about
22 whether or not it would have happened anyway because of
23 other subsequent events. At the time that you drafted
24 these two opinions, did you have any idea that Nate Paul
25 had bankruptcy hearings scheduled?

1 MR. OSSO: Objection. Asked and
2 answered. And this witness said he didn't have specific
3 knowledge, so speculation.

4 PRESIDING OFFICER: Sustained.

5 Q. (BY MR. HARDIN) In this particular matter,
6 did you yourself know about any bankruptcy hearings that
7 was set in the -- excuse me, any foreclosure hearings
8 that were set in the foreseeable future? Just you
9 yourself, were you aware?

10 MR. OSSO: Objection. Asked and
11 answered.

12 MR. HARDIN: Not by me.

13 MR. OSSO: And lacks specific knowledge.

14 PRESIDING OFFICER: Overruled. I ruled
15 for -- I sustained your first objection, which forced
16 him to ask the question a second time.

17 MR. HARDIN: Thank you, Your Honor.

18 Q. (BY MR. HARDIN) Did you yourself?

19 A. No, I had no specific knowledge of any
20 specific foreclosure sales.

21 Q. All right. You -- you were there when he
22 introduced a certain document.

23 MR. HARDIN: And if I can, can I have
24 Exhibit -- AG Exhibit 295, please, Stacey.

25 Q. (BY MR. HARDIN) You heard earlier questions

1 on direct as to whether or not, have you not, sir, these
2 opinions would be of help to somebody who was either --
3 that somebody that was opposing a foreclosure hearing,
4 right?

5 A. I recall those.

6 Q. All right. Now, if you could, if we -- can
7 you identify, had you seen before we showed you this --
8 this attorney general exhibit -- had you seen it before
9 this exhibit that he's entered into evidence?

10 A. No. This is the first time I've seen this
11 document.

12 Q. All right.

13 A. With the cross-examination.

14 Q. All right. Now, I want you -- if you -- if
15 you -- I'm going to read this to you and ask you what
16 the import of this when you look at the exhibit is.
17 Judge Campbell, August 3, 2020, as it is relevant to
18 these proceedings, please see the attached guidance just
19 released by the attorney general's office.

20 Had been just released, hadn't it? What
21 date was it released?

22 A. The 1st.

23 Q. 1st of August. That was a Sunday, was it,
24 right?

25 A. I believe midnight the 1st, I think that's

1 right, yes.

2 Q. So this is just Tuesday after you released the
3 opinion on -- or after you've provided the attorney
4 general opinion on Sunday the 1st, correct?

5 A. It's two days later, yes.

6 Q. Keep your voice up. Away from the microphone.

7 A. Two days later, yes.

8 Q. All right. Regarding the foreclosures may not
9 proceed unless specifically authorized by the mayor and
10 the City of the foreclosure, given the standing
11 ten-person restriction would violate Texas Property
12 Code, Chapter 51.

13 Does the attachment include the opinion
14 that we have just been so laboriously going over?

15 A. Yes.

16 Q. Would you look to the last page of that
17 opinion and see if that's the final one that we
18 identified as Exhibit 115?

19 A. It is.

20 Q. With your signature?

21 A. It is.

22 Q. Does the cover page identify on behalf of
23 whom --

24 A. It does.

25 Q. -- this particular email -- excuse me -- this

1 particular pleading was filed in a court here in Travis
2 County?

3 A. Yes.

4 Q. And who was the person that represented whom?

5 A. This is --

6 Q. Was presenting -- was presenting this
7 particular pleading and urging that your opinion was
8 relevant to their case?

9 A. This is one of Nate Paul's companies.

10 Q. Do you even yourself personally know how the
11 judge ruled one way or the other on this motion?

12 A. Not in this case, no.

13 Q. All right. And, in fact, are you familiar
14 with any other cases Nate Paul cited this opinion in
15 seeking to foreclose -- foreclosures in that year of
16 2020 after you rendered your final opinion?

17 A. Only through news reports that came out after.

18 Q. All right. Was it multiple places?

19 A. Yes.

20 MR. OSSO: Objection to hearsay, Judge.

21 MR. HARDIN: I'm through.

22 PRESIDING OFFICER: You withdraw that
23 question?

24 MR. HARDIN: Yeah. I think actually he
25 meant to say leading. It was leading. It wasn't

1 hearsay.

2 MR. OSSO: I meant to say hearsay, but
3 I'll retract the objection, Mr. Hardin.

4 MR. HARDIN: That's all I have.

5 PRESIDING OFFICER: Recross --

6 MR. OSSO: Yes, Judge.

7 PRESIDING OFFICER: -- Mr. Osso?

8 RECROSS-EXAMINATION

9 BY MR. OSSO:

10 Q. You just cited the Cybersecurity and
11 Infrastructure Security Act pretty precisely to
12 Mr. Hardin on direct examination, did you not?

13 A. I had it in front of me.

14 Q. Okay. You also cited the day of the week that
15 you issued that opinion, did you not?

16 A. The day of the week was August 1st when we
17 issued the opinion.

18 Q. I'm just surprised because you showed an
19 uncanny ability to remember things when Mr. Hardin was
20 asking you questions, as opposed to when I asked you
21 about the same documents during my cross-examination.
22 Can you explain that?

23 A. I disagree with your characterization.

24 Q. Okay. We'll agree to disagree.

25 I don't have an e-copy of this CISA

1 document that the House has just produced, but I think
2 Mr. Hardin had you reference Page 16 of that document,
3 did he not?

4 A. He did.

5 Q. He had you reference the very bottom part that
6 I have highlighted in orange. And I'm going to show the
7 jury. And it says settlement services, correct?

8 A. One of the things it says is settlement
9 services.

10 Q. Now, behind the term settlement services in
11 this document, there is no definition as to what
12 settlement services are?

13 A. I do not see a definition.

14 Q. I don't see the word foreclosure sale or
15 nonjudicial foreclosure sale behind it, do you?

16 A. The word "foreclosure sale" does not appear.

17 Q. Okay. Do you have a real estate license?

18 A. No.

19 Q. Okay. Would it surprise you to know that
20 people that have real estate licenses oftentimes engage
21 in settlement services to close on homes?

22 A. I would not know.

23 Q. It deals with title work and things of that
24 nature?

25 A. I would not know.

1 Q. Okay. You won't find the word "foreclosure
2 sale" in that definition, sir.

3 A. This definition? It is not in -- the word
4 "foreclosure" does not appear there, but that's why you
5 engage in legal analysis and construction.

6 Q. Legal analysis and construction, which means
7 that somebody else, another attorney, perhaps the
8 attorney general, could have a different viewpoint as to
9 what a settlement service is, correct?

10 A. He could have any number of viewpoints about
11 that.

12 Q. That's why they call it the practice of law.
13 Zone of reasonable disagreement, that
14 happens a lot in law, does it not?

15 A. Not in this case.

16 Q. Okay. Well, that's your opinion, but let's
17 talk about facts.

18 Did -- are you aware of -- are you aware
19 of whether or not the opinion that you wrote that you
20 said was unconscionable and opposite of attorney general
21 policy, did anybody challenge that in a court of law?

22 A. Did anyone challenge the opinion?

23 Q. Yeah, the opinion in a court of law.

24 A. I'm not aware of it being challenged. I don't
25 know how you would do that under standing doctrine.

1 Q. Okay.

2 MR. OSSO: Pass the witness, Judge.

3 PRESIDING OFFICER: The witness may step
4 down.

5 MR. OSSO: Judge, I have one more
6 question, if the Court would entertain it.

7 PRESIDING OFFICER: Will the witness come
8 back. One more question.

9 Q. (BY MR. OSSO) Prior to your term as a
10 politician, did you or did you not practice real estate
11 law? Paxton practiced real estate law, did he not?

12 A. I believe he had some real estate experience
13 back in his past.

14 Q. Okay. So when you guys are going back and
15 forth regarding the definition of things, it's possible
16 he had some background knowledge of what "settlement
17 services" meant?

18 A. In this case that was not the best
19 interpretation.

20 Q. Okay. That's your opinion, sir, correct?

21 A. No. That's the law.

22 Q. That's your opinion?

23 A. I disagree.

24 Q. Okay.

25 MR. OSSO: Pass the witness.

1 PRESIDING OFFICER: You may step down.

2 House call their next witness.

3 MR. HARDIN: We call Mr. Ryan Vassar.

4 PRESIDING OFFICER: Mr. Vassar, were you
5 sworn in the other day in the group?

6 MR. VASSAR: No, Your Honor.

7 PRESIDING OFFICER: Okay. I need to
8 swear you in. Please raise your right hand.

9 (The following oath was given to the
10 witness.)

11 PRESIDING OFFICER: I do solemnly swear
12 or affirm that the evidence I give upon this hearing by
13 the Senate of Texas of Impeachment charges against
14 Warren Kenneth Paxton, Jr. shall be the truth, the whole
15 truth, nothing but the truth, so help you God.

16 You may be seated.

17 RYAN VASSAR,
18 having been first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. HARDIN:

21 Q. Good afternoon.

22 A. Good afternoon.

23 Q. Mr. Vassar, you and I have met at least
24 once -- once or twice, correct?

25 A. Yes, sir.

1 Q. But I don't think we've talked about this
2 subject. And that is we have some microphone issues
3 that you and I have to -- to worry about. If you will
4 try to make sure that you're speaking into that
5 microphone, we'll -- to where everybody in the back of
6 the room would hear, and I'll try to make sure that I
7 don't talk on top of you, and we go from there. Okay?

8 A. Yes, sir.

9 Q. Your full name?

10 A. Ryan Vassar.

11 Q. That's going to work, if you'll just stay with
12 that.

13 How old a man are you?

14 A. I'm 39.

15 Q. And are you married?

16 A. I'm married.

17 Q. How many children?

18 A. Four kids.

19 Q. How old? What ages?

20 A. Ages between 3 and 7.

21 Q. Wow. In 2020 how old were they?

22 A. I had a six-month-old, a two-year-old, a
23 three-year-old, and a four- -- four-year-old, I believe.

24 Q. How are you employed now?

25 A. I'm general counsel for a local nonprofit

1 organization in Austin.

2 Q. When you left the attorney general's office,
3 and we'll get to that, how long were you unemployed
4 before you found a place to land?

5 A. Six months.

6 Q. What was your source of income?

7 A. Savings, but I was not employed as a lawyer
8 for that six-month period.

9 Q. Does your wife work outside the home?

10 A. No, sir.

11 Q. Let's go back now a little bit of an
12 autobiographical sketch review for about a minute and a
13 half, if we can. I'm not going to time you, but just
14 roughly, like where you grew up, your parents, what your
15 background was.

16 A. I grew up in Big Spring, Texas, a small town
17 in West Texas. I'm the oldest of three siblings. I
18 attended Texas Tech University and majored in
19 accounting. My dad -- my father and grandfather are
20 both certified public accountants. They both attended
21 Texas Tech. They've had a CPA practice in Big Spring
22 for the past 40 years where they serve three generations
23 of farmers and ranchers and salt-of-the-earth people.

24 Q. So how -- how many years has your family been
25 living in Big Spring?

1 A. My whole life.

2 Q. All right. Now, when you finished as an
3 accountant at Texas Tech, what did you do?

4 A. I moved to Dallas and worked in finance for
5 about a year and decided I wanted to go to law school.
6 And so I started to work at Jones Day as a litigation
7 assistant and -- during my application periods.

8 Q. Does litigation assistant mean a runner?

9 A. Essentially, yes, sir.

10 Q. All right.

11 A. I was in charge of the documents.

12 Q. And did you clerk or get to know anybody else
13 in the legal profession while you were there, other than
14 the lawyers at Jones Day?

15 A. No, sir.

16 Q. All right. Now -- and then after you
17 graduated -- what year did you graduate from law school?

18 A. Law school was December of 2012 -- I'm sorry,
19 December of 2011.

20 Q. 2011. And, Mr. Vassar, were you involved in
21 any outside either political or social activities in
22 addition to going to college and law school?

23 A. I was a member of the Federalist Society for
24 law and public policy studies while in law school. And
25 then I interned for two federal judges, one on the

1 Southern District and one on the Fifth Circuit.

2 Q. Which judges did you intern for?

3 A. Judge Lynn Hughes on the Southern District.

4 And then Judge Jennifer Elrod on the Fifth Circuit.

5 Q. Those were both law school internships,
6 correct?

7 A. Yes, sir.

8 Q. Did you get -- were you involved in Republican
9 politics at that time?

10 A. Not at the time, no, sir, other than just
11 typical voting.

12 Q. All right. And then after you finished law
13 school, what'd you do?

14 A. I served in Governor Perry's office of general
15 counsel as an attorney fellow.

16 Q. How long did you do that?

17 A. It was -- I think six weeks. It was a summer.

18 Q. And then what?

19 A. And then I was invited to clerk for Justice
20 Don Willett of the Texas Supreme Court.

21 Q. So Justice Willett was on the Supreme Court.
22 How long, to your knowledge?

23 A. How long had Justice Willett been on the
24 Court?

25 Q. Yes.

1 A. He might have been appointed by Governor Perry
2 at the time, maybe around 2010.

3 Q. I haven't sought to -- to introduce it, but is
4 it a fair statement that Justice Willett had an
5 extremely complimentary letter for you to have you go
6 off and seek employment elsewhere when your service was
7 over?

8 MR. OSSO: Objection. Relevance.

9 PRESIDING OFFICER: Sustained.

10 Q. (BY MR. HARDIN) Now, at the end of the day,
11 how long did you work for Justice Willett?

12 A. Three years.

13 Q. And was that always exclusively on the Supreme
14 Court, or did you work for him after he went to the
15 Fifth Circuit?

16 A. Just the Supreme Court.

17 Q. Now, at the end of those three years, what was
18 your -- what was your internship supposed to be? How
19 long was it supposed to last?

20 A. Well --

21 Q. Or your clerkship, excuse me.

22 A. Right. Justice Willett had asked that I
23 commit to two years. Two years came and went, and he
24 said I could stay as long as I wanted to. But just with
25 the circumstances that had changed, I joined -- when I

1 joined the court to work for Justice Willett, I was
2 single. My wife and I got married while I was working
3 there. And then about a year and a half later, we were
4 pregnant with our first kid. So I think it was just a
5 necessary transition from the court to other
6 opportunities.

7 Q. All right. So where did you go to work after
8 clerking for Justice Willett?

9 A. I joined the office of the attorney general.

10 Q. And who did -- who interviewed you? Who hired
11 you?

12 A. Amanda Crawford at the time was the division
13 chief of general counsel division.

14 Q. And what year was it that you joined the Texas
15 Attorney General's Office?

16 A. It was July of 2015.

17 Q. Do you recall what your first assignment was
18 in the office?

19 A. No, sir, I don't.

20 Q. Okay. And then as time went on, by the time
21 we reach the period of 2019, what was your position?

22 A. 2019, I was chief of the general counsel
23 division.

24 Q. What does that mean? What would your
25 responsibilities be?

1 A. So I advised the agency as the general
2 counsel, whether it was employment matters or
3 contracting matters, state procurement law, just the
4 typical day-to-day business, legal advice.

5 Q. And then as you went along there, did you
6 continue to move up within the organization?

7 A. Yes.

8 Q. When was your next promotion?

9 A. It was April of 2020.

10 Q. Now, was Attorney General Paxton already the
11 attorney general when you joined the office?

12 A. Yes, sir.

13 Q. So your entire career at the -- at the
14 attorney general's office was under the guidance and --
15 and service of General Paxton?

16 A. Yes, sir.

17 Q. How well did you get to know him?

18 A. I might have met him for the first time at an
19 office Christmas holiday party where he and Senator
20 Paxton were taking photographs with employees. That
21 might have been two years into my -- my employment, so
22 maybe around 2017. From then until I was promoted to
23 deputy for legal counsel, I might have seen him once or
24 twice at a division chief's meeting, but nothing --

25 Q. And then what about by the time we approached,

1 let's say, January of 2020, how much contact by that
2 time in your different positions that you had with
3 General Paxton?

4 A. He might have contacted me once about a
5 matter, but other than just the typical monthly division
6 chief's meeting or holiday party, it was -- it was
7 nothing substantive.

8 Q. All right. So we, the jury, and the Court
9 assume that you yourself did not personally know
10 Mr. Paxton that well at the time?

11 A. That's correct.

12 Q. All right. Were you around him socially other
13 than a periodic office gathering?

14 A. No, sir.

15 Q. All right. Now, when we enter the year of
16 2020, whom did you have under your supervision in the --
17 in the office?

18 A. April -- April of 2020, I was promoted to be
19 the deputy attorney general for legal counsel.

20 Q. Does that mean that you were one of the top
21 eight deputies, or 12 deputies rather, up on the eighth
22 floor?

23 A. Yes, sir.

24 Q. Would you describe -- I'm not sure we've
25 broken it down -- to people. When we talk about the

1 eighth floor, what does that mean in common vernacular
2 for you?

3 A. So the eighth floor refers to the eighth floor
4 of the Price Daniel building where the majority of the
5 executive staff at the Office of Attorney General have
6 offices.

7 Q. All right. So when we talk -- if the jury is
8 to hear about people where General Paxton dropped into
9 this person's office, this deputy's office, that
10 deputy's office, were all of these offices along the
11 same area or how -- what was the physical layout?

12 A. So if you can imagine, there's two elevator
13 banks in the middle of the building, the middle of the
14 floor. And the offices are spaced out around the
15 perimeter of the inside of the building. So each deputy
16 would have an office. There were roughly three or four
17 offices on one span or one length of the building. So
18 each deputy would have an office.

19 Q. So my reason for asking, and I'm asking you
20 the answer to this, is that were the offices readily
21 accessible to each other and to the attorney general
22 where any of those folks were within a very short
23 distance on the same floor of dropping in or out on each
24 other?

25 A. Yes, sir.

1 Q. All right. Now, when did you first hear, if
2 you ever did, of a person named Nate Paul?

3 A. I think it was May of 2020.

4 Q. And what was the occasion for you to first --
5 well, let's back up.

6 What was your position in May of 2020?

7 A. I was deputy attorney general for legal
8 counsel.

9 Q. Now, how much contact did you have with
10 Mr. Mateer?

11 A. We had weekly meetings, one-on-one meetings
12 with Mr. Mateer, Mr. Bangert, and myself.

13 Q. Now, you're dropping off. I want you to
14 remember that microphone. Maybe you need to move up
15 just a little bit or...

16 All right. You had these weekly
17 meetings, staff meetings. Were they scheduled with the
18 deputies and Mr. Paxton?

19 A. So there are -- there are deputy -- deputies
20 meetings that occur weekly. And then there are also
21 one-on-one deputy meetings with Mr. Mateer. So I would
22 meet in all of the deputy meetings, but then I would
23 also meet individually with Mr. Mateer and Mr. Bangert.

24 Q. And at that time how old were you?

25 A. I would have been 37 --

1 Q. All right.

2 A. -- or 36 at the time.

3 Q. And you would have been there at the attorney
4 general's office since you were about 32 or so?

5 A. Yes, sir.

6 Q. Would you agree that you had moved pretty fast
7 in the organization?

8 MR. LITTLE: Objection. Leading.

9 PRESIDING OFFICER: Sustained.

10 MR. HARDIN: Sure.

11 PRESIDING OFFICER: Ask differently.

12 MR. HARDIN: Yeah.

13 Q. (BY MR. HARDIN) Now, at the end of the day,
14 when you entered into, say, your new position as deputy
15 for general counsel, what type of matters would that
16 have put you primarily over?

17 A. So the deputy attorney general for legal
18 counsel oversees the opinion writing process, the open
19 records division, the public finance division, the
20 general counsel division, and I believe that's it.

21 Q. All right. So in May -- or April or May of
22 2020, what was the occasion with you becoming familiar
23 with the name of Nate Paul?

24 A. There was a pending open records matter
25 involving the Department of Public Safety that had been

1 connected to Nate Paul's name.

2 Q. Now, at this time how well did you know
3 Mr. Mateer?

4 A. I believe Mr. Mateer joined the office in
5 2016, if I'm not mistaken, so I had become familiar with
6 him just in my experience over the past five years
7 working at the agency.

8 Q. What was he like as an administrator and first
9 assistant?

10 A. He was great. I mean he was -- he was a
11 people person. He wanted to know how staff were doing.
12 He wanted to connect with each -- each person. He was
13 invested in what they were doing, what they were
14 interested in. He would host book clubs where we
15 would -- we would -- he would select a book, whether it
16 was a managerial book or leadership book, and we'd meet
17 over a brown-bag lunch and just talk about a chapter of
18 the book and how it -- how we could implement it in our
19 work and at home. So he was -- he was a role model.

20 Q. Was he religious?

21 A. Yes, sir.

22 Q. How about you?

23 A. I am.

24 Q. In what way?

25 MR. LITTLE: Objection. Relevance, Your

1 Honor.

2 MR. HARDIN: It's very relevant to who
3 these people are, and in light of --

4 PRESIDING OFFICER: Overruled.

5 MR. HARDIN: -- what he's being accused
6 of. Thank you.

7 A. My wife and I attend an independent Baptist
8 church here in Austin. We've been members at different
9 churches here in Austin. And I've been a member
10 throughout my life.

11 Q. (BY MR. HARDIN) What did you view your duty
12 as an assistant AG to be?

13 A. Assistant AG or -- as far as deputy attorney
14 general for legal counsel, I was responsible for
15 providing legal advice to the agency through the various
16 functions of the divisions, whether that was the open
17 records division, the opinions division, the public
18 finance division, or the general counsel division.

19 Q. You've heard, have you not -- or have you
20 heard you're being referred to by the attorney general,
21 all of you, as rogue employees?

22 A. Yes, sir.

23 Q. What was your reaction when you heard that
24 allegation?

25 A. It was hurtful.

1 Q. Why? Tell me.

2 A. I -- I've -- sorry. I worked for the State
3 for eight years as a public servant, as one who
4 values --

5 MR. LITTLE: Your Honor, may I approach
6 the witness?

7 PRESIDING OFFICER: Yes.

8 THE WITNESS: Thank you.

9 A. -- as one who values the commitment to public
10 service, to set an example for my kids, the people that
11 I worked with, the people that I managed, and it's
12 contrary -- the statement of being rogue is contrary to
13 the years that I dedicated my life to the State.

14 Q. (BY MR. HARDIN) How did you become familiar
15 with Nate Paul?

16 A. Well, as I mentioned, the first time that I
17 had heard the name was connected to the open records
18 request that was pending at the agency, the Office of
19 Attorney General involving the Department of Public
20 Safety.

21 Q. And -- and did you learn what the issue was
22 about this open records request?

23 A. Yes, I did.

24 Q. And what was the issue?

25 A. The Department of Public Safety had received a

1 request for public information. Under the Public
2 Information Act, agencies that desired to withhold
3 information for a valid purpose have to ask for the
4 attorney general's ruling on withholding information
5 within ten days. The Department of Public Safety had
6 requested a ruling from the attorney general's office on
7 whether it could withhold information under the law
8 enforcement exception to disclosure.

9 So in other words, if there is
10 information in the request that qualifies as law
11 enforcement information that is not required to be
12 disclosed, the agency is requesting the -- the Office of
13 Attorney General to make that determination so that that
14 information can be withheld.

15 Q. At the time that you -- you began to have
16 awareness of Nate Paul, how would you describe your
17 sense of loyalty and support of the attorney general?

18 A. It's -- it was my understanding that General
19 Paxton had met personally with Nate Paul. He considered
20 what had happened to Nate Paul to be wrong and he wanted
21 us to find a way to help Nate Paul.

22 Q. And what -- when was the first time -- did you
23 have conversations with the attorney general about this
24 matter?

25 A. Yes.

1 Q. When did personal conversations with the
2 attorney general begin in person either -- well, in
3 person or by phone, or by text, any of that way? When
4 did you first have contact of some type with the
5 attorney general about Nate Paul?

6 A. It was in the month of May of 2020.

7 Q. And what form did that take and how did it
8 happen?

9 A. I believe it was all in person. There --
10 there were no phone calls or text messages or emails, to
11 my knowledge.

12 Q. All right. And when they had these phone
13 calls, do you recall what the attorney general said in
14 the first one and what the occasion was for that call?

15 A. The initial call was a request to pull the
16 file basically.

17 Q. By whom? Who asked you?

18 A. General Paxton.

19 Q. Do you recall what he said on the call?

20 A. Well, I say it wasn't a call. It was
21 generally in person.

22 Q. Oh.

23 A. So stopped by the office, asked me, I would
24 like to see this file. And so I would have -- I
25 contacted Justin Gordon, who is the chief of the open

1 records division, and asked him to bring the file to my
2 office.

3 Q. Now, at that time had you had any contact with
4 Nate Paul's case yet, or was the general -- General
5 Paxton's request of you the first time you had become
6 involved?

7 A. That was the first time that I was involved in
8 the DPS file.

9 Q. All right.

10 A. The request at that time.

11 Q. So did you get the file?

12 A. Yes, I did.

13 Q. What did you do with it?

14 A. I reviewed it and notified the attorney
15 general that I was prepared to meet to discuss it.

16 Q. How did you do that? How did you notify him?

17 A. Normally, it would have been an email to his
18 scheduler just to see if he was going to be in the
19 office to see if we could schedule a time to meet. I
20 don't recall specifically if I emailed the scheduler or
21 contacted his aide.

22 Q. All right. Did you -- when you reviewed it,
23 what all did you do? I mean, how much time did you
24 spend reviewing this file?

25 A. It's my recollection everything was drafted,

1 the initial draft of the ruling was already complete,
2 and it was -- a standard law enforcement exception was
3 raised, law enforcement exception applies, the
4 information should not be disclosed. So it was a pretty
5 straightforward review.

6 Q. Did you learn one way or the other whether
7 there had been a previous ruling and finding from the
8 department as to whether or not the law exception
9 applied to the same event that was now happening with
10 DPS?

11 MR. LITTLE: Mr. President, I believe the
12 objection would be this question calls for the
13 solicitation of hearsay.

14 MR. HARDIN: I don't agree it's leading,
15 but I withdraw it because I don't think it was
16 understandable, so I take it back.

17 PRESIDING OFFICER: Withdraw the
18 question.

19 MR. HARDIN: Thank you very much.

20 Q. (BY MR. HARDIN) So let me ask you this: When
21 you reviewed the file, did you find out anything about
22 whether or not -- what event was being complained of
23 that they wanted access -- whose files they wanted
24 access to?

25 A. The subject of the event was the August 2019

1 raid of Nate Paul's home and businesses.

2 Q. All right. When you reviewed the file, did
3 you find out one way or the other whether this issue had
4 come before the agency once before about the file on the
5 same event?

6 A. At the time I did not connect this event to
7 any previous determination by the office, but
8 subsequently, I did connect the two.

9 Q. All right. So ultimately did you discover or
10 connect -- this was the second time around for Mr. Paul
11 and/or his attorneys seeking information to overcome the
12 law enforcement exception?

13 MR. LITTLE: Objection. Leading.

14 PRESIDING OFFICER: Sustained.

15 Q. (BY MR. HARDIN) All right. Now, let me ask
16 you this: When you -- after you reviewed the file and
17 you informed the attorney general you were available to
18 meet, was there a meeting?

19 A. Yes.

20 Q. And would you -- can you put a time limit
21 on -- time area for us as to when this meeting occurred?

22 A. It was in the middle of May. And the reason
23 that I believe that it was between that period is
24 because when the Office of the Attorney General receives
25 an open records request for a ruling, the office has 55

1 days -- up to 55 days to issue that ruling. The DPS
2 ruling was due June 2nd. That was the 55th day. So we
3 would have been discussing it in the middle of May
4 before it was released on June 2nd.

5 Q. Now, you may -- was there already a draft
6 opinion regarding a matter that was intended to be
7 issued before July 1?

8 A. Yes.

9 Q. Was it June 1 or July 1? I've got --

10 A. June 2nd was the 55-day deadline.

11 Q. All right. And what was the preliminary
12 opinion already existed in the file when you started
13 looking at it?

14 A. It was to withhold the information under the
15 law enforcement exception.

16 Q. Now, when you told the lieutenant -- the
17 attorney general that you were available, how soon did
18 you meet with him, if you did?

19 A. It would have been a matter of days between
20 notifying him and scheduling a meeting in his office.

21 Q. Where did you -- you met with him in his
22 office?

23 A. Yes.

24 Q. All right. Was anybody else present in the
25 meeting?

1 A. There were a series of meetings at which
2 Justin Gordon, the chief of the open records division,
3 and Ryan Bangert attended.

4 Q. All right. So at this first meeting were they
5 both present?

6 A. I don't recall if both were present, but there
7 were just in the -- this meeting and the subsequent
8 meeting, they were both in attendance at one or the
9 other.

10 Q. What did the attorney general say in this
11 meeting?

12 A. He asked us to review the file. He asked us
13 what -- what our interpretation of the file was. He
14 told us that he had spoken personally with Mr. Paul. He
15 said that he believed that something bad had happened to
16 Mr. Paul. He felt that Mr. Paul was being railroaded by
17 the FBI and by DPS. And General Paxton said that he
18 didn't trust law enforcement.

19 He asked us to find a way to release the
20 information that had been requested to be withheld.

21 Q. In your experience and your familiarity with
22 the subject, what was your response to that?

23 MR. LITTLE: Objection. Hearsay.

24 MR. HARDIN: It's not. This is the
25 witness. This is his --

1 PRESIDING OFFICER: Overruled.

2 MR. HARDIN: Thank you.

3 A. I told General Paxton that if we were to reach
4 the opposite conclusion and to require the Department of
5 Public Safety to release the information, it would upset
6 decades of precedent involving the law enforcement
7 privilege where law enforcement agencies rely on the
8 protection that the Public Information Act gives it to
9 protect ongoing information, to protect confidential
10 information, to protect witnesses who could be
11 compromised if their names or their identities were
12 released.

13 So there's -- there's incalculable
14 problems with reversing the decision to withhold the
15 information and require it to be produced, not just
16 across the state but with the Office of Attorney
17 General.

18 MR. LITTLE: Mr. President,
19 Mr. President, if I may. A lot of this is in narrative
20 and not responsive to the question.

21 MR. HARDIN: It is exactly responsive.

22 PRESIDING OFFICER: Just state the
23 objection.

24 But sustained. Go ahead.

25 MR. HARDIN: Thank you.

1 Q. (BY MR. HARDIN) What was your opinion based
2 on your experience as a potential danger to innocent
3 citizens who had cooperated with the police, thinking
4 that would be confidential?

5 A. It could silence people who might ordinarily
6 comply or speak to the police, if suddenly their names
7 or identities could be released.

8 Q. So what was the attorney general's reaction
9 when you told him -- first of all, the stuff that you
10 just said, is that essentially in the sense the
11 information you gave him in explaining what your
12 position was?

13 A. Yes, sir.

14 Q. Did anybody else speak up as well?

15 MR. LITTLE: Objection. Hearsay.

16 MR. HARDIN: I asked if anybody else
17 spoke up. That is not --

18 PRESIDING OFFICER: Overruled.

19 MR. HARDIN: Thank you.

20 Q. (BY MR. HARDIN) Did anybody else speak up?

21 A. Ryan Bangert also spoke. I don't recall
22 exactly what he said other than --

23 Q. And what was the attorney general's reaction
24 to all this?

25 A. He, again, insisted that what had happened to

1 Mr. Paul was wrong and that he didn't trust law
2 enforcement.

3 Q. And did he make any distinction about which
4 agencies or did he talk about all law enforcement?

5 A. It was specifically the FBI and the Department
6 of Public Safety.

7 Q. And did he say why he didn't trust them?

8 A. He said that he compared what had happened to
9 Nate Paul to General Paxton's own personal situation
10 involving the Department of Public Safety and the State
11 Securities Board and the FBI.

12 Q. Well, he was -- he was -- were you aware of
13 who provided his security?

14 A. Yes, sir.

15 Q. And who was that?

16 A. The Department of Public Safety.

17 Q. Did he indicate in his comments whether --
18 what his level of feeling or trust or distrust about
19 them was?

20 A. Not to me.

21 Q. All right. Now, how long did he -- when you
22 expressed what his initial opinions were, did he go any
23 further or how did the conversation proceed?

24 A. He asked me if he could obtain a copy of the
25 DPS file.

1 Q. Had you ever been asked or know of any other
2 time where the attorney general had asked to see a
3 particular file that there's a public information
4 request for?

5 A. No, sir.

6 Q. So what did you do?

7 A. I said that it was possible for him to receive
8 a copy of the file.

9 Q. And I believe you said this was around
10 May 15th, did you not?

11 A. Yes, sir.

12 Q. Did you provide him the file?

13 A. Yes, I did.

14 Q. Did it have everything in it?

15 A. It -- yes, sir.

16 Q. Did you take anything out of it?

17 A. No, sir.

18 Q. Were you -- can you tell us whether or not in
19 that file you had there was any brief from the FBI
20 weighing in as to their materials in the file and their
21 position as to whether it ought to be released?

22 A. Yes. The FBI had submitted a brief in
23 response to the DPS request.

24 Q. Was it -- what was the process or procedure
25 within your department if you have a request for open

1 records, people want to get -- some portion of it from
2 another agency, what was your policy as to let the other
3 agency weigh in?

4 A. The Public Information Act requires state
5 agencies to notify the third party whose information may
6 be at stake that they have a right to submit a letter
7 ruling or letter brief to the Office of Attorney General
8 for consideration.

9 Q. So in these circumstances, would it be normal
10 or unusual for y'all to have notified the FBI there was
11 this request that the request was to an agency whose
12 files included FBI materials, would it have been usual
13 or unusual for them to let them know so that they could
14 respond if they wanted to?

15 A. So in this situation involving the DPS
16 request, the Department of Public Safety did notify the
17 FBI that its information may be at stake in this request
18 for a ruling. And the FBI responded by submitting a
19 letter brief to the Office of the Attorney General under
20 the ordinary principles of the statute.

21 Q. Were you aware through these materials in
22 looking through the file that there was an ongoing
23 federal investigation of Mr. Paul at that time?

24 A. Yes. It was clear.

25 Q. Did you take a position with the attorney

1 general that there was an ongoing at least federal -- I
2 don't -- I'm not including right now State because I
3 have no knowledge one way or the other. But that there
4 was at least a federal ongoing investigation of Mr. Paul
5 that release of these documents would interfere with?

6 MR. LITTLE: Objection. Leading.

7 PRESIDING OFFICER: Sustained.

8 Q. (BY MR. HARDIN) Did you inform him one way or
9 the other about -- did you have discussions with him
10 concerning the topic of an ongoing federal
11 investigation?

12 A. Yes.

13 Q. And what did you tell him and what was said?

14 A. It was -- it's my recollection that there --
15 there were discussions about the substance of the brief
16 that the FBI had submitted, the quality of the arguments
17 that they had raised and made.

18 Q. And did -- and did the -- this brief provide
19 details of the ongoing federal investigation?

20 MR. LITTLE: Objection. That will
21 solicit hearsay, Your Honor.

22 MR. HARDIN: No. I've not asked him for
23 communication. I'm just asking whether or not it
24 contained details about it.

25 MR. LITTLE: May I be heard on that?

1 PRESIDING OFFICER: Yes.

2 MR. LITTLE: Mr. President, so Mr. Hardin
3 is asking the witness about the contents of some other
4 document that is not currently in evidence, pretty much
5 right down the fairway of hearsay.

6 MR. HARDIN: I'm not asking --

7 PRESIDING OFFICER: I'm going to sustain.
8 Rephrase your question.

9 Q. (BY MR. HARDIN) I'm not asking you for
10 specifics of what it said. I am only saying: Were
11 there documents and information in this file that
12 would -- that uses the basis of a conversation with the
13 attorney general concerning the presence of an ongoing
14 federal investigation of Mr. Paul?

15 A. Yes, sir.

16 Q. All right. Now, when you gave the file to
17 him, how did that happen? Did you go to his office?
18 What did you do?

19 A. I believe I delivered the file to Andrew
20 Wicker, who is General Paxton's aide at the time.

21 Q. And did you later confirm that Mr. Wicker gave
22 it to the attorney general?

23 A. Yes.

24 Q. And how long was it -- how long was it after
25 they had an event that you retrieved your file from the

1 attorney general?

2 A. Well, as I mentioned, when the Office of
3 Attorney General has to make a ruling, it's on the
4 clock, so we have a timeline. I was -- I was notified
5 by Justin Gordon, the chief of the open records
6 division, that we need to -- needed to make a decision
7 because the clock was coming -- coming up.

8 It was approximately seven to ten days
9 before that when I delivered the file to Andrew Wicker
10 and Mr. Gordon had emailed me asking for a status
11 update.

12 Q. And so then how after -- how long after --
13 back to the original question -- was it from the time
14 you gave it to the attorney general till you -- let me
15 ask you this: Was it ultimately returned to you?

16 A. Yes, it was returned to me.

17 Q. And when was it -- approximately when was it
18 returned to you?

19 A. I believe it was May 28th or May 29th.

20 Q. All right. And in the meantime, were you part
21 of any later conversations, after the one you just
22 relayed, in which you expressed your opinion the
23 attorney general expressed his -- well, let me back up.

24 In that second meeting, counting the
25 first meeting being him asking you to look at the file,

1 okay, the second meeting would be the one we just
2 discussed. In that second meeting, did the attorney
3 general give you any indication as to what he wanted you
4 to do?

5 A. Well, he wanted us to find a way to release
6 the information.

7 Q. And after you expressed yourself, Mr. Bangert
8 expressed himself, the attorney general expressed
9 himself, in that second meeting was there a conclusion
10 as to what was going to happen?

11 A. No, sir, not that I recall.

12 Q. All right. How did the meeting end up?

13 A. We were essentially at an impasse on our
14 recommendation not to release the information and the
15 attorney general's decision to release it in some form.
16 We told the attorney general that we would review our
17 options and follow up with him to see if there's
18 anything else we can look at.

19 Q. What was his position as to whether or not he
20 wanted the -- thought the law enforcement exception
21 should apply?

22 A. He didn't necessarily take a position, that I
23 recall, other than something happened to Mr. Paul, it
24 was wrong, this shouldn't be allowed for the FBI and the
25 DPS to get away with.

1 Q. All right. Now, after that, when was the next
2 time you had any contact with the attorney general on
3 this matter?

4 A. Again, it probably was a matter of days after
5 that, just in light of the timeline and the deadline.
6 We followed up and let General Paxton know that we
7 looked at it again. We didn't think that we could reach
8 an alternative conclusion.

9 Q. And who was the "we" in that part?

10 A. Ryan Bangert and myself.

11 Q. And how did you let the attorney general know?

12 A. We met in his office.

13 Q. And do you recall when this third meeting was?

14 A. I believe it was toward the end of May.

15 PRESIDING OFFICER: Counselor, we're a
16 little past our midafternoon break. Is this a good
17 spot?

18 MR. HARDIN: This is fine.

19 PRESIDING OFFICER: You're fine here.

20 MR. HARDIN: Sure.

21 PRESIDING OFFICER: We'll stand in recess
22 until 3:30.

23 (Recess: 3:09 p.m. to 3:33 p.m.)

24 PRESIDING OFFICER: Mr. Hardin, the floor
25 is yours.

1 MR. HARDIN: Thank you, Your Honor.

2 Q. (BY MR. HARDIN) Now, Mr. Vassar, I'm just
3 curious, what size is this file? You know, it just
4 occurred to me. Everybody's been talking about this
5 file that was essentially an open records request for
6 Nate Paul and all. We've talked about what was in there
7 in terms of descriptions. But what size file are we
8 talking about, just visually?

9 A. It was -- it was a manila envelope that was
10 maybe a quarter inch or less in thickness.

11 Q. All right. And was it actually contained in a
12 manila envelope?

13 A. Yes.

14 Q. So like a -- not a seal, but like a little
15 closing up at the top?

16 A. A label.

17 Q. All right. Did you keep it sealed, or is it
18 just in a manila envelope?

19 A. It's just in an envelope, not -- not with the
20 flap on top, but just a folding manila envelope.

21 Q. I gotcha. All right.

22 Now, at this time, we are -- I think you
23 said somewhere around May 28th, is that right, when the
24 file you're estimating was brought back to you?

25 A. Yes, sir.

1 Q. And that would've meant you said that you
2 believed you gave it to him around when in May?

3 A. The middle of -- the middle of May.

4 Q. So about -- the math would say like 13, 14
5 days, but you give me what your figure is.

6 A. I would say May 23rd.

7 Q. May 23rd when you gave it to him?

8 A. Correct.

9 Q. All right.

10 A. And then it was returned on the 28th.

11 Q. I gotcha.

12 So you didn't have it for about five
13 days?

14 A. Seven to ten days was what I recall. I
15 apologize for the math.

16 Q. All right. So at any rate, that period of
17 time it was out of your possession for the -- to be in
18 the possession of the attorney general, correct?

19 A. Yes, sir.

20 Q. All right. Now, when you got it back, so
21 let's say toward the end of May, what was the next event
22 or conversation you had with anybody -- the attorney
23 general concerning Mr. Paul?

24 A. The last meeting that we had regarding the
25 Department of Public Safety file was that we did not

1 recommend changing our conclusion to protect the
2 information, but that there might be an alternative
3 solution to take in issuing a ruling.

4 Q. Why did you come up with an alternative?

5 A. General Paxton had asked us to find a way to
6 release the information.

7 Q. So who came up with the possible alternative?

8 A. Justin Gordon, who is the chief of the open
9 records division.

10 Q. And what was that partial -- that compromised
11 position?

12 A. It was basically taking a position of no
13 position. So we were not making a ruling saying to
14 withhold the information, and we were not making a
15 ruling to release the information.

16 Q. Had you ever participated in that kind of
17 position before?

18 A. No, sir.

19 Q. Were you aware of it having been done before?

20 A. Not until Mr. Gordon suggested it.

21 Q. And I'm not suggesting to you that never had
22 it before happened in my question in the AG's office. I
23 really am just simply asking were you familiar with it
24 ever having happened before?

25 A. No, not in the open records context.

1 Q. All right. Now, what would be the
2 implications of taking a position of no position? Would
3 that be of any advantage to anyone as opposed to
4 declining to release it?

5 Let's do this. Under no position would
6 there have been three possibilities then that you would
7 be treating that request? Here's what I mean. Just a
8 flat out not -- we're not going to release the
9 information because of law enforcement. That would be
10 one, would it not?

11 A. Yes.

12 Q. Another would be release the information, give
13 it to them as they request. That would be one, right?

14 A. Yes.

15 Q. And then the middle of that would be take no
16 position. Correct?

17 A. That's right.

18 Q. If you take no position, does that have any
19 different consequences than refusing to turn it over?

20 MR. LITTLE: Objection, Mr. President.
21 Calls for speculation on the witness's part.

22 PRESIDING OFFICER: Sustained.

23 Q (BY MR. HARDIN) All I'm really asking you --
24 try to ask you in a way that's acceptable. I'm trying
25 to determine what -- why do no position then as opposed

1 to just you can't have it? What's the significance of
2 no position?

3 A. General Paxton didn't want to -- for it to
4 appear that his office was aiding the Department of
5 Public Safety or the FBI. And so by taking a position
6 of no position, it was semantics, I suppose.

7 Q. Well, what is your testimony as to whether if
8 you say no position in terms of what you're
9 communicating to people outside the agency as to the
10 level of resistance you have to resisting?

11 MR. LITTLE: Objection, Mr. President.
12 Calls for speculation on the witness's part.

13 PRESIDING OFFICER: Sustained.

14 Q. (BY MR. HARDIN) Now, at any rate, was that
15 the decision that was made?

16 A. Yes.

17 Q. No position?

18 A. We -- we were directed to take a position of
19 no position.

20 Q. And in these conversations and all with the
21 attorney general?

22 A. Yes.

23 Q. Had you expressed your position being opposed
24 to that?

25 A. Yes.

1 Q. Had Mr. Bangert expressed his position of
2 being opposed?

3 A. Yes.

4 Q. Was there anybody else involved in talking
5 about it with the attorney general?

6 A. Not with the exception of Mr. Gordon, who had
7 attended one of the series of meetings.

8 Q. All right. And did Mr. Gordon have the same
9 position as y'all did, even though he's the one who came
10 up with no position?

11 A. Yes. His -- my recollection is his initial
12 review was very flattering of the quality and the
13 content in the FBI's letter ruling.

14 Q. Now -- then, after that, did there become a
15 separate issue from reviewing the file? At some time
16 did Mr. Paxton's lawyers' position -- or excuse me --
17 Mr. Paul's lawyer's position become, well, we want the
18 unredacted FBI brief?

19 MR. LITTLE: Objection. Leading and
20 compound.

21 MR. HARDIN: Well, I'll be glad to
22 rephrase that. Let me give it -- if that's okay.

23 PRESIDING OFFICER: I'll sustain it. And
24 rephrase.

25 MR. HARDIN: Thank you very much.

1 Q. (BY MR. HARDIN) So let's go back now. And
2 we -- in that file was there a brief that had been
3 prepared by the FBI saying why the documents should not
4 be released to Mr. Paul?

5 MR. LITTLE: Objection, Mr. President.
6 Asked and answered.

7 PRESIDING OFFICER: Overruled.

8 Q. (BY MR. HARDIN) Was there?

9 A. Yes, there was.

10 Q. And you got to speak into the microphone. Is
11 your microphone on?

12 A. Yes.

13 Q. Okay.

14 A. Yes, there was.

15 Q. That's all right. And you're going to find
16 you get tireder and tireder as the day goes on. You got
17 to stay up there. I speak from experience, okay.

18 In this particular case, did the FBI
19 brief -- what type of information was in the FBI brief
20 if it was not redacted?

21 MR. LITTLE: Objection, Mr. President.
22 This calls for hearsay in the contents of a document
23 that is not in evidence.

24 MR. HARDIN: There's no hearsay at all
25 here. This is simply asking what documents are these.

1 These are not communications. This is nothing --

2 PRESIDING OFFICER: Hold on one second.

3 MR. HARDIN: Excuse me.

4 PRESIDING OFFICER: Overruled.

5 Q. (BY MR. HARDIN) What type of documents were
6 in there?

7 A. The FBI's --

8 Q. Or I say in there. Referred to in the FBI
9 brief.

10 A. Right. The FBI's brief identified emails,
11 text messages, strategic planning, staging locations for
12 the raid in August of 2019. They identified the task
13 force members, the brief identified under seal, probable
14 cause affidavit that said it was filed under seal. And
15 the FBI brief indicated that it -- that seal had not
16 been lifted.

17 Q. And so including all this, when we talk about
18 the affidavit seal, it was actually under seal at that
19 time in a federal court, wasn't it?

20 A. That's what the FBI brief said.

21 Q. A federal judge has ordered it sealed. It had
22 not been unsealed. But if the FBI brief unredacted was
23 released to the object of the investigation, that person
24 would have all kinds of information that a federal judge
25 had sealed, correct?

1 MR. LITTLE: Objection, Mr. President.
2 Leading.

3 MR. HARDIN: I'm asking just is that
4 correct?

5 PRESIDING OFFICER: Sustained.
6 Rephrase.

7 Q. (BY MR. HARDIN) What type of information --
8 and without going into the details of -- let me back up
9 this way.

10 In the FBI brief, did they -- without
11 saying right now what they were saying -- did they lay
12 out sources, names of witnesses, background and history
13 of the investigation, personal data of investigating
14 officers, and personal data on individuals? Was that
15 included in the FBI brief as they argued against its
16 disclosure?

17 MR. LITTLE: Objection, Mr. President.
18 Once again, this is not -- the witness's testimony is
19 not the best evidence. And the content of this material
20 has not been entered into evidence and it remains
21 hearsay.

22 MR. HARDIN: Your Honor, surely we can't
23 keep that information from this record. I'm asking him
24 simply of the types of information was in there.

25 PRESIDING OFFICER: I will overrule. You

1 can ask for the types of information.

2 MR. HARDIN: Thank you, Your Honor.

3 Q. (BY MR. HARDIN) So I believe my question was
4 in the FBI brief, did they -- without saying right now
5 what they were saying -- did they lay out sources, names
6 of witnesses, background, history of the investigation,
7 personal data of investigating officers, and personal
8 data on individuals, was that included in the FBI brief
9 as they argued against this disclosure?

10 A. Yes. That was all the content of the probable
11 cause affidavit that I recall.

12 Q. So was it -- what was your understanding as to
13 whether or not lawyers for Mr. Paul were asking for
14 things to be disclosed by the attorney general's office
15 that a federal judge had refused to disclose and sealed?

16 MR. LITTLE: Objection, Mr. President.
17 Leading.

18 MR. HARDIN: I can --

19 PRESIDING OFFICER: Sustained.

20 MR. HARDIN: I can ask it another way.

21 Q. (BY MR. HARDIN) Were you aware that a federal
22 judge had placed these documents under seal?

23 A. Yes, sir. Based on the content of the FBI
24 brief that indicated that the records were sealed and
25 that the probable cause affidavit was identified as

1 sealed.

2 Q. So essentially was the attorney general of the
3 State of Texas seeking to reveal to a person under a
4 federal investigation the basis of the evidence so far
5 that the government had against him?

6 MR. LITTLE: Objection. Leading.

7 PRESIDING OFFICER: Sustained.

8 Can you rephrase that?

9 MR. HARDIN: Sure.

10 Q. (BY MR. HARDIN) Was there a clear clash here
11 between what the judicial system had decided somebody
12 that should be sealed versus a man under investigation
13 seeking the sealed information?

14 A. Yes. That was my opinion.

15 Q. And was the information he was seeking
16 potentially harmful and dangerous to other people to be
17 disclosed?

18 A. I believe so. To the extent it revealed the
19 law enforcement information within the probable cause
20 affidavit, the investigators that were involved, and
21 other government officials that participated in the
22 decision.

23 Q. All right. So how did it proceed now about
24 whether or not -- and by the way, by this time, can you
25 give us a time frame where all of a sudden they're

1 seeking the FBI brief?

2 A. I believe the request was submitted May 24th
3 of 2020. So it was in the middle of our conversations
4 about the DPS file itself.

5 Q. All right. And did they -- when they were
6 seeking it, how long do you think it was before y'all
7 provided an answer?

8 A. I think the answer was due sometime in July.
9 I want to say July 28th.

10 Q. Of their open records request for the FBI
11 brief? Is that what you mean?

12 A. Correct.

13 Q. Okay.

14 A. So if I can lay it out --

15 Q. Yeah, please.

16 A. -- on the calendar.

17 Q. Please.

18 A. The DPS file was due June 2nd. The request by
19 Nate Paul's lawyers to the AG's office for the FBI brief
20 was received May 24th. I believe the deadline to issue
21 that ruling was July 28th, just based on the 45-day or
22 55-day time period.

23 Q. Mr. Vassar, if we do this in a time frame,
24 what is your testimony as to whether or not the request
25 for the FBI brief by itself came before the no decision

1 on the release of the DPS file? Did it become before or
2 after?

3 A. It -- it came before, because the DPS decision
4 was not issued until June 2nd.

5 Q. All right. When the June 2nd position was
6 issued -- I believe that was what you said, was the no
7 decision; is that right?

8 A. Correct.

9 Q. All right. Now, any time after y'all said no
10 decision, was there any attempt anymore by people on
11 that Mr. -- Mr. Paul's position -- excuse me -- was
12 there any attempt any longer to get access to the whole
13 file?

14 A. No, not to my knowledge. So just generically
15 under the Open Records Act, when the Office of Attorney
16 General makes a ruling, the parties have the right to
17 appeal that ruling to the district court. I'm not aware
18 if that happened.

19 Q. That's another way. So to your knowledge are
20 you familiar whether or not after y'all said no to the
21 DPS file on June 2nd, was there any attempt by
22 Mr. Paul's lawyers to appeal that to a district court as
23 they were entitled to?

24 A. I'm not advised of that.

25 Q. And instead, did they move to be trying to get

1 an unredacted version of the FBI brief?

2 A. It's -- the time lines are suspicious.

3 Q. And they're suspicious for what reason?

4 MR. LITTLE: Sorry. Mr. President, I'm
5 going object to the witness's speculation and
6 unresponsive statement. And ask Your Honor to strike it
7 from the record.

8 PRESIDING OFFICER: We'll sustain that
9 and strike that from the record.

10 You can ask another question.

11 Q. (BY MR. HARDIN) When you issued no opinion on
12 June 2nd, was there, in that no opinion, a redacted
13 version of the FBI brief?

14 A. No, sir.

15 Q. All right. As of June 2nd, did they -- they
16 had access to the FBI brief with the probable cause
17 affidavit, setting out the basis for the search and
18 arrest?

19 MR. LITTLE: Objection. Vague.

20 MR. HARDIN: Sorry. Excuse me just a
21 second. I'm sorry.

22 MR. LITTLE: Please.

23 MR. HARDIN: Strike the word "arrest."
24 It wasn't arrest. I didn't mean that.

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

1 MR. LITTLE: Objection, Mr. President.
2 Calls for speculation. I understand the question to be
3 asking for what Nate Paul's lawyers did or didn't have,
4 unless I misunderstood Mr. Hardin.

5 PRESIDING OFFICER: Objection sustained.

6 MR. HARDIN: Would it change if I said he
7 misunderstood me?

8 PRESIDING OFFICER: Give a try.

9 MR. HARDIN: All right. No problem.

10 Q. (BY MR. HARDIN) All right. Now, let's do
11 this. What was the decision -- was -- did you have any
12 conversations with the attorney general on the issue of
13 releasing to Mr. Paul the FBI brief?

14 A. Yes.

15 Q. What did -- how did those conversations
16 happen, when, where?

17 A. They coincided with our conversations about
18 the DPS file, just given that the time lines overlapped.

19 Q. All right. So can you estimate the time frame
20 when you talked to the AG about whether to release the
21 FBI brief?

22 A. I believe it was the last week of May.

23 Q. And when you did so, what did you do? I mean,
24 what was the decision? Can you tell me what the
25 attorney general said?

1 A. I had notified General Paxton that the office
2 had received a public information request related to the
3 DPS file, and it was a request for the unredacted FBI
4 brief that the -- that the FBI had submitted.

5 Q. And what was his response?

6 A. He asked to see a copy of the two briefs, the
7 redacted version and the unredacted version.

8 Q. Did you give them to him?

9 A. Yes.

10 Q. What happened next?

11 A. We met maybe the next day, and he showed me
12 the two versions that I had sent to him and he had
13 highlighted and circled and marked up some of the
14 documents. And he stated to me that he didn't see
15 anything in here that should be withheld.

16 Q. Attorney General of the State of Texas are you
17 saying actually went over the affidavit and the brief,
18 all the information that was referred to in the brief
19 and made circles himself on it?

20 A. He -- he marked up the copies of the letter
21 brief that the FBI had submitted to the Office of
22 Attorney General.

23 Q. And the attorney general decided -- what had
24 been your advice as to whether it should be released?

25 A. Well, the initial step in that process would

1 have been to notify the FBI that the office had received
2 a request for its information.

3 Q. Did you do that?

4 A. I -- yes, I did not personally, but --

5 Q. Was it done?

6 A. It was -- yes, sir, it was done.

7 Q. And what was the status? Were you waiting for
8 their response?

9 A. Yes.

10 Q. What was the -- did the attorney general have
11 a position about that?

12 A. On the response?

13 Q. Yes.

14 A. So it was my understanding that there was a
15 delay in either connecting with the FBI or the correct
16 person to make a decision on whether to respond and how
17 to respond. After a follow-up attempt to contact their
18 office, I don't know the content of that conversation,
19 but I know we made a couple of attempts to contact them.

20 Q. And then when you were unsuccessful in
21 figuring out who in the FBI to talk to, what happened
22 then?

23 A. After mentioning all of these sequences of
24 events to General Paxton, he directed us to let the
25 brief go out.

1 Q. And he had earlier told you he didn't see
2 anything that was a problem releasing?

3 A. That's right.

4 Q. Do you know anything about the criminal law of
5 practice history that attorney general might have been
6 particularly informed about to make those kind of
7 decisions?

8 MR. LITTLE: Objection, Mr. President.
9 Calls for speculation.

10 MR. HARDIN: No, I -- rephrase it to make
11 sure it's understood.

12 PRESIDING OFFICER: Sustained.

13 Q. (BY MR. HARDIN) Do you know of anything that
14 you ever witnessed or observed in terms of knowledge,
15 background, or history of the attorney general to be
16 making a decision about what law enforcement information
17 should and should not be released?

18 A. No, sir.

19 Q. All right. Now, when you released -- so
20 the -- are you saying that the attorney general's office
21 released an FBI brief unredacted to the subject of a
22 federal investigation, in spite of it having pointed out
23 that the information in there currently was under seal
24 with a federal judge?

25 MR. LITTLE: Objection, Mr. President.

1 Leading.

2 MR. HARDIN: I don't think that's
3 leading. I can --

4 PRESIDING OFFICER: Leading. Sustained.

5 MR. HARDIN: Pardon me?

6 PRESIDING OFFICER: Sustained.

7 Rephrase.

8 MR. HARDIN: All right.

9 Q. (BY MR. HARDIN) Tell us exactly what the
10 consequences and what he did when he ordered that brief
11 to be released to the subject of a federal
12 investigation?

13 A. So the decision to release the information was
14 done under the Public Information Act in order to reach
15 a decision that we -- that the office was required to
16 make in response to a request for information. Based on
17 what I recall, the absence of the third party responding
18 or responding in time or informing the office that it
19 didn't intend to fight the -- the release resulted in a
20 release under the act.

21 Q. Well, would you have released it even if you
22 were making the decision -- let me put it this way.

23 You, as a courtesy, tell fellow law
24 enforcement agencies this is under consideration.

25 Correct?

1 A. It's -- it's a required notice under the
2 Public Information Act.

3 Q. And your process is -- are you allowed and
4 able to review law enforcement information from another
5 agency. And even if you don't hear from that agency one
6 way or the other, do you have the authority to declare
7 the law enforcement exception to apply and hold it back,
8 even if you don't hear from the other agency?

9 A. There are cases -- there are situations in the
10 open records context when the open records division may
11 raise exceptions based on the information that it
12 reviews that may not have been raised by the parties.

13 Q. In this particular case, what was your
14 position, even when you had not heard from the FBI yet,
15 what was your position as to whether this FBI brief
16 unredacted should be released to the subject of the
17 investigation?

18 A. I believe that it should have been withheld
19 just based on the content of the document.

20 Q. And did you argue that position?

21 A. Yes.

22 Q. Did you argue that position even when you had
23 not heard yet from the FBI?

24 A. Yes.

25 Q. And once that information is released, is it

1 released under any conditions, or can the recipient
2 share it with anybody he wants to?

3 A. It's not released under any conditions.

4 Q. So when you release law enforcement
5 information through a Freedom of Information Act or
6 public records request, once that information is out, if
7 anybody wants to find out, what would be the possibility
8 if anybody with larceny in their heart wants to know
9 addresses, names, all kind of personal information about
10 law enforcement or witnesses, would they potentially
11 have access to it if the possessor wants to give it to
12 them?

13 MR. LITTLE: Objection, Mr. President.
14 This is leading and calls for speculation on
15 Mr. Vassar's part.

16 PRESIDING OFFICER: Sustained.

17 Q. (BY MR. HARDIN) Mr. Vassar, are you aware
18 that in September of 2020, a quote special prosecutor
19 was serving subpoenas using the names and addresses of
20 officials that appeared in the file that your agency
21 released?

22 MR. LITTLE: Objection, Mr. President.

23 Q. (BY MR. HARDIN) Are you aware of that?

24 MR. LITTLE: I'm sorry. Objection,
25 Mr. President.

1 MR. HARDIN: That is why this is
2 relevant --

3 PRESIDING OFFICER: No, don't talk to
4 each other.

5 What is your objection?

6 MR. LITTLE: Objection. Assumes facts
7 not established in evidence in this trial, Your Honor.

8 MR. HARDIN: Your Honor, I swear to you
9 under my oath as a lawyer you're going to have that
10 evidence presented. Now --

11 PRESIDING OFFICER: I don't have it now.

12 MR. HARDIN: Pardon me?

13 PRESIDING OFFICER: We don't have it now.

14 MR. HARDIN: I know, but it's coming.

15 The point being is I'm going to ask him if he was aware
16 the event happened. When he talks about evidence not be
17 before the Court as yet, I'm seeking to find out if he's
18 aware how this information was used. He can say he's
19 not aware and that ends the inquiry.

20 But if he says he does, it points out the
21 danger of what exactly happened here in this case, which
22 is at the heart of the major impeachment contentions
23 that we have.

24 MR. LITTLE: Mr. President, may I be
25 heard?

1 PRESIDING OFFICER: Yes.

2 MR. LITTLE: I've great esteem for my
3 colleague. However, "I promise it's coming" is not a
4 proper response to that objection.

5 PRESIDING OFFICER: Sustained.

6 Q. (BY MR. HARDIN) I'll ask this question. Was
7 the type of information I talked to you about available
8 then to the recipient once you released the FBI brief?

9 MR. LITTLE: Mr. President, same
10 objection. Same horse, different question.

11 MR. HARDIN: Still a legitimate question.
12 The question was, was it available to the recipient.
13 That's all. I haven't asked about anybody else you
14 haven't heard information about. I'm talking about the
15 person in this case, Nate Paul.

16 PRESIDING OFFICER: In this case,
17 Counselor, I'll overrule.

18 Go ahead.

19 Q. (BY MR. HARDIN) Was it?

20 A. The information that would have been in the
21 FBI brief is what would have been disclosed to the
22 requestor.

23 Q. Thank you.

24 Now, can I move on to -- is that the last
25 contact -- to your knowledge, did the representatives of

1 Nate Paul make any more attempt after you released the
2 FBI brief? Was there any more attempt to get the
3 information from the DPS?

4 A. Not to my knowledge.

5 Q. So what is your testimony, as to whether or
6 not after you issued no opinion but then released the
7 FBI brief, was there any more attempt to try to get to a
8 fuller file of DPS?

9 A. Not to my knowledge.

10 Q. And was any lawsuit to your knowledge filed in
11 state court to try to get it?

12 A. No, sir.

13 Q. What did that indicate to you?

14 A. They may have gotten the information.

15 Q. From some other way?

16 A. Yes, sir.

17 Q. All right. Now, if we can, when's the next
18 thing you had to do with Mr. Nate Paul?

19 A. Well, unknown to me at the time, Ryan Bangert
20 contacted me on July 31st, which I think was a Friday,
21 in the evening. And asked me about our foreclosure
22 opinion.

23 Q. Did you -- and how did that come about? That
24 was -- do you remember what day of the week that was?

25 A. It was a Friday. Friday evening.

1 Q. All right. And, Mr. Vassar, what did you
2 understand that your responsibilities and mission were?

3 A. So Mr. Bangert contacted me and told me that
4 we needed to look into foreclosure sales.

5 Q. And did you understand -- who did you
6 understand this was a request from that you were asked
7 to do this?

8 A. From General Paxton.

9 Q. Do you recall where you were when you got the
10 information?

11 A. I was at home.

12 Q. And what did you do as a result?

13 A. I start -- I responded to Mr. Bangert over the
14 phone and told him that I would look into it. I would
15 give him a first draft as soon as I could.

16 Q. Now, what time of day -- first of all, what
17 day of the week was it?

18 A. Friday.

19 Q. And what -- what time was it on Friday night
20 that Mr. Bangert called you?

21 A. Between 5:00 and 7:00. I mean, it was -- it
22 was --

23 Q. And at that time did you understand in
24 response to the initial call there was any urgency one
25 way or the other?

1 A. Yes, it was a --

2 Q. And when -- the urgency, when you were
3 supposed to try to have this opinion?

4 A. As soon as possible.

5 Q. What did that mean to you?

6 No, it's okay. Go ahead.

7 A. I was -- I told Ryan that I would get him a
8 draft sometime that evening, if not first thing in the
9 morning.

10 Q. All right. Did you do that?

11 A. Yes.

12 Q. And then what did you do the rest of the
13 morning in connection with it?

14 A. Ryan and I spoke about the draft. He agreed
15 with the initial conclusion, which decided that
16 foreclosure sales should be allowed to proceed under the
17 governor's executive order at the time.

18 Q. All right. And were the two of you in
19 agreement with that?

20 A. Yes.

21 Q. About what time of day did y'all get a
22 document that you thought was sufficient to send over to
23 the attorney general as a draft?

24 A. It was probably 11:00 to 12:00 on Saturday,
25 that next day.

1 Q. What's the next thing you did in connection
2 with it?

3 A. Ryan called me not long after that, probably
4 30 to 45 minutes after he had sent it to General Paxton.

5 Q. Were you aware as a result of that phone call
6 whether he had talked to the attorney general?

7 A. Yes.

8 Q. And as a result, what did you understand your
9 new mission was?

10 A. I understood that General Paxton said that we
11 got the wrong answer.

12 Q. All right. So the wrong -- the right answer
13 had been what in your view?

14 A. Well, based on the office's position on
15 numerous COVID-related matters, we had erred on the side
16 of opening Texas, not closing Texas or prohibiting
17 people from gathering. We had issued number -- a number
18 of opinions relating to houses of worship, election
19 issues, and schools, all of them encouraging opening,
20 not closing it. So the initial conclusion was based on
21 my understanding of the office's position throughout the
22 summer.

23 Q. And did you make a legal determination that --
24 that went in line with what you believe the office
25 policy was?

1 A. Yes.

2 Q. And then what happened when you were told you
3 had the wrong answer? What did you do?

4 A. I laughed.

5 Q. Why'd you laugh?

6 A. I -- I just -- because I found out that I had
7 gotten the wrong answer when I believed I had reached
8 the right answer, just based on the office's position
9 throughout the summer.

10 Q. All right. So then what did y'all do?

11 A. I told Ryan that I would take a look at
12 reaching a different conclusion. I think he volunteered
13 to do that, and made modifications to the draft that I
14 had sent him.

15 Q. Now, you two guys are deputy chiefs of the
16 whole office. Right?

17 A. Ryan at the time was deputy first assistant,
18 and I was deputy for legal counsel, yes, sir.

19 Q. Were you -- you were pretty high up in the --
20 in the food chain, were you not?

21 A. Yes, sir.

22 Q. How often do you two write opinions?

23 A. Rarely.

24 Q. Do you have any idea why the two of y'all were
25 doing it rather than very capable lawyers underneath you

1 in the litigation section?

2 A. I think it was a priority issue that General
3 Paxton wanted someone to get it done as quickly as
4 possible.

5 Q. All right. So -- so who did the main drafting
6 the second time?

7 A. It was essentially the same shell of the first
8 draft. And Ryan Bangert revised the conclusion to
9 conclude that foreclosure sales should not proceed.

10 Q. Were you -- were you aware of, at that time,
11 any contacts that Mr. Bangert and the attorney general
12 were having in drafting the opinion?

13 A. I knew that Ryan Bangert was speaking with
14 General Paxton.

15 Q. And were you getting any kind of progress
16 request or were you aware of how often they were
17 speaking one way or the other?

18 A. No.

19 Q. All right. And then did you -- was it any
20 challenge to rewrite it?

21 A. Well, we had to go back and adjust the
22 analysis to the extent we could, based on the position
23 that we had taken initially.

24 Q. All right. Now, once you completed it --
25 about what time in the morning on Sunday did you

1 complete it?

2 A. I spoke with Ryan throughout the day on
3 Saturday, after we were exchanging drafts and trying to
4 reach an opposite conclusion. It's my understanding
5 that he finished around midnight on Saturday evening.

6 Q. Was he passing on to and y'all discussing at
7 that time any involvement of the attorney general in the
8 editing process?

9 A. I was not involved in any conversations
10 direct --

11 Q. That was going to be my next question. So
12 during that entire evening that night, is it correct to
13 say you were not dealing with the attorney general, only
14 Ryan was?

15 A. That's right.

16 Q. Okay. Now, once it was produced, at any time
17 during that process, did you have any idea whether or
18 not this was something that would or would not benefit
19 Nate Paul?

20 A. No, sir.

21 Q. Did you later change your opinion or your
22 sense of awareness?

23 MR. LITTLE: Objection, Mr. President.
24 This calls for speculation.

25 MR. HARDIN: I'm only asking about his

1 mind state. I'm not asking about --

2 PRESIDING OFFICER: Overruled.

3 MR. HARDIN: Thank you.

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

5 A. Yes, sir. I believe Monday, the next -- or --
6 I think it was Tuesday.

7 Q. And what changed your mind Tuesday?

8 A. Well, foreclosure sales across the state are
9 held on the first Tuesday of each month. So when the
10 opinion was announced on our website on Sunday at
11 roughly 1:00 in the morning, the foreclosure sale was
12 reported in the media to have been --

13 MR. LITTLE: Objection, Mr. President.
14 Any reports in the media would be obvious hearsay and
15 inadmissible.

16 PRESIDING OFFICER: Sustained.

17 Q. (BY MR. HARDIN) All right. All I'm going to
18 ask you is: Did news reports provide you information
19 that changed your sense of awareness?

20 MR. LITTLE: Same objection.

21 Q. (BY MR. HARDIN) I'm not asking you what you
22 heard. I'm not asking you what you read. Not asking
23 you any hearsay or anything. Just simply: Did news
24 reports later change your sense of awareness, whatever
25 it was?

1 PRESIDING OFFICER: He just -- excuse me.
2 He's just asking about did it, not what was in them.
3 Overruled.

4 A. Yes.

5 Q. (BY MR. HARDIN) All right. Now, at the end
6 of the day, did -- whatever that opinion was, did that
7 concern you? And if so, why?

8 A. Well, not at the time. It was odd, but it
9 wasn't concerning. But I was -- at the time I had no
10 context for who was involved or or what it was for.

11 Q. And then once you did have a context about who
12 might be involved, did that change -- what was your
13 reaction to that?

14 A. It -- it was even stranger that we would have
15 gone through that effort to become involved in a
16 potential Nate Paul-related issue involving foreclosure
17 sales.

18 Q. Okay. Now, after that opinion was done, did
19 you have anything else to do with anything that Mr. Nate
20 Paul and his businesses did, whether it was later
21 bankruptcy or any other events? Did you know anything
22 else -- did you have anything else to do on that front,
23 on the foreclosure front, with Mr. Nate Paul or his
24 affairs?

25 A. No, sir.

1 Q. All right. Now, let's go to the final area I
2 want to talk to you about. Was it your -- tell us what
3 your responsibilities were if somebody above you or
4 below you wants to do a contract with an outside lawyer.
5 Let's start here.

6 What was the policy generally of
7 outside -- of getting outside law firms within the
8 agency? How would that happen ordinarily?

9 A. So ordinarily with an agency of 800 lawyers
10 and 4,000 employees, there are sometimes a need to
11 retain outside counsel. That could be because it's a
12 specialized area of law. Intellectual property law
13 where the Office of Attorney General doesn't employ IP
14 lawyers. It could also be a local counsel issue. If
15 the State of Texas wants to intervene in a Virginia
16 case, the office would need local counsel. So there are
17 unique instances where we would have engaged outside
18 counsel to represent the agency.

19 All of those requests are managed by the
20 general counsel division, which I oversaw in my role as
21 deputy attorney general for legal counsel.

22 Q. Well, now, how often in your memory have you
23 ever recall outside counsel being retained to do a
24 criminal investigation?

25 A. None.

1 Q. Ever?

2 A. No, sir.

3 Q. All right. And why is that?

4 A. Mostly just because the prosecutors and the
5 attorneys in the office would handle that work.

6 Q. So when did you first become aware that the
7 attorney general wanted to hire an outside law firm for
8 a criminal investigation regarding the complaints of
9 Nate Paul?

10 A. Well, the first time that General Paxton
11 contacted me I believe was in the middle of August of
12 2020.

13 Q. And what was the nature of that contact?

14 A. He wanted to know what the basic process was
15 to retain outside counsel.

16 Q. What did you tell him?

17 A. I told him exactly what I just explained to
18 this chamber of there has to be a request. There has to
19 be a specific need. The attorneys have to be vetted to
20 ensure that there's no potential conflicts of interest.
21 And there's a formal approval memorandum and an outside
22 counsel contract template that is signed by the attorney
23 and the law -- and the Office of Attorney General.

24 MR. HARDIN: So can we have H --
25 Exhibit -- our Exhibit 160, please, Stacey.

1 Is that not in evidence? All right. We
2 move to offer -- we move into evidence 160.

3 MR. LITTLE: No objection at all,
4 Mr. President.

5 PRESIDING OFFICER: Show 160 be admitted
6 into evidence.

7 (HBOM Exhibit 160 admitted)

8 Q. (BY MR. HARDIN) Now, I'll represent -- well,
9 you tell me. What is Exhibit -- do you have a hard
10 copy?

11 A. It's on the screen right now.

12 Q. Okay. Do you recognize what it is?

13 A. I do. It's an email from myself to General
14 Paxton's Proton Mail email address dated September 3rd
15 of 2020.

16 Q. Now, it's a different type of email address
17 than the address than the official attorney general
18 email route, isn't it, or is it?

19 A. It is.

20 Q. What is a Proton address?

21 A. I'm not -- I'm not sure. I -- I believe it's
22 a private email --

23 Q. All right.

24 A. -- service.

25 Q. Well, it's been suggested by his lawyers that

1 that's very frequently used in your -- in your
2 organization. Is that true? And does a Proton email
3 address in addition to your official one very commonly
4 used with the people in the office?

5 MR. LITTLE: Objection, Mr. President.
6 Lack of foundation. And calls for speculation by
7 Mr. Vassar.

8 MR. HARDIN: No, no, no. They can't do
9 what they did. You heard the cross-examination in this
10 case talking about how common and ordinary it was and
11 everything. Surely I am allowed to ask this witness if
12 that's true.

13 MR. LITTLE: Mr. President --

14 MR. HARDIN: That's all I'm doing.

15 MR. LITTLE: I'm sorry. Mr. President, I
16 believe we've invoked the rule. And perhaps should not
17 be talking about what other witnesses testify to with
18 this witness.

19 PRESIDING OFFICER: I was getting ready
20 to say that.

21 MR. HARDIN: Pardon me?

22 PRESIDING OFFICER: I was getting ready
23 to say that. Sustained. And you should not be talking
24 about other testimony given in that specific instant.

25 Q. (BY MR. HARDIN) Well, let me ask you. If one

1 were to contend it is commonly used within your agency
2 to have a Proton email address, would that be accurate
3 or inaccurate?

4 MR. LITTLE: Objection, Mr. President.
5 Calls for speculation.

6 MR. HARDIN: Your Honor, this is
7 really --

8 PRESIDING OFFICER: Overruled.
9 Go ahead.

10 MR. HARDIN: Thank you.

11 A. Not to my knowledge --

12 Q. (BY MR. HARDIN) Pardon?

13 A. Not to my knowledge. It would not be ordinary
14 to me. I am not even sure what it was.

15 Q. Yes. I'm not trying to suggest it's never
16 done. But in your experience, have you frequently or
17 infrequently been dealing with official business in your
18 agency with a Proton email address?

19 MR. LITTLE: Objection. Relevance.

20 MR. HARDIN: I asked whether --

21 PRESIDING OFFICER: Overruled.

22 MR. HARDIN: Thank you.

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

24 A. No, sir.

25 Q. All right.

1 A. This could be the first time that I have used
2 that email address for General Paxton before I -- I
3 hadn't seen it before.

4 Q. How did you know to use it here?

5 A. I think I asked him for his email address that
6 he wanted me to send the contract to, the draft.

7 Q. The general himself?

8 A. Yes, sir.

9 Q. So you're saying that five years you've been
10 there, this email address is the first time you ever
11 used it in dealing with -- in dealing with him?

12 MR. LITTLE: Objection. Leading.

13 MR. HARDIN: I'm asking -- just try to be
14 clear.

15 PRESIDING OFFICER: Sustain the
16 objection, but rephrase.

17 MR. HARDIN: Thank you.

18 Q. (BY MR. HARDIN) Is -- in this particular
19 case, do you recall when he gave you this -- how did he
20 ask you to do it, first of all? Did he call you, drop
21 in on you, or how did this happen?

22 A. The first time was a phone call, when he asked
23 about the basic process for retaining outside counsel.
24 The second, he came into my office on September 3rd and
25 he instructed me to draft a contract for Brandon

1 Cammack.

2 Q. And then did he tell you at that occasion
3 where to send it?

4 A. Possibly, if I -- if I didn't follow up with
5 him to ask him, he could have instructed me in my office
6 on that day of where to send it.

7 Q. Ordinarily if he -- if you sent it to his
8 regular official agency email address, who would have
9 access to it?

10 A. I believe the assistant has access to his
11 email box. I don't know if -- if he had access.

12 Q. Would this Proton address be on access with
13 other people -- is there any way other people would be
14 aware of it or ultimately run into it? If you sent
15 something at this address, does that become available to
16 others, or would it be only to the user of this email?

17 MR. LITTLE: Objection, Mr. President.

18 Q. (BY MR. HARDIN) If you know.

19 MR. LITTLE: Calls for speculation. Lack
20 of foundation. Assumes facts not in evidence.

21 MR. HARDIN: I'm not asking for -- I
22 don't know what facts are not in evidence I have talked
23 about. I simply want -- am trying to find out is if
24 this is used, would that then be restricted in
25 availability to the attorney general. That's all I'm

1 asking.

2 MR. LITTLE: And, Mr. President, what I
3 will renew is my objection that there is no foundation
4 laid for Mr. Vassar to know anything about what the
5 other agency employees can access or cannot access.

6 PRESIDING OFFICER: Sustained.

7 Q. (BY MR. HARDIN) Now, when you sent him this
8 contract, did you draft anything in there that was a
9 little different?

10 A. Well, I drafted the scope of work.

11 Q. And when the attorney general asked you to do
12 the draft, was anybody else around you when he asked you
13 to send it?

14 A. No, sir.

15 Q. Did he describe to you what he wanted this
16 person to get a contract for?

17 A. Yes.

18 Q. What did he tell you?

19 A. It was my understanding that Mr. Cammack was
20 being hired as a second set of eyes, if you will, to
21 review the Travis County District Attorney's referral of
22 the complaint involving Nate Paul.

23 Q. And had you been ever asked to do that in the
24 criminal law area before?

25 A. No, sir.

1 Q. When was the last time you had done an outside
2 agency contract for somebody to do a criminal
3 investigation?

4 A. I can't recall when.

5 Q. Does that mean you don't remember any?

6 A. That's -- that's right.

7 Q. All right. So when you did that, did you
8 have -- pay attention to particular concern as to how to
9 limit the scope of work?

10 A. Yes, sir.

11 Q. Why did you do that?

12 A. Well, the referral from Travis County used
13 specific language about providing assistance to Travis
14 County.

15 Q. Did the referral -- did you look at it at the
16 time, the referral?

17 A. I -- the first time I was given a copy of the
18 referral from Travis County was September 3rd.

19 Q. Were you aware at that time one way or the
20 other of any conversations and disagreements that had
21 been occurring internally as to whether Mr. Cammack
22 should be hired to do this? Were you aware through
23 talking to other people or any other source?

24 MR. LITTLE: Objection, Mr. President.
25 That response would call for hearsay.

1 MR. HARDIN: I'm not asking for the
2 statements yet. I'm asking if he's aware of anything.

3 PRESIDING OFFICER: I'm going to sustain.
4 Would you re-ask the question?

5 MR. HARDIN: Thank you.

6 Q. (BY MR. HARDIN) So at that time were you
7 aware of any other concern about this matter, namely
8 Mr. Cammack being hired to review a criminal
9 investigation or whatever the assignment was, were you
10 aware one way or the other as to whether there was any
11 opposition by other people in the organization to hiring
12 Mr. Cammack for this project?

13 MR. LITTLE: Objection, Mr. President.
14 That would be derivative of hearsay.

15 MR. HARDIN: I have asked simply whether
16 he's aware --

17 PRESIDING OFFICER: Overruled.

18 MR. HARDIN: Thank you.

19 PRESIDING OFFICER: He can answer.

20 Q. (BY MR. HARDIN) Are you?

21 A. Yes, sir.

22 Q. Is that another reason you wanted to be
23 cautious?

24 MR. LITTLE: Objection. Leading.

25 MR. HARDIN: All right. That's fair

1 enough.

2 PRESIDING OFFICER: Sustained.

3 MR. HARDIN: Thank you. Thank you,
4 Judge.

5 Q. (BY MR. HARDIN) Were you -- because without
6 going into what you said, had you had conversations
7 before September 3rd with the attorney general about
8 this matter?

9 A. Yes, sir.

10 Q. When did you have your first conversation with
11 him about it?

12 A. The first time would have been when he asked
13 about the basic process. That would have been around
14 August 15th.

15 Q. And at that time did he talk to you at all
16 about what he had in mind?

17 A. No, sir. It wasn't until the week of
18 August 26th, I believe, when I was on vacation. General
19 Paxton called me and asked me to explain the process,
20 the basic process, to two individuals.

21 Q. Did he mention Mr. Cammack's name?

22 A. Yes.

23 Q. What did he say to you?

24 A. He just asked me to contact both of the
25 individuals, explain the process to them, and that these

1 were the two individuals that --

2 Q. The other -- the other person -- well, why two
3 individuals? Was there somebody else under
4 consideration?

5 A. There were two names that General Paxton gave
6 me.

7 Q. What was the other name he asked you to
8 prepare a potential contract for?

9 A. Joe Brown.

10 Q. All right. Mr. Joe Brown had been a previous
11 U.S. attorney, had he not?

12 A. That -- yes, sir.

13 Q. All right. Now, so did you prepare a contract
14 like we just introduced for both -- both Mr. Cammack and
15 Joe Brown?

16 A. No, sir.

17 Q. All right. Whom did you prepare the contract
18 for exclusively?

19 A. So the only contract that was prepared in this
20 matter was for Brandon Cammack.

21 Q. And why did you not do one for Mr. Brown?

22 A. Based on when the attorney general came into
23 my office on September 3rd and directed me to prepare a
24 contract for Brandon Cammack, it was my understanding
25 that there was no longer any need for a contract for

1 Mr. Brown.

2 MR. HARDIN: All right. I want to take
3 the contract now, Stacey, if you could put up -- I move
4 to introduce 160. I'm not sure I got a reaction one way
5 or the other.

6 MR. LITTLE: Mr. Hardin, you admitted it.

7 MR. HARDIN: Thank you.

8 MR. LITTLE: Yes.

9 PRESIDING OFFICER: Yeah, it's admitted.

10 MR. HARDIN: Thank you, Your Honor.

11 Q. (BY MR. HARDIN) I want to move on this
12 contract of September 3rd over to the addendum. Can you
13 go to the next-to-last page, which says Addendum A. You
14 have that?

15 A. Yes, sir.

16 Q. And is there a portion of this contract in
17 this addendum that you can direct the Court and the jury
18 to that will show how you tried to restrict the scope of
19 activity in this contract?

20 A. Well -- and, again, this was -- this was all
21 drafted based on my understanding of General Paxton's
22 decision of what Mr. Cammack should be doing, as well as
23 the conversations about the Travis County referral and
24 the extent to which it authorized our office to assist.

25 You can see that the first paragraph

1 specifically refers to certain criminal violations made
2 by state and federal employees. So there's a singular
3 referral that this contract is referring to.

4 Q. And it says, does it not, that this is to be a
5 review of the allegations, correct?

6 A. That's correct.

7 Q. One could review the allegations just by
8 looking at them, right?

9 A. That's right.

10 MR. LITTLE: Object to the sidebar. Move
11 to strike.

12 MR. HARDIN: It's not a sidebar. It's a
13 question, Your Honor.

14 PRESIDING OFFICER: You can strike the
15 word "right."

16 Q. (BY MR. HARDIN) Okay. And in reviewing the
17 allegations, which include complaints of potential
18 criminal violations made by certain state and federal
19 employees, were you aware at that time of any of the
20 details of what were -- what was in Mr. Paul's
21 complaint?

22 A. When I drafted this scope, that was the first
23 time that I received a copy of the referral and a copy
24 of the complaint.

25 Q. And when you looked in the referral, when you

1 looked at the documents that Mr. Paul had provided to
2 Travis County DA's office and that they sent over to the
3 attorney general's office, what type of allegations did
4 you note as to what type of people and conduct this
5 young man was to look into?

6 A. Based on what I recall, Mr. Paul had alleged
7 that certain members of the FBI and the task force, the
8 Department of Public Safety, may have taken his phone
9 from him or not allowed him to contact his attorney.
10 They may have damaged property searching through
11 evidence. I don't recall the specific nature of the
12 allegations, other than just --

13 Q. Were there allegations about improper conduct
14 by a federal magistrate?

15 A. Yes, sir.

16 Q. Did that give you pause?

17 A. It did.

18 Q. Well, all right. So when you see these kind
19 of allegations, then how did you draft it to try to take
20 care of that in your opinion?

21 A. Well, the last paragraph refers to conducting
22 an investigation under the authority of the OAG, which
23 would be derivative of the complaint, which is to
24 assist. Towards the end of the last -- the paragraph,
25 it explains that notwithstanding anything else, outside

1 counsel should only conduct an investigation consistent
2 with the complaint and only as directed by the Office of
3 Attorney General, meaning that any activities that he
4 wanted to pursue should have been authorized and
5 approved by the office.

6 Q. And the way you structured this, do you make
7 any reference in there to this man becoming a special
8 prosecutor?

9 A. There's -- there's a plain exception that says
10 that the legal services under this contract do not
11 include any other post-investigation activities
12 including but not limited to indictment or prosecution.

13 Q. So as you believed when you drafted this
14 contract and circulated it to be approved by others,
15 what did you think this contract was setting out giving
16 him the authority to do if it was approved?

17 A. In short, he was to review the allegations in
18 the complaint -- the statements in the complaint,
19 prepare a report that would be returned to our
20 investigators to provide a second opinion to General
21 Paxton.

22 Q. And those investigators of yours would be who?
23 Who would they have been turned over to?

24 A. David Maxwell and Mark Penley. David Maxwell
25 was the director of law enforcement at the office. And

1 Mark Penley was the deputy attorney general for criminal
2 justice.

3 Q. Did you make -- did you have discussions with
4 the attorney general that this is what he was authorized
5 to do, or how did -- first, did you have any
6 conversations with the attorney general about this?

7 A. Yes.

8 Q. About this restriction?

9 A. About the nature of the services that Cammack
10 was being hired for, yes, sir.

11 Q. What did you say to him?

12 A. I just explained that we can't -- the OAG, the
13 Office of the Attorney General, cannot ordinarily engage
14 in a criminal investigation, except for a referral, a
15 case of a referral. General Paxton explained that he
16 had a referral from Travis County. And then I explained
17 that even under a referral, we wouldn't have outside
18 counsel representing the agency in a prosecutorial role.

19 Q. What was his reaction?

20 A. He didn't have one that I recall.

21 Q. All right. And so then after you have done
22 this, what kind of process it was supposed to go? Did
23 you -- when you sent this to the attorney general, did
24 you get a response from him?

25 A. No, sir.

1 Q. Did you hear back from him on this?

2 A. Not that I recall. When he asked me to send
3 him a draft of the contract, he also asked me to send it
4 to Brandon Cammack.

5 MR. HARDIN: Well, so if I can, I move to
6 introduce 161, please.

7 PRESIDING OFFICER: I don't see this on
8 our list.

9 MR. HARDIN: I move to introduce it. I
10 believe it's not in evidence.

11 PRESIDING OFFICER: Okay.

12 MR. LITTLE: No objection, Mr. President.

13 MR. HARDIN: Stella, can I have a hard
14 copy, please?

15 PRESIDING OFFICER: There are no
16 objections. When you receive it, Mr. Hardin, you may --

17 MR. HARDIN: Thank you -- thank you.

18 PRESIDING OFFICER: We'll admit 161 into
19 evidence.

20 (HBOM Exhibit 161 admitted)

21 Q. (BY MR. HARDIN) Now, this is -- would you
22 identify this for me on September the 3rd? This is --

23 MR. HARDIN: I'm sorry, Your Honor, may I
24 have just a second?

25 Q. (BY MR. HARDIN) Now, Mr. Vassar, I want you

1 to look at 161. I want you to look at 161 and see if
2 that is the -- basically the same document that you had
3 sent the same day, on September 3rd, except that this
4 one is to Mr. Cammack. Is it the same document?

5 A. Yes, sir, that's right.

6 Q. All right. So now you have forwarded a
7 contract to Mr. Cammack and the same contract to the
8 attorney general. But what all would be necessary to
9 happen before this became a true contract and
10 Mr. Cammack authorized to work for the attorney general?
11 What would be necessary?

12 A. So ordinarily when the Office of the Attorney
13 General wants to engage an outside counsel, that has to
14 be approved internally through what was referred to at
15 the time as an executive approval memorandum. That
16 memorandum would explain the background of the request,
17 the nature of the legal authority through which the
18 agency could act, and the amount that was likely to be
19 expended.

20 Q. All right. In this situation, if you're going
21 to go through the matrix for the contract, would you
22 explain on this type of procedure what all had been --
23 what would be the process? How many people would have
24 to approve of this?

25 A. I'll run through them very quickly, but

1 generally the process would start with the general
2 counsel division chief. It would be -- it would next go
3 to the financial litigation and charitable trust
4 division. Budget would be next. I believe I would be
5 next in line as the deputy attorney general for legal
6 counsel. Given the nature of the services involved,
7 criminal justice, Mark Penley, the deputy attorney
8 general for criminal justice would have been next. I
9 believe Lacey Mase was next.

10 Q. Well, in your -- in y'all's process, does
11 anyone along -- what happens if anyone along that chain
12 refuses to accept it or approve it? What happens?

13 A. Basically the request is denied, but it could
14 be revived based on further conversations.

15 Q. All right. In other words, everything stops
16 if somebody declines until at least it's talked about
17 more? Is that what you mean?

18 A. Yes, sir.

19 Q. All right. So what happens if the attorney
20 general goes out and unilaterally hires somebody without
21 sending it through the process at all? In your opinion
22 could he do that?

23 A. Yes, sir.

24 Q. All right. He has the authority, right?

25 A. Yes, sir.

1 Q. He's the guy, okay.

2 Now, if, in fact -- are you familiar with
3 why y'all follow those processes, though, that you just
4 described that would be in the ordinary situation? Why
5 do you do it that way?

6 A. Mainly for efficiency purposes, but also just
7 to ensure that each decision is vetted by the divisions
8 that may have input or advice on the specific.

9 Q. All right. So are the people that are put on
10 their division heads of the divisions that are affected
11 by the contract?

12 A. Yes, sir.

13 Q. So in this contract, what all divisions would
14 be affected that would have to okay it?

15 A. The general counsel division, the financial
16 litigation and charitable trust division, the budget
17 division, myself.

18 Q. All right.

19 A. The controller, the agency controller, the
20 deputy for administration, the deputy for criminal
21 justice, the chief of staff, and the first assistant.

22 Q. That's like eight people, isn't it?

23 A. It's -- it -- there's a lot.

24 Q. Okay. Thanks.

25 All right. Now, let me ask you -- in the

1 emails that we looked at or -- in this document, 161 is
2 a contract. Earlier some emails when we looked at
3 160 -- 160 is the contract that goes to Mr. Paxton. 161
4 is a contract that goes to Mr. Cammack. Is that
5 correct?

6 A. Yes, sir.

7 Q. And then you go, if you want, 228, contract
8 228 -- not contract. Exhibit 228.

9 MR. HARDIN: Well, hold that, please.
10 Don't put that -- I'm sorry, Stella. I apologize.

11 I want to ask you. Is -- I want you to
12 look at 166. I believe this is already in evidence,
13 Your Honor, because I think it's already been up on the
14 screen once.

15 PRESIDING OFFICER: Yes, it is.

16 MR. HARDIN: Thank you very much.

17 Q. (BY MR. HARDIN) 161. Now, this is -- I want
18 you to look at this and describe for everyone whether
19 this sets out the approval level that has to be done.
20 Does it?

21 A. Yes, sir.

22 Q. All right. Now, this is the contract that is
23 to be the process to get Mr. Cammack's contract
24 approved. Correct?

25 A. That's right.

1 Q. So it starts out with Joshua Godbey, the
2 charitable trust division. Why would he have to approve
3 it?

4 A. So the financial litigation and charitable
5 trust division manage the Office of Attorney General's
6 outside counsel contracts.

7 Q. Do y'all ever approve a contract that hasn't
8 been the agreement to fund it? Who has to agree to fund
9 it?

10 A. The budget division has to approve funding.

11 Q. All right. Let's go up. Then Josh Godbey.
12 After him is Ryan Vassar, you. Who drafted this
13 particular document?

14 A. I did.

15 Q. All right. And how did you know what to put
16 down here under the synopsis and background?

17 A. Just based on my understanding, again, of the
18 nature of the services that Cammack was being engaged
19 for.

20 Q. Now --

21 MR. LITTLE: Hold on.

22 MR. HARDIN: Excuse me.

23 MR. LITTLE: I'm sorry, Mr. President. I
24 believe there may be some distress over whether this
25 document is actually in evidence. We do not object to

1 it. It has not been offered.

2 PRESIDING OFFICER: Yeah, we're just
3 relooking at that now. So it was not entered, but you
4 do not object. Is that correct? Pardon?

5 MR. LITTLE: I do not.

6 MR. HARDIN: I believe it was shown by an
7 earlier lawyer on your side. I think you had --

8 PRESIDING OFFICER: It was a pretrial
9 issue that didn't --

10 MR. LITTLE: We are good.

11 PRESIDING OFFICER: But you're good. Go
12 forward.

13 MR. HARDIN: Thank you very much.

14 PRESIDING OFFICER: He did not object.

15 MR. HARDIN: Thank you. Thank you very
16 much.

17 Q. (BY MR. HARDIN) Now, let's --

18 PRESIDING OFFICER: Excuse me. For the
19 record, 166 is admitted into evidence.

20 (HBOM Exhibit 166 admitted)

21 MR. HARDIN: Thank you very much.

22 Q. (BY MR. HARDIN) Now, did you -- so you
23 prepared, over on the second page -- it says Page 1, but
24 it's the second when you turn it -- the synopsis of what
25 happened and the background and all that?

1 A. Yes, sir.

2 Q. I want you to tell us in your own words, when
3 you sign off and initial this particular contract, did
4 you sign off as if you approved it?

5 A. Yes.

6 Q. All right. Why did you do that?

7 A. I concluded based -- just on my position of
8 whether the agency had lawful authority to hire an
9 outside counsel, Brandon Cammack in this situation, that
10 it did.

11 Q. So you understood who wanted to hire him?

12 A. Yes.

13 Q. Who was it?

14 A. General Paxton.

15 Q. Describe in your own words: Did he make clear
16 he was going to do it?

17 A. Yes.

18 Q. So did you have any doubt whether or not
19 that's what he was instructing you to do?

20 A. No, sir.

21 Q. When you drafted, put a synopsis, and initial
22 it, tell us in your own words: What was your position,
23 then, as to whether this contract should or should not
24 be approved?

25 A. Based on my position as deputy for legal

1 counsel, my role is to recommend based on whether the
2 agency had lawful authority to act, not whether it
3 should act. So in my review, I determined that Cammack,
4 as outside counsel, could provide legal services to the
5 agency to investigate -- or to review the complaint
6 referred by Travis County.

7 Q. And what would be your position as to whether
8 he had the authority if he stepped outside the scope
9 that you had drafted so carefully in the addendum A?

10 MR. LITTLE: Objection, Mr. President.
11 That would call for speculation.

12 PRESIDING OFFICER: Sustained.

13 Q. (BY MR. HARDIN) Was he authorized to do more
14 on behalf of the attorney general's office than you set
15 out in the scope A of the contract?

16 A. Not in the draft that I -- that I wrote.

17 Q. All right. Now, when you sent these two
18 contracts or these proposed contracts that you just
19 raised an issue right there -- were these drafts or were
20 they -- were they final contracts?

21 A. They were both drafts.

22 Q. So at the time you sent these out to
23 Mr. Cammack and to the attorney general, what was
24 necessary to make them a binding contract where the
25 attorney general's office had actually legally hired

1 Mr. Cammack?

2 MR. LITTLE: Objection.

3 Q. (BY MR. HARDIN) What process was required?

4 MR. LITTLE: Objection, Mr. President.
5 This actually calls for a very important legal
6 conclusion. And this witness is not qualified to reach
7 that conclusion on the ultimate issue.

8 MR. HARDIN: I'm asking him what process
9 within his organization was necessary for it then to be,
10 at least him to consider it, a complete contract with
11 the agency. Let me put it that way.

12 MR. LITTLE: That is a different question
13 than the one you asked. I'm sorry.

14 PRESIDING OFFICER: So I'm going to
15 sustain the first -- the first objection I've sustained.

16 MR. HARDIN: But he's allowing the second
17 one.

18 PRESIDING OFFICER: Well, you can start
19 the second one now. One more time.

20 MR. HARDIN: All right. Thank you.

21 Q. (BY MR. HARDIN) So what was necessary in your
22 mind as the person responsible for both drafting and
23 initiating these contracts to make the drafts you sent
24 to Mr. Cammack and to the attorney general, what was
25 necessary, as far as your procedures and your experience

1 and in your opinion, to make it a contract that would --
2 where Mr. Cammack was actually officially hired and
3 entitled to be paid under the contract?

4 MR. LITTLE: Objection, Mr. President.
5 That question is extremely compound. There are several
6 questions in it. Procedures, policies, his opinion may
7 be very different things.

8 PRESIDING OFFICER: Sustained.

9 Q. (BY MR. HARDIN) The contract that you just
10 sent, had it been signed by anybody?

11 A. No, sir.

12 Q. To be a binding contract, as far as you would
13 be concerned, and the agency and your responsibilities,
14 whom did it have to be signed by to be a binding
15 contract?

16 A. Under the agency's signature delegation
17 policies at the time, it would have been Jeff Mateer.

18 Q. All right. And if the contract at that time
19 was signed by -- solely by Mr. Cammack, do you have a
20 contract or does it have to be signed by somebody that
21 can bind the agency along with Mr. Cammack?

22 A. It would have needed to be signed by the
23 agency as well as funding obligated to pay for --

24 Q. All right.

25 A. -- the services.

1 Q. So did we ever get to that process that you
2 were aware of at this time?

3 A. It was started. I believe June 4th we started
4 the internal approval process.

5 Q. And that's -- the internal process is
6 circulating it to the people on Exhibit 166?

7 A. Yes, sir.

8 MR. LITTLE: Just to correct the record,
9 the witness said June 4th. I believe you mean
10 September 4; is that correct?

11 THE WITNESS: That's right.
12 September 4th.

13 MR. HARDIN: I'm sorry?

14 PRESIDING OFFICER: Let the record
15 reflect September 4th.

16 MR. HARDIN: Okay. The cover sheet would
17 be 166, would it not? The contract, I believe were the
18 164 -- 161, I'm sorry. I don't -- I just want to make
19 sure we got it straight.

20 MR. LITTLE: Oh, I'm sorry. Were you
21 talking to me?

22 MR. HARDIN: We've got --

23 PRESIDING OFFICER: Speak to the Court?

24 MR. HARDIN: 166 is what I introduced and
25 you accepted. And that's a copy of the approval sheet.

1 MR. LITTLE: 166 is on the screen.

2 MR. HARDIN: I'm sorry, that's what I was
3 asking about.

4 PRESIDING OFFICER: Don't talk over each
5 other. Yes, sir.

6 MR. LITTLE: 166 is on the screen and it
7 has been admitted.

8 MR. HARDIN: Pardon me?

9 PRESIDING OFFICER: You can continue,
10 Mr. Hardin.

11 MR. HARDIN: I'm sorry. I'm all
12 confused.

13 PRESIDING OFFICER: 166 has been
14 admitted. 166, correct.

15 MR. HARDIN: And I thought you were
16 changing the number on me.

17 MR. LITTLE: I'm sorry. I'm confused by
18 your statement. Maybe this will be a good time for a
19 break.

20 MR. HARDIN: All right.

21 PRESIDING OFFICER: In about 15 more
22 minutes. About 15 more minutes we'll have a break.

23 MR. HARDIN: All right. Thank you.

24 Q. (BY MR. HARDIN) So let's try to move through
25 this real quickly. Did this start going through

1 different procedures, and what was the outcome of this
2 contract? Did it ultimately go all the way or did it
3 stop somewhere along the way?

4 A. It stopped.

5 Q. The approval process. And when did it stop?

6 A. Mark Penley declined to sign the approval
7 memorandum.

8 Q. And when did you become aware that Mr. Penley
9 would not sign it?

10 A. I don't recall the exact date. I -- I recall
11 there were conversations that, when I signed it, it
12 would go to Mark Penley next. I advised Jeff Mateer
13 that that was going to be the next line in the sequence.
14 I also advised Mark Penley that he was going to be next
15 after I signed it.

16 I don't recall exactly when Mark Penley
17 declined to sign.

18 Q. Now, I think there are other documents that we
19 can introduce later that would show that. We'll do it
20 through other people.

21 As to your involvement, Mr. Vassar, how
22 would you view your role, once you started sending out
23 the drafts? Did you start having contact personally
24 with Mr. Cammack where he would have different requests
25 that you would communicate with him or what?

1 A. I was the point of contact for Mr. Cammack
2 just based on the introduction through General Paxton.
3 After the internal approval process had started, I
4 received a call from Mr. Cammack. I believe it was
5 around the 13th of September.

6 Q. What did he want?

7 A. He asked if there were any official documents
8 or an official email address that we could give him.

9 Q. And at some stage along the line, were there
10 inquiry about whether he was going to -- inquiries by
11 him as to whether he was going to have credentials?

12 A. I'm sorry, could you say that again?

13 Q. Was he going to have credentials? Did that
14 ever become an issue that would show that he was
15 authorized to work on behalf of the AG's office?

16 A. No, sir.

17 Q. Did you ever provide him any?

18 A. No, sir.

19 Q. Did he ask you for any?

20 A. He did on that phone call.

21 Q. And what did you tell him?

22 A. I told him that he didn't have a contract yet.
23 I didn't understand why he needed credentials to
24 identify himself as representing the agency.

25 Q. All right. Were you aware -- what was your

1 level of awareness as to whether Mr. Cammack -- or
2 belief was authorized to be speaking for the AG's office
3 before this process was completed? What was your --
4 what was your belief?

5 A. He had none. He had no authority to represent
6 the office.

7 Q. And in your opinion when would he have had
8 authority to represent the office?

9 A. When?

10 Q. Yes.

11 A. When he had a binding and executed contract.

12 Q. And did he ever, to your knowledge, have a
13 binding and executed contract?

14 A. On --

15 MR. LITTLE: Objection, Mr. President.
16 This, once again, calls for a very important legal
17 conclusion. It goes to the heart of the matter.

18 MR. HARDIN: I'm not asking him for a
19 legal conclusion.

20 PRESIDING OFFICER: Witness can answer
21 the question, if you know of your own personal knowledge
22 not on hearsay.

23 A. On October 2nd, I believe Brandon Cammack sent
24 a contract that appeared to be signed by General Paxton
25 and Mr. Cammack himself.

1 Q. (BY MR. HARDIN) Do you know when you first
2 saw that?

3 A. I believe it was October 2nd.

4 Q. Is that the first -- describe for us, were you
5 aware before -- any time before that that General Paxton
6 had decided to sign the contract on behalf of the
7 attorney general's office?

8 A. No, sir.

9 Q. Did you have any idea at that time when you
10 saw it on October the 2nd how and when that happened?

11 A. No, sir.

12 Q. Did Mr. Paxton ever tell you that he had
13 signed a contract personally with Mr. Cammack?

14 A. Yes, he did.

15 Q. When did he tell you that?

16 A. I believe it was Friday in October, which may
17 have been the 3rd. He emailed me and informed me that
18 he had signed the contract with Cammack, and that there
19 had been a mistake in Jeff Mateer's letter terminating
20 the contract as an invalid --

21 Q. All right.

22 A. -- agreement.

23 Q. We need to jump ahead a little bit for this
24 particular portion. Let me -- let me -- you're aware,
25 are you not, that -- well, let me ask you: Do you

1 recall what date you and a group of people went to the
2 FBI to report your concerns?

3 A. September 30th.

4 Q. All right. And are you aware then when y'all
5 informed the attorney general that you had done so?

6 A. October 1st is when we notified General
7 Paxton.

8 Q. And after you informed the attorney general,
9 did -- at some time on either September the 30th or
10 October 1 had Mr. Cammack been sent a cease and desist
11 letter?

12 A. Yes.

13 Q. And whom did he send a cease and desist -- by
14 whom sent him a cease and desist letter?

15 A. I believe Mark Penley sent a letter to
16 Mr. Cammack, and Jeff Mateer sent a separate letter to
17 Mr. Cammack.

18 Q. And then separately, was action taken in the
19 courts concerning the subpoenas, grand jury subpoenas,
20 that Mr. Cammack had obtained and was serving? Was
21 there separate action undertaken by either Mr. Penley or
22 Mr. Mateer?

23 MR. LITTLE: Mr. President, we object as
24 to leading.

25 Q. (BY MR. HARDIN) Are you aware of --

1 PRESIDING OFFICER: Sustained.

2 MR. HARDIN: Excuse me.

3 Q. (BY MR. HARDIN) Are you aware of any action
4 that had taken -- personally aware of any action that
5 was taken in the courts concerning the subpoenas that
6 Mr. Cammack had been serving?

7 A. Mr. -- Mr. Penley moved to quash the
8 subpoenas.

9 Q. All right. And so then when you get a letter,
10 did you get a letter from the attorney general? And if
11 so, what date that was, or text?

12 A. It -- it was an email indicating to me that he
13 had signed the contract with Brandon Cammack. And that
14 Jeff's letter telling Cammack to cease and desist was
15 improperly sent.

16 Q. All right. At that time, during that first
17 week in October, when we got to October 3rd, what was
18 your status with the agency?

19 A. I was still employed.

20 Q. And had Mr. Mateer retired -- I mean resigned
21 the day before October 2nd?

22 A. October 2nd. I believe he resigned on Friday.

23 Q. All right. When he -- when he resigned, had
24 he sent a letter to Mr. Cammack before that, if you
25 know?

1 A. Yes.

2 Q. And at that time were all of these actions
3 being done with the -- with the involvement of each of
4 you deputies that had been called colloquially "the
5 whistleblowers"?

6 A. Yes.

7 Q. Now, when the -- before that, when this
8 contract -- what was your involvement as far as the
9 contract for Mr. Cammack once Mr. Penley refused to sign
10 off on it? What happened then?

11 A. From what I recall, Mr. Mateer, Mr. Penley
12 sent a cease and desist. Mr. Cammack followed up to our
13 agency mailbox, just the general mailbox, with invoices
14 that he had purported to work under some authorization
15 from General Paxton. Because we didn't have a record of
16 a contract or a copy of a signed agreement, we informed
17 Mr. Cammack that we could not pay him. And his response
18 was that he had a signed --

19 Q. What date was that?

20 A. I believe it was October 1st.

21 Q. All right. And during the time that you were
22 going back and forth with Mr. Cammack about the
23 contract, were you the person that was communicating
24 with him?

25 A. He had emailed me directly, but the rest of

1 the conversation was through the general mail box that
2 he has.

3 Q. Did he send you an invoice seeking to be paid?

4 A. Yes.

5 Q. Do you recall when he did that?

6 A. It was right around the same period, so it
7 would have been October 1st.

8 Q. And when he sent you an invoice to be asking
9 to be paid, what was your response?

10 A. We informed him that we did not have a record
11 of a contract under which to pay him.

12 Q. And once -- did you tell him you need a
13 contract signed by somebody within the agency?

14 A. Well, we just told him we didn't have any
15 contract with his name on it.

16 Q. That had been signed by anybody?

17 A. Correct.

18 Q. So what did he do?

19 A. He responded and said that he had a signed
20 contract.

21 Q. Do you recall what date he told you he had a
22 signed contract?

23 A. He provided it to us in the morning. I
24 believe it was October 1st -- or no. I apologize. It
25 was September 30th because we went and met with law

1 enforcement on September 30th.

2 Q. And did you get a contract from him that had
3 been signed by the attorney general before you went to
4 law enforcement?

5 A. Yes.

6 Q. Now, at the time this was all going on, were
7 you willfully and totally involved in the actions that
8 were decided and that led to you going to law
9 enforcement?

10 A. Yes, sir.

11 Q. Why did you go?

12 A. I formed a conclusion just based on my
13 good-faith --

14 Q. Keep it to the microphone.

15 A. -- belief that General Paxton was using the
16 power and authority of his office to benefit a private
17 individual.

18 Q. And what was your opinion as to whether or not
19 y'all had done everything you could to stop him before
20 that?

21 A. Well, all of these -- these sequences of
22 events, ranging from May of 2020 to the foreclosure
23 letter in late July and August of 2020, and the Cammack
24 issue in August and September of 2020, in isolation were
25 just activities that we tried to handle for General

1 Paxton.

2 MR. LITTLE: Mr. President, I'm sorry, I
3 must object as nonresponsive to the question.

4 MR. HARDIN: Well, let me --

5 PRESIDING OFFICER: Sustained.

6 Re-ask the question.

7 MR. HARDIN: Thank you.

8 Q. (BY MR. HARDIN) If -- now, let me ask you
9 this: What was your state of mind in terms of the
10 degree that you -- in your opinion, of the degree that
11 you and others had engaged in to try to dissuade him
12 from this conduct that you disagreed with?

13 A. We had -- we had repeatedly suggested that the
14 positions that we were being asked to take were contrary
15 to established law and policies. When we did that,
16 he -- he directed us to find a different way. So as
17 lawyers do, we found alternatives. And those were the
18 alternatives that he chose.

19 Q. Well, then, what was the tipping point about
20 September the 29th or 30th that led you to decide to go
21 en masse to the FBI?

22 A. Well, it became clear at that point that the
23 degree and the extent to which General Paxton appeared
24 to be using the office to benefit a single private
25 individual to target and harass law enforcement rose to

1 a level that just based on our good-faith belief that
2 criminal activity had occurred. And under no
3 circumstances did Brandon Cammack have any authority,
4 either under a contract that was unsigned or a contract
5 that was signed, or by some deputation by Travis County
6 District Attorney's Office to serve as a special
7 prosecutor for the Office of Attorney General. So he
8 was representing himself in a capacity that did not
9 exist. And doing so for the benefit of a single
10 individual.

11 Q. Under those circumstances, did you feel that
12 the attorney general had any authority to appoint a,
13 quote, special prosecutor?

14 A. No, sir.

15 MR. LITTLE: Objection, Mr. President.

16 Q. (BY MR. HARDIN) Did --

17 MR. LITTLE: The objection is relevance.
18 I don't believe that there is any contention on the part
19 of the House Board of Managers that General Paxton
20 appointed a special prosecutor. That is not the
21 allegation.

22 PRESIDING OFFICER: Sustained.

23 Q. (BY MR. HARDIN) Are you aware as to whether
24 or not Mr. Cammack was going around and serving special
25 grand jury subpoenas claiming he was a special

1 prosecutor of the attorney general's office? Are you
2 aware one way or the other as to whether he was doing
3 that?

4 MR. LITTLE: Objection. That would call
5 for hearsay.

6 MR. HARDIN: No, it doesn't call for
7 hearsay. This witness can be cross-examined about what
8 the basis of his knowledge is. And then he can say
9 whether it's hearsay.

10 PRESIDING OFFICER: Overruled.

11 You may answer the question.

12 A. Yes, sir, I'm aware.

13 Q. (BY MR. HARDIN) And, in fact, was Brandon
14 Cammack ever hired by the attorney general's office, by
15 anyone in the attorney general's office, and designated
16 a special prosecutor?

17 A. No, sir.

18 Q. And in your opinion -- what is your opinion as
19 to whether or not they even had the authority to hire a
20 special prosecutor in this case under the facts that you
21 knew them to be?

22 MR. LITTLE: Objection, Mr. President.
23 Lack of foundation. Speculation. And relevance.

24 PRESIDING OFFICER: Sustained.

25 Q. (BY MR. HARDIN) Mr. Vassar, what was your

1 concern if y'all did not go to law enforcement on
2 September the 30th of 2020?

3 A. Well, the concern was that it would only get
4 worse. General Paxton's use of the office would only
5 continue to be more extreme to benefit Nate Paul, and
6 the potential -- for us to be labeled as
7 co-conspirators.

8 Q. How long did you remain with the attorney
9 general's office after -- after October the 1st, 2020?

10 A. I was terminated November 17th, 2020.

11 Q. And what was the stated reason for terminating
12 you?

13 A. For disclosing confidential information
14 outside the agency.

15 Q. And did they describe to you or give you
16 anything in writing to tell you what confidential
17 information you were supposed to have disclosed?

18 A. No, sir.

19 Q. Did you ask for a meeting to find out what it
20 was?

21 A. I asked what it was, and they didn't provide a
22 response.

23 Q. Who replaced Mr. Mateer as the first assistant
24 after Mr. Mateer resigned?

25 A. Brent Webster.

1 Q. Is he still acting as the first assistant to
2 your knowledge?

3 A. Yes.

4 Q. Did you -- without going into other
5 conversations, did you seek to find out what
6 confirmation -- or what information was being used to
7 terminate you? And did you ever find out what it was?

8 A. Yes. I asked Mr. Webster what information I
9 had allegedly disclosed outside the agency. And he
10 didn't give a response.

11 Q. To this day do you know what confidential
12 information you were supposed to have revealed?

13 A. I have not received a direct answer, but based
14 on the agency's own internal whistleblower report,
15 they've made allegations.

16 Q. Finally, when you -- when you were terminated,
17 how old were your children by then?

18 A. Six months to four years.

19 Q. I believe you indicated, but I'm not sure I
20 remember: How long did it take you to find another job?

21 A. Six months.

22 Q. How did you live?

23 A. Just on savings that we had -- we had saved.

24 Q. And when you took another job, where is it
25 now?

1 A. It's for a local nonprofit policy think tank
2 here in Austin.

3 Q. At the end of the day, in light of all -- and
4 by the way, have you sued? Are you a whistleblower that
5 has sued the attorney general and the State of Texas?

6 A. Yes, sir.

7 Q. Why did you sue?

8 A. Mainly for my family.

9 Q. What do you mean?

10 A. Well, to take care of them financially, but
11 also just to be a good example for them.

12 Q. And what do you mean about a good example for
13 them?

14 A. Just to stand up for the truth.

15 Q. You read this report that they put out back in
16 '21?

17 A. Yes, sir.

18 Q. You saw what it said about you?

19 A. Yes, sir.

20 Q. You saw what it said about the others?

21 A. Yes, sir.

22 Q. How would you rate the level of accuracy of
23 the report that Mr. Webster says he primarily prepared?

24 A. On a scale of 1 to 10, I'd give it a 2.

25 Q. And has that report been out on the Internet

1 to the world at large?

2 A. Yes, sir.

3 Q. All about you and the others being rogue
4 employees?

5 A. Yes.

6 Q. Is this the first time you've ever had an
7 opportunity to tell your side since this all happened?

8 A. Yes, sir.

9 Q. You feel better or worse?

10 A. It's not fun.

11 MR. HARDIN: I pass the witness.

12 PRESIDING OFFICER: We'll break now until
13 5:25. And, Members, there are some snacks back in the
14 back for you to get a little energized, and we'll come
15 back for another 60 to 90 minutes, depending on how it
16 goes.

17 (Recess: 5:03 p.m. to 5:28 p.m.)

18 PRESIDING OFFICER: Your witness.

19 MR. LITTLE: Thank you, Mr. President.

20 CROSS-EXAMINATION

21 BY MR. LITTLE:

22 Q. Mr. Vassar, my name is Mitch Little. I'm with
23 the law firm of Scheef & Stone, and I represent the
24 elected attorney general of Texas. We've much to
25 discuss. I'm going to try to pick up a few crumbs here.

1 The word that I heard at the end of your
2 testimony was "co-conspirators." Do you remember that
3 word coming out of your mouth?

4 A. Yes, sir.

5 Q. One of your concerns on September 30th was if
6 you didn't go to the FBI immediately, someone would
7 think you were co-conspirators with the elected attorney
8 general in this state, right?

9 A. That was one of the concerns, yes, sir.

10 Q. And your attorney that you hired before you
11 went to the FBI is a man named Johnny Sutton; is that
12 correct?

13 A. That's right.

14 Q. And he's here today, correct?

15 A. He is.

16 Q. And he's sitting in this courtroom. Yes?

17 A. Yes, sir.

18 Q. Would you indicate him for us?

19 A. He's right there.

20 Q. Yes. And he represented a number of you
21 employees at the attorney general's office, correct?

22 A. Yes, sir.

23 Q. And by the time that you went to the FBI,
24 Mr. Vassar, just tell the senators: Did you know who
25 performed the home repairs and renovations at the

1 Paxtons' home?

2 A. No. I had no direct knowledge.

3 Q. You didn't have any indirect knowledge, did
4 you?

5 A. It was discussed when all of the events came
6 together and we met as deputies on September 29th, that
7 was mentioned as one of the potential concerns of
8 bribery of the attorney general.

9 Q. And who mentioned it?

10 A. Based on my recollection, it may have been
11 Mr. Brickman.

12 Q. And Mr. Brickman heard it where?

13 A. I'm not sure.

14 Q. He heard it from someone else, correct?

15 A. I -- I'm not sure.

16 Q. You don't know?

17 A. I don't know where he heard it.

18 Q. But one of the criminal complaints that you
19 and your group of people who went to the FBI alleged was
20 that the Paxtons' home was being renovated at the cost
21 of someone who is under federal investigation. Correct?

22 A. You said one of the criminal complaints. I'm
23 not -- I'm not -- we did a verbal complaint --

24 Q. Yes.

25 A. -- at the office, but I'm not sure --

1 Q. Let me be clearer. One of the things that you
2 told the FBI in your meeting with them was that you were
3 concerned that someone else was paying for the home
4 renovations to the Paxtons' home, correct?

5 A. Me individually, I had no knowledge. But,
6 yes, in the meeting with the FBI with all of us present,
7 there was a roundtable discussion about some
8 individuals' good-faith belief that the attorney general
9 was involved in bribery.

10 Q. A good-faith belief based on what?

11 A. I'm not -- I'm not sure. It wasn't my direct
12 knowledge.

13 Q. You were in the meeting?

14 A. I would -- yes, I was in the meeting with the
15 FBI.

16 Q. What was the basis?

17 A. I'm not sure. I think it was redoing the
18 kitchen countertops.

19 Q. Redoing the kitchen countertops; is that what
20 you heard?

21 A. I'm just giving you the context of what I -- I
22 recall.

23 Q. Did you see any documents exchanged with the
24 FBI in this meeting?

25 A. No, sir.

1 Q. Not one?

2 A. No. We did not provide any documents to the
3 FBI.

4 Q. And let me be clear because I think your
5 testimony was a little bit confusing, at least to me.
6 It may have been to the senators as well. But you
7 learned about Brandon Cammack's signed contract with the
8 attorney general after you reported the attorney general
9 to the FBI, correct?

10 A. I think that's correct, yes.

11 Q. So when you went to the FBI and you told
12 presumably some FBI agents that Brandon Cammack was out
13 serving grand jury subpoenas without authority, you did
14 not know that that man had a signed contract with the
15 attorney general of this state's signature affixed to
16 it, correct?

17 A. That's my recollection.

18 Q. Well, surely when you found out you went
19 straight back to the FBI and told them, right?

20 A. No. I mean at the time --

21 Q. No?

22 A. -- we were represented by Mr. Sutton.

23 Q. Surely at that time Mr. Sutton asked you to go
24 back to the FBI and correct that misinformation,
25 correct?

1 A. What information? What misinformation?

2 That -- that Mr. Cammack had a contract?

3 Q. Yes. He had a signed contract affixed with
4 the signature of the elected attorney general of this
5 state, correct?

6 A. Yes, based on -- what he had provided to us
7 was a signed contract. And General Paxton had confirmed
8 to us that he had signed a contract.

9 Q. And you had it in hand, correct?

10 A. Yes.

11 Q. And surely your lawyer said, guys, we need to
12 go back to the FBI and tell them that there's a signed
13 contract with the affixed signature of the elected
14 attorney general of this state, right?

15 A. There wouldn't have been any reason to provide
16 them with a signed contract because that wasn't part of
17 the complaint that we had filed with the FBI.

18 Q. Part of the complaint -- let's be clear about
19 the complaint, okay.

20 Part of the complaint to the FBI was that
21 Brandon Cammack was out serving grand jury subpoenas to
22 support someone else's agenda besides the people of the
23 state of Texas. True?

24 A. Yes.

25 Q. And at some point after your meeting with the

1 FBI, you discovered from Brandon Cammack that he had a
2 signed contract with the elected attorney general,
3 correct?

4 A. That's absolutely true, for nothing that he
5 was doing.

6 MR. LITTLE: And I'll object to the
7 nonresponsive portion of the question -- or answer and
8 move to strike, Your Honor.

9 PRESIDING OFFICER: Strike the last
10 comment.

11 Q. (BY MR. LITTLE) Now, let's be clear about
12 something else. After -- this contract that was signed
13 by the Attorney General of the State of Texas, Ken
14 Paxton, he had the authority to enter into it, correct?

15 A. Yes, I believe he did.

16 Q. And that's because over 4 million voters in
17 this state gave him that authority, correct?

18 A. Yes.

19 Q. And that authority exists to bind this state.
20 And if the voters don't like it, they can vote in
21 someone else, correct?

22 A. That's, yes, how the political system works.

23 Q. That's my understanding as well.

24 At what point in time did you come back
25 to the FBI and say, well, maybe there was some authority

1 for Brandon Cammack to do what he was doing? Did you
2 ever do that?

3 A. No, sir. And just because --

4 MR. LITTLE: Object. Nonresponsive to
5 anything after "no, sir," Mr. President.

6 PRESIDING OFFICER: Please keep your
7 answers to the questions.

8 Q. (BY MR. LITTLE) In your meeting with the FBI,
9 did you tell the FBI that Ken Paxton had illegally
10 disclosed some confidential material to someone?

11 A. We filed a complaint based on activity that we
12 had formed a reasonable belief that --

13 MR. LITTLE: Mr. President, I will object
14 that this line as nonresponsive.

15 PRESIDING OFFICER: Sustained.

16 MR. LITTLE: Madam Court Reporter, would
17 you mind reading my question back? I should have -- I'm
18 sorry, I don't have one.

19 (Requested portion was read.)

20 Q. (BY MR. LITTLE) Yes or no?

21 A. I disagree with the phrasing of the question.

22 Q. It's a very simple question. Did you tell the
23 FBI in this meeting -- did someone in this meeting tell
24 the FBI that Ken Paxton had illegally disclosed some
25 confidential information to someone; yes or no?

1 A. In the meeting, we alleged based on a
2 reasonable belief that that activity could have
3 occurred, but we were not investigators. That was what
4 law enforcement was for.

5 Q. That's right. And, Mr. Vassar, I want to see
6 us on this point. You're a lawyer, and you're doing
7 some -- I mean, you have very good command of the
8 language. You had a good-faith belief in certain
9 information, but you didn't know that Ken Paxton had
10 disclosed anything to anyone when you made this report
11 to the FBI, did you?

12 A. No, not --

13 Q. You were hoping the FBI would sort it out for
14 you and not think that you were co-conspirators with
15 him, correct?

16 A. No. The purpose of the complaint to the FBI
17 was because we had formed a belief in good faith that
18 the attorney general was involved in criminal activity.

19 Q. This is something that I keep hearing over and
20 over again. We formed a good -- we formed -- let me
21 make sure I get it right -- formed a good-faith belief
22 that the attorney general of this state was engaged in
23 illegal activity. Did I say that right?

24 A. That's accurate.

25 Q. But you didn't know, right?

1 A. Well --

2 Q. You didn't know, right?

3 A. That's the -- that's the point of the
4 good-faith belief, is we had no evidence that we could
5 point to, but we had reasonable conclusions that we
6 could draw.

7 Q. You went to the FBI and reported the attorney
8 general of this state with no evidence. Do I have that
9 correct?

10 A. We reported the facts to the FBI.

11 Q. That's not my question. You had no evidence
12 that Ken Paxton had done anything illegal, did you?

13 MR. HARDIN: Your Honor, it's not
14 necessary to yell at this witness. I suggest it's
15 disrespectful. I request he quit doing it.

16 MR. LITTLE: I apologize. Let me do this
17 again at a lower volume.

18 Madam Court Reporter, would you read my
19 question back for me, please, at an appropriate volume.

20 (Requested portion was read.)

21 Q. (BY MR. LITTLE) Yes?

22 PRESIDING OFFICER: Repeat that so --
23 because they could not hear her on the microphone.

24 MR. LITTLE: Yes, Mr. President, I will.

25 (Background noise)

1 MR. LITTLE: Watching a livestream over
2 there. Hold on. Let me ask this question again.

3 Q. (BY MR. LITTLE) Let me get this straight.
4 You went to the FBI and reported him for potential
5 crimes without any evidence. Do I have that correct?

6 A. We went to the FBI and reported --

7 Q. Please answer my question yes or no.

8 A. -- our belief that criminal activity had
9 occurred.

10 Q. That was not my question.

11 PRESIDING OFFICER: The witness needs to
12 answer the question yes or no.

13 Q. (BY MR. LITTLE) Should I ask it again,
14 Mr. Vassar?

15 A. Please.

16 Q. I want to get this straight. You went to the
17 FBI on September 30th with your compatriots and reported
18 the elected attorney general of this state for a crime
19 without any evidence. Yes?

20 A. That's right. We took no evidence.

21 Q. Did you gain any after that? Did you gain any
22 after that?

23 A. Well, we weren't collecting evidence.

24 Q. Did you gain any after that?

25 A. Evidence of -- of what, sir? Of --

1 Q. Evidence of a crime committed by the elected
2 attorney general in this state elected by over 4 million
3 voters? That guy.

4 A. I don't -- I don't recall if we had collected
5 any evidence.

6 Q. Don't you think that's something that you
7 should be able to recall, sir?

8 A. Well, when we presented ourselves to the FBI,
9 we did so as witnesses, not as investigators to collect
10 evidence.

11 Q. You did so as complainants, hoping that you
12 would not be named as co-conspirators. True? You made
13 a complaint. Yes?

14 A. Yes, it was --

15 Q. Without any evidence. Yes?

16 A. No.

17 Q. I'm sorry?

18 A. Again, these are our good-faith beliefs that a
19 crime had occurred.

20 Q. Respectfully, sir, we are not here in this
21 historic event for your good-faith beliefs. So if you
22 could just tell these senators who are taking up their
23 time and all of Texas' time with this impeachment --

24 MR. HARDIN: Excuse me. These sidebar
25 testifying comments are an inappropriate form of cross.

1 If he'd just ask a question, I have no objection.

2 MR. LITTLE: I will throttle it down. I
3 withdraw it.

4 PRESIDING OFFICER: Pull that back.

5 MR. LITTLE: Yes.

6 PRESIDING OFFICER: Ask a question.

7 Q. (BY MR. LITTLE) Mr. Vassar, we've got a lot
8 of people whose time is invested in this impeachment
9 proceeding. Did you -- did you gain any evidence after
10 you went to the FBI?

11 A. I'm not sure what evidence that we would
12 have -- that I can recall. I --

13 Q. You had a good-faith belief. We've heard
14 those words a lot in this trial, a good-faith belief.
15 But without any evidence, correct?

16 A. The evidence that we provided --

17 Q. Why didn't you go -- why didn't you talk to
18 Ken Paxton -- I'm sorry.

19 MR. HARDIN: Excuse me. Please let him
20 finish his answer.

21 PRESIDING OFFICER: Overruled.

22 He was finished.

23 Q. (BY MR. LITTLE) Mr. Vassar, when you worked
24 for Ken Paxton, was he gentle?

25 A. As far as I knew, yes, sir.

1 Q. Is he kind?

2 A. Yes, sir.

3 Q. He ever yell at you? Scream at you?

4 A. No, sir.

5 Q. Don't you think you owed him the courtesy of
6 at least a phone call before you reported a man to the
7 FBI without a shred of evidence?

8 A. Well, that's not how the reporting structure
9 worked.

10 Q. Oh, please tell these senators how it works.

11 A. Well, all of my interactions were directly
12 with Jeff Mateer and Ryan Bangert. General Paxton would
13 call me with questions like the open records issue or
14 the foreclosure letter, or I'm sorry -- not the
15 foreclosure letter. That was through Ryan Bangert,
16 outside counsel.

17 So every other instance was my weekly
18 meetings with Jeff Mateer and Ryan Bangert. And I never
19 called the attorney general. He always called me.

20 Q. I appreciate your answer, but that was not
21 really what I asked. So let me try again.

22 Don't you think you owed the Attorney
23 General of the State of Texas at least a phone call
24 before you reported him to the FBI without any evidence?
25 Yes or no?

1 A. I --

2 Q. That's not the way it worked? Yes or no?

3 A. Would you like me to answer?

4 Q. Yes, I would.

5 A. Based on our conversations with Mr. Mateer and
6 Mr. Bangert, they were having conversations directly
7 with General Paxton. I was not part of those
8 conversations. So any concerns that they had raised
9 with him would have been in their conversations. I had
10 no reason to call him directly.

11 MR. LITTLE: Object. Nonresponsive.

12 PRESIDING OFFICER: Sustained.

13 Q. (BY MR. LITTLE) Let me try this again,
14 Mr. Vassar. Don't you think you personally --
15 Ryan Vassar, don't you think you owed the attorney
16 general of the state of Texas elected by over 4 million
17 voters a phone call before you reported him to the FBI
18 without any evidence, sir?

19 A. I was appalled at the time, so --

20 MR. LITTLE: Object. Nonresponsive.

21 MR. HARDIN: Excuse me, Your Honor.

22 PRESIDING OFFICER: Sustained.

23 MR. HARDIN: I object to the continued
24 interruption of the answer. If he doesn't like the
25 answers he's getting, he can then object to it being

1 nonresponsive. But jumping in the middle of this man is
2 totally unfair, and I object.

3 PRESIDING OFFICER: I will listen more
4 closely, Counselor. I have not heard him interrupt him.
5 I will listen more closely so the witness can finish his
6 answer, and you can do a follow-up question.

7 MR. LITTLE: Thank you.

8 Q. (BY MR. LITTLE) Can we go --

9 PRESIDING OFFICER: Objection is
10 overruled.

11 MR. LITTLE: Thank you.

12 Q. (BY MR. LITTLE) May I go back to my question,
13 Mr. Vassar? My question was, don't you think you
14 personally owed Attorney General Ken Paxton elected by
15 over 4 million voters a phone call before you reported
16 him to the FBI without any evidence? Yes or no? No, I
17 don't; yes, I do?

18 A. Well, I would disagree that we didn't have any
19 evidence just based on our beliefs, but I don't think I
20 owed General Paxton anything.

21 Q. You don't? You worked for him for five years.

22 A. That's right. And I believed in him.

23 Q. He gave you a job, correct?

24 A. He did. And promotion.

25 Q. And a promotion, huh? Not enough to warrant a

1 phone call before you reported him to the FBI, though,
2 true?

3 A. Like I said --

4 Q. Do you wish you could go back and call him?

5 A. I'm sorry, say --

6 Q. Do you wish you could go back in time and call
7 Ken Paxton and talk to him before you reported him to
8 the FBI without any evidence?

9 A. I wouldn't do anything else differently.

10 Q. Interesting. Okay.

11 You don't know anything about Ken
12 Paxton's campaign donations from 2018, do you?

13 A. No, sir, I don't.

14 Q. You didn't work on the Mitte Foundation case,
15 did you?

16 A. No, sir.

17 Q. When you went to the FBI, did you have Ken
18 Paxton's phone number at least? Could you call him on
19 his cell phone? Did you have the number?

20 A. I believe I had his phone number in my phone,
21 yes, sir.

22 Q. How did you get it?

23 A. I think he gave it to me.

24 Q. Why?

25 A. Just based on working with him and questions

1 that he would call me with.

2 Q. So you could call him if you needed something,
3 and so he could call you if you needed something, right?

4 A. That could be an option, just based on a cell
5 phone use.

6 Q. You even had his secret email address, didn't
7 you?

8 A. I'm not sure which one is --

9 Q. Well, there is an email that's already entered
10 into evidence in this case. It's ag.wkp@protonmail.com.
11 Have you seen it?

12 A. Yes.

13 Q. He gave it to you, right?

14 A. Yes.

15 Q. Did you email him on his secret email address,
16 tell him that you were going to go and report him to the
17 FBI without any evidence?

18 A. No, sir.

19 Q. Why not?

20 A. It didn't occur to me.

21 Q. Didn't occur to you.

22 At some point since then has it occurred
23 to you that maybe you should have done that?

24 A. No, sir.

25 Q. How secret could this email address have

1 really been, Mr. Vassar, if you had it?

2 A. I don't know exactly.

3 Q. Do you consider yourself a close confidante of
4 the attorney general?

5 A. No, sir.

6 Q. Do you think you're the only person that had
7 that email address?

8 A. I have no reason to believe that I was the
9 only one.

10 Q. So this gentle, kind man, was he attentive to
11 your concerns when you talked to him in the office,
12 talked to him on the phone?

13 A. Sure.

14 Q. He's gentle. He's kind. He's attentive. And
15 at what point in time did the weight of what you were
16 doing in reporting this gentle, kind, attentive man to
17 the FBI become apparent to you?

18 A. On September 29th.

19 Q. When you walked in there?

20 A. Walked in where?

21 Q. To the FBI.

22 A. No. That was September 30th.

23 Q. Okay. So what happened on September 29th when
24 the great weight of having to report this gentle, kind,
25 attentive boss struck you? What was going on?

1 A. September 29th I was in a meeting. Just a
2 division meeting with Lacey Mase. And we received --
3 she received a text message on her phone from an
4 individual that I did not recognize. And the individual
5 asked if a Brandon Cammack was working for our office.

6 Q. And you knew exactly who that was, didn't you?

7 A. Yes. I recognized the name.

8 Q. And what happened in your mind was you
9 realized this contract didn't work its way all the way
10 through the executive action memorandum process, true?

11 A. Among other things, yes, that's -- that's a
12 thought that went through my mind.

13 Q. Yes. And the rest of that thought is if that
14 process has not been completed, he has no authority to
15 work on behalf of the Office of the Attorney General,
16 correct?

17 A. Yes.

18 Q. And that was alarming to you, true?

19 A. In addition to the fact that he was acting in
20 a capacity that he didn't have, even if a contract had
21 existed at the time.

22 Q. And in that moment, did you call General
23 Paxton and say, Brandon Cammack's working. What's going
24 on?

25 A. No, sir.

1 Q. Do you think it's possible, is there room in
2 the -- in your mind for the possibility that if you had
3 called Ken Paxton and told him that information, Ken
4 Paxton would have said, yeah, Ryan. I signed the
5 contract with my own hands, with my own pen?

6 Is there room in your mind for the
7 possibility that that would have happened?

8 A. Well, it is possible, but he was out of the
9 state at that time. So I wouldn't have been connected
10 to him or had a reason to call him.

11 Q. You had his phone number. So what if he was
12 out of the state. Cell phone works out of the state,
13 surely, right?

14 A. Yes, sir.

15 Q. You didn't think to call him?

16 A. Well, as I -- as I explained, because he was
17 out of state, Jeff Mateer was running the office.

18 Q. That's another thing we're going to get to,
19 okay.

20 My understanding is your belief was that
21 while Ken Paxton was in Ohio working on the Google case,
22 the biggest case that the Office of the Attorney General
23 had, Jeff Mateer was the acting attorney general, right?

24 A. That's correct. Although, my understanding,
25 in addition --

1 MR. LITTLE: I'm going to object as
2 nonresponsive to the remainder of this answer.

3 PRESIDING OFFICER: Sustained.

4 Q. (BY MR. LITTLE) Mr. Vassar, can it possibly
5 be in a state with as many millions of people as Texas
6 has that it is the belief of the upper echelon of the
7 attorney general's office that any time the attorney
8 general gets on the plane, Jeff Mateer is the real
9 attorney general?

10 A. Only to the extent the Government Code is
11 triggered. That's what -- that's what deputizes the
12 first assistant to act under the authority of the
13 attorney general.

14 Q. And your belief was that on September 29th --
15 September 29th and 30th, when Ken Paxton was in Ohio
16 doing business on behalf of the people of the great
17 State of Texas, litigation business, very important
18 litigation business, that someone else was the attorney
19 general and that's what the Government Code says; is
20 that right?

21 A. Well, it was my understanding it was a
22 political event. It was a campaign event. I had no
23 knowledge that he was working on the Google case.

24 Q. He was doing a campaign event in Ohio?

25 A. That was my understanding at the time.

1 Q. Where on earth did you get that?

2 A. I just -- conversations at the time with
3 Mr. Mateer.

4 Q. So if he was on -- let's say he was. Let's
5 say he was in Ohio on a campaign event. Jeff Mateer is
6 the attorney general while he's there?

7 A. I was just clarifying my understanding based
8 on your question.

9 Your next question of whether Jeff Mateer
10 is the acting attorney general, again, that would depend
11 on the statute. The statute provides if the attorney
12 general is absent or unable to act, the first assistant
13 shall perform the duties.

14 Q. Tell the senators what "absent" means.

15 A. The statute doesn't define it.

16 Q. Tell me what you think it means.

17 A. Well --

18 Q. Out of the state?

19 A. It would mean the ordinary meaning of the
20 word, under a statutory interpretation approach.

21 Q. Tell these senators, many of whom are very
22 accomplished attorneys, what the word "absent" means to
23 your understanding, please.

24 A. I am not advised of what the dictionary
25 definition would be. That would be an interpretive

1 guide. "Absent" could mean out of state. Absent or
2 unable to act could mean incapacitated.

3 Q. Like if Ken Paxton was on life support in a
4 hospital somewhere, for example?

5 A. I presume so.

6 Q. But he wasn't. He was in Ohio, which I guess
7 is debatable one way or the other.

8 A. I'm not -- I'm not aware if that statute has
9 ever been interpreted by a court, so I could not be able
10 to say.

11 Q. But in any event, it provides the perfect
12 cover for someone in your office to remove Ken Paxton's
13 name from the letterhead and begin sending out letters
14 on behalf of the Attorney General of the State of Texas,
15 true?

16 A. No. Nobody removed his name from letterhead.

17 Q. You don't think so?

18 A. No, sir.

19 Q. Have you ever seen -- have you ever seen
20 attorney general's office letterhead without Ken
21 Paxton's name on it?

22 A. All the time.

23 Q. All the time?

24 A. Yes, sir.

25 Q. How did correspondence in September of 2020

1 come to be sent to parties outside of the attorney
2 general's office without Ken Paxton's name on it? Tell
3 us.

4 A. Well, the agency has different letterhead.
5 There -- probably even today, letterhead that's
6 available on the attorney general's website that does
7 not have his name on it.

8 Q. So --

9 A. Letterhead that he signed.

10 Q. I see. So when the attorney general is absent
11 in Ohio, someone at the office goes, grab me the
12 letterhead without Ken Paxton's name on it. He's in
13 Ohio today. Is that right?

14 A. I don't recall any decision about using this
15 letterhead or who instructed the use of the letterhead.

16 Q. No one decided. It just happened. Right?

17 A. Like I said, I don't recall any decision about
18 it. I'm -- the agency has different letterhead that
19 exists today.

20 Q. You're familiar with the Mitte Foundation now,
21 right?

22 A. I've heard of it, yes, but I'm --

23 Q. You've been an attorney how long?

24 A. I was licensed in 2012, so 11 years.

25 Q. You said your family goes to a Baptist church,

1 right?

2 A. Yes, sir.

3 Q. Okay. That Baptist church is organized as a
4 nonprofit, right?

5 A. Yes, sir.

6 Q. And at some point in time, I'm sure you've
7 given money to a charity, correct?

8 A. Yes, sir.

9 Q. I got to ask you something that's just been
10 really bothering me. And I know I am not the only one.
11 What in the heck is a charity doing making a
12 multimillion-dollar private equity investment with Nate
13 Paul with charitable funds? Any thoughts on that?

14 A. I'm not sure. I don't know.

15 Q. Did you ever ask anybody?

16 A. No. I -- I was not involved in the Mitte
17 case, was never consulted on it, or provided any advice
18 for it.

19 Q. Do you know -- maybe you do. Do you know of
20 any charities that make multimillion-dollar private
21 equity real estate deals with charitable funds?

22 A. I have no personal knowledge.

23 Q. Okay. Do you recall giving testimony to the
24 House Board of Managers and being questioned on video by
25 Erin Epley, Brian Benken, and Terese Buess?

1 A. Yes, sir, I remember.

2 Q. But they never put you under oath, did they?

3 A. Not that I recall.

4 Q. Did that kind of surprise you?

5 A. I didn't think anything of it.

6 Q. Did you ask why not?

7 A. I don't know. I don't think I did.

8 Q. Well, just because you weren't -- well, you
9 are an attorney obviously. Just because you weren't
10 under oath doesn't mean that you didn't tell them the
11 truth, the whole truth, and nothing but the truth, so
12 help you God. True?

13 A. That's right.

14 Q. Did you review your statement in preparation
15 for this historic trial?

16 A. No. I consulted with my attorneys and that
17 was it.

18 Q. Did anyone give you a copy of it?

19 A. A copy of my statement?

20 Q. Your statement, yes.

21 A. No, sir.

22 Q. So anything that you said in that testimony --
23 I guess we can call it testimony. Anything you said in
24 that testimony that is recorded, we can take as the
25 gospel truth, right? Yes?

1 A. Just based on my telling the truth, is that
2 what you're asking?

3 Q. Yes.

4 A. Yes, sir.

5 Q. We can -- we can take it as being true, yes?

6 A. Yes, sir.

7 Q. Okay. Have you ever -- before today, have you
8 ever in your life been asked to give testimony as a
9 witness without being sworn?

10 A. I don't recall. I -- I've -- I've been a
11 resource witness to many Senate and committee hearings,
12 but I don't recall if there's an oath administered to a
13 resource witness. So I apologize.

14 Q. Have you ever given sworn testimony anywhere
15 before today?

16 A. No, I don't think so.

17 Q. It's a tough first outing, isn't it?

18 MR. LITTLE: Mr. Arroyo, if you would,
19 Article I of Impeachment, please.

20 Q. (BY MR. LITTLE) You see Article I on your
21 screen, sir?

22 A. Yes, sir.

23 Q. You don't know anything about this, do you?

24 A. No. This would be the Mitte Foundation
25 matter.

1 Q. And just to be clear, have you looked at
2 Chapter 123 of the Property Code to determine what the
3 Office of the Attorney General's obligations are with
4 regard to charities in this state?

5 A. No, sir.

6 Q. Don't know anything about that, do you?

7 A. No, sir.

8 Q. All right.

9 MR. LITTLE: Mr. Arroyo, Article II if
10 you would.

11 Q. (BY MR. LITTLE) Now, Mr. Vassar, you've given
12 some testimony about what we'll call the foreclosure
13 opinion, right, that was issued August 1?

14 A. Yes, sir.

15 Q. Issued August 1 of 2020? Yes?

16 A. Yes. I -- I believe that's right. It was a
17 Sunday.

18 Q. That opinion was not a legal opinion under
19 subchapter C, Chapter 402 of the Government Code, was
20 it?

21 A. Yes. It was a legal opinion under subchapter
22 402.

23 Q. It was?

24 A. Yes, sir.

25 Q. That's not what you told the House Board of

1 Managers. What did you tell them?

2 A. I don't recall.

3 Q. We'll get to that later. But that's not what
4 you told them, is it?

5 A. I -- I don't recall. I may have misstated.

6 Q. You may have misstated?

7 A. If you're saying that's not what I said, and
8 my testimony today is that there is no other statutory
9 authority except for Chapter 418 of the Disaster Act to
10 issue a legal authority -- to issue a legal opinion by
11 the Office of the Attorney General, so it either has to
12 be Chapter 402 or it has to be Chapter 418.

13 Q. But we know this is not 402 because it says on
14 the face of the foreclosure opinion that it is not under
15 402, correct?

16 A. It does say that it's not, but that doesn't
17 mean it doesn't fall under the authority of that
18 chapter. It just means it didn't -- it wasn't written
19 in accordance with the typical legal opinion process.

20 Q. I was hoping that we would be able to have a
21 chance to discuss this.

22 MR. LITTLE: Mr. Arroyo, please bring up
23 Section 402.042 of the Texas Government Code.

24 Now we're looking for 042. That's .212.
25 We'll get to that later. Thank you.

1 Q. (BY MR. LITTLE) While Mr. Arroyo is bringing
2 this up, I've got a couple questions for you about that.

3 In order for the foreclosure opinion to
4 have been authorized under Chapter 402 of the Government
5 Code, Mr. Vassar, certain criteria need to be met; is
6 that correct?

7 A. I believe so.

8 Q. There first needs to be an authorized
9 requestor, correct?

10 A. That's correct.

11 Q. Who are the types of persons who are
12 authorized to make that request?

13 A. The governor, the lieutenant governor, the
14 speaker, chairman, and chair people of committees of the
15 House and of the Senate, executive heads of agencies,
16 and county and district attorneys.

17 Q. Did any of those people request the
18 foreclosure opinion?

19 A. Yes, sir.

20 Q. Okay. What is the next criteria to satisfy
21 for Chapter 402 of the Government Code?

22 A. You're going to have to refresh my
23 recollection.

24 MR. LITTLE: All right. Mr. Arroyo, if
25 you would, move to the second page of that PDF that you

1 just had up.

2 There you go. If you could just
3 highlight the text at the top, that big chunk of text
4 there. Little bit lower. Thank you so much. And just
5 blow that up for us.

6 Q. (BY MR. LITTLE) Let's look at Item C, okay?
7 You're a lawyer. We can read this together, right?
8 Right?

9 A. Yes, sir.

10 Q. It says, A request for an opinion must be in
11 writing and sent by certified or registered mail, with
12 return receipt requested, addressed to the Office of the
13 Attorney General in Austin, or electronically to an
14 email address designated by the attorney general for the
15 purpose of receiving requests for opinions under this
16 section.

17 Did I read that correctly?

18 A. Yes, sir.

19 Q. That didn't happen with the foreclosure
20 opinion, did it?

21 A. I'm not advised if it did.

22 Q. You were in charge of the section. Is there
23 anybody who has more knowledge about this than you
24 perhaps?

25 A. I don't have access to the email box that it

1 would have been received at, so I'm not aware of how it
2 was delivered, if it was delivered by electronic mail.

3 Q. Can you tell the senators whether the criteria
4 of Section 402.042(c) were satisfied, yes or no?

5 A. I -- I'm not sure. I don't recall.

6 Q. And you -- that you were in charge, right?

7 A. Yes, sir. Subsection D allows --

8 Q. Seems kind of -- I'm not talking about
9 subsection D. We're not there yet.

10 Seems kind of important to know whether
11 this satisfies the criteria for the attorney general to
12 provide formal legal advice. Yes?

13 A. Yes, sir.

14 Q. But you told the House Board of Managers this
15 was not -- this foreclosure opinion was not formal legal
16 advice, correct?

17 A. That's correct, it was not.

18 Q. It was not formal legal advice. It was
19 informal guidance, true?

20 A. I believe so.

21 Q. And during COVID, the Office of the Attorney
22 General was dispensing informal legal advice related to
23 COVID almost every day, was it not?

24 A. It was very frequently. I don't know if it
25 was every day, but --

1 Q. Were you writing the opinions?

2 A. Some of them, yes.

3 Q. People who are working for you were writing
4 the opinions as well, yes?

5 A. Yes.

6 Q. And there were all kinds of COVID opinions
7 coming out almost every day, informal legal guidance
8 from the Office of the Attorney General, that did not
9 satisfy the criteria of Chapter 402 of the Government
10 Code, true?

11 A. I'm not sure about that. Most of -- a lot of
12 the things that you're referring to about the daily
13 stuff would have come through Chapter 418, which is the
14 disaster counsel legal function. Those would have come
15 from county mayors or city mayors, county judges, and
16 emergency management directors. Those were coming more
17 frequently than the other ones.

18 Q. Well, let's build two boxes. In this box, we
19 have Chapter 402, formal legal advice, correct? Okay.
20 So in this box, we place formal legal opinions from the
21 Office of the Attorney General that satisfy the criteria
22 of 402.042. Yes?

23 A. Sure.

24 Q. And it's assigned a KP number, correct?

25 A. That's right.

1 Q. And it's published in the formal opinions
2 section of the office's website, correct?

3 A. That's right.

4 Q. And to be clear for the ladies and gentlemen
5 of this jury, the foreclosure opinion did not satisfy
6 anything in that box, correct?

7 A. No. That's why it was flagged as not a formal
8 legal opinion.

9 Q. It's in the 418 box. Because at that point in
10 time, the governor of this state had decided to empower
11 the attorney general to give the people of Texas
12 guidance more freely about what's going on during COVID.
13 True?

14 A. That's not true.

15 Q. It's not true?

16 A. That's -- that's correct. It is not true.

17 Q. How did the attorney general get the ability
18 to give people informal legal advice under Chapter 418
19 of the Government Code?

20 A. Well, it wasn't from the governor. The
21 legislature enacted a statute that the governor signed
22 giving the attorney general the power to advise three
23 people -- three categories of people: County judges,
24 city mayors, and emergency management directors.

25 Q. I apologize for my imprecision.

1 So at this point in time, these people,
2 the legislature, at least in part, had empowered the
3 attorney general to give informal legal guidance more
4 freely. True?

5 A. To select people, yes, that's true.

6 Q. Yes. How select were they?

7 A. It's the three categories of people: County
8 judges, city mayors, and emergency management directors
9 under the disaster act.

10 Q. There were people in the House Board of
11 Managers who were requesting informal legal guidance
12 relative to COVID, weren't there?

13 A. But that wouldn't have triggered Chapter 418.
14 The only other expressed statutory authority for a legal
15 opinion is 402.

16 Q. But if it doesn't have a KP number and it
17 doesn't satisfy the criteria of 402.042, it's not formal
18 legal advice, correct?

19 A. That's correct. It's not a formal piece of
20 advice. It's an informal piece of advice under
21 Chapter 402.

22 Q. One of the things that had to do with your
23 termination, I believe, is your voluntarily sending
24 secret grand jury subpoenas outside of the Office of the
25 Attorney General to someone who is not authorized to

1 receive them. Do you understand that?

2 A. That's never been stated to me, but that's my
3 understanding, based on the OAG's whistleblower report.

4 Q. Well, you don't have to wait for the OAG to
5 tell you that. You know you did it, right?

6 A. I -- I only sent copies of records to my
7 private lawyer. I did not send them to any member of
8 the public or disclose them to the public outside of the
9 agency.

10 Q. Was Johnny Sutton authorized to receive secret
11 grand jury subpoenas from Travis County. Yes or no?

12 A. Well, on their face, they were valid. Brandon
13 Cammack had no contract. He was not a special
14 prosecutor. He had no authority to request them or to
15 obtain them.

16 Q. Mark Penley thought they were valid enough to
17 quash and to get a judge to sign an order to quash them,
18 didn't he?

19 A. Well, because they were issued.

20 Q. They were issued. And when they were issued,
21 they were secret, true? True?

22 A. I guess, unless they were invalidly obtained
23 under false pretenses.

24 Q. Are you aware of some type of exception that
25 allows you to send secret grand jury subpoenas to your

1 lawyer?

2 A. Well, I thought sending it to my lawyer for
3 purposes of legal advice would be permissible. I'm not
4 a --

5 Q. Did you check and ask Mr. Sutton whether he
6 represented any of the subpoena recipients before you
7 sent them to him?

8 A. Yes. In our conversation for him to represent
9 us, we discussed whether he was able to do so.

10 Q. And after you sent those grand jury subpoenas
11 to your lawyer, copying the rest of the so-called
12 whistleblowers, you deleted that email from your inbox,
13 true?

14 A. That's right.

15 Q. I think you'll probably recall at some point
16 in your five years of employment at the Office of the
17 Attorney General receiving some type of training in
18 document preservation. Yes?

19 A. Yes.

20 Q. And what types of training did you receive?
21 Please tell the ladies and gentlemen of this jury.

22 A. I believe it's an annual information security
23 training. There's annual sexual harassment training.
24 So there's a variety of required annual trainings that
25 employees of the office are required to complete.

1 Q. In a second I'm going to ask you -- well, let
2 me ask you now.

3 You are not allowed to delete official
4 records of the attorney general's office. True?

5 A. Official records, no. That's -- that's right,
6 unless --

7 Q. In a second I'm going to ask you whether you
8 deleted emails from your computer that should have been
9 preserved as official records. Do you want to consult
10 with your criminal attorney first?

11 A. No, sir.

12 Q. Did you delete official email records of the
13 Office of the Attorney General, sir?

14 A. I deleted emails to my personal attorney under
15 the agency's own information security policy that's
16 provided to every employee, that personal messages of a
17 de minimis nature are allowed on agency devices,
18 provided that those messages are deleted, to prevent
19 archival. Because I made a determination that I emailed
20 Johnny Sutton in my personal capacity with copies of
21 records, not records that had to be maintained on an
22 agency device, but copies of records that existed in the
23 office, I deleted the personal message to Johnny Sutton.

24 Q. It seems, Mr. Vassar, that one of the things
25 you are accusing Ken Paxton of doing is by allowing

1 people outside of the Office of the Attorney General to
2 see secret things they should not see. Do I have that
3 correct?

4 A. No, sir. Mr. Sutton was my personal lawyer.

5 Q. No. That wasn't my question. Let me try
6 again. Listen to my question.

7 One of the things that you are accusing
8 Ken Paxton of doing is forwarding secret information of
9 the Office of the Attorney General to people who should
10 not have it. Yes?

11 A. That is a suspicion.

12 Q. You don't even have enough to make an
13 accusation. You suspect that it occurred, right?

14 A. Yes, sir.

15 Q. But that's what you did, isn't it?

16 A. No. I forwarded it to my personal lawyer for
17 purposes of legal advice.

18 Q. And you think that protects you somehow?

19 A. Well, if any ordinary person gets a subpoena,
20 I imagine their first call is to their lawyer who
21 reviews the subpoena.

22 Q. In preparing the foreclosure opinion, Ken
23 Paxton didn't direct you; Ryan Bangert did. Yes?

24 A. Yes, sir.

25 Q. And Ken Paxton didn't direct Austin Kinghorn,

1 you did, correct?

2 A. That's right.

3 MR. LITTLE: If you would, Mr. Arroyo,
4 please bring up Article II.

5 Q. (BY MR. LITTLE) This allegation is not true,
6 is it?

7 A. Is there a specific part that you'd like me to
8 review or --

9 Q. Read it all.

10 Ken Paxton is innocent of this
11 allegation, isn't he?

12 A. So the first provision of the second sentence,
13 this is Article II of the Articles of Impeachment,
14 Paxton caused employees of his office to prepare an
15 opinion.

16 Q. Hold on a second. I don't want you to read it
17 out loud.

18 A. Okay.

19 Q. We don't need to waste the jury's time doing
20 that. They can read. Many of them are skilled
21 attorneys themselves.

22 This article is not true, is it?

23 A. Well, it is true that he caused employees of
24 his office to prepare an opinion in an attempt to avoid
25 the impending foreclosure of properties.

1 Q. But you don't know whether those properties
2 belonged to Nate Paul or business entities controlled by
3 Nate Paul, do you? You don't know that?

4 A. Nothing other than what's been reported in the
5 media.

6 Q. You don't know that -- what's been reported in
7 the media. Have you ever heard the phrase "self-licking
8 ice cream cone" before?

9 A. No, sir.

10 Q. Let me explain to you what a self-licking ice
11 cream cone is, Mr. Vassar. A self-licking ice cream
12 cone is when a bunch of employees at the attorney
13 general's office begin to suspect their boss. They read
14 it in the media. They believe what the media says.
15 They report it to the FBI. And then the media reports
16 that you went to the FBI. That's a self-licking ice
17 cream cone.

18 Are you familiar with the expression now?

19 A. Based on your description, yes, sir.

20 Q. You don't know whether this article is true or
21 false, do you?

22 A. No, sir, I didn't write this.

23 MR. LITTLE: Mr. Arroyo, Article III, if
24 you will. Article III. Thank you.

25 Q. (BY MR. LITTLE) You weren't directed to act

1 in contravention or contrary to the law, were you?

2 A. No, sir. General Paxton --

3 MR. LITTLE: Object. Nonresponsive to
4 anything after "no, sir," Mr. President.

5 PRESIDING OFFICER: Sustained.

6 Q. (BY MR. LITTLE) Do you think that your
7 decision with regard to any open records request that
8 was made by anyone was improper?

9 A. No, sir.

10 Q. It wasn't, was it?

11 A. No. Everything that we did, we did in a way
12 that we could find a way to make it lawful because we
13 wouldn't have participated otherwise.

14 Q. You did it by the book, correct?

15 A. Yes, sir.

16 Q. You wouldn't do it any other way, would you?

17 A. That's right.

18 MR. LITTLE: Mr. Arroyo, Article IV, if
19 you will.

20 Q. (BY MR. LITTLE) Can you see Article IV,
21 Mr. Vassar?

22 A. Yes, sir.

23 Q. Ken Paxton didn't improperly access anything
24 in his office that you're aware of, did he?

25 A. No, not that I'm aware of.

1 Q. And if he wanted to ask for a file, he could
2 do that any time he pleased, couldn't he?

3 A. Sure.

4 Q. Because that's what 4.2 million voters elected
5 him to do, true?

6 A. Yes.

7 Q. To access whatever file the heck he wants.
8 Yes?

9 A. True.

10 MR. LITTLE: Article V, please.

11 Q. (BY MR. LITTLE) We know that Ken Paxton's
12 innocent of this article, right? Right?

13 A. I'm not even -- I don't recall the distinction
14 about an attorney pro tem. I used to know it, but --

15 Q. You don't even know what an attorney pro tem
16 is, do you?

17 A. I know there's two categories. One is court
18 appointed, and one is recusal based, but I don't recall
19 the nomenclature.

20 Q. And Brandon Cammack wasn't either one of them,
21 was he?

22 A. No. He said he was on the --

23 Q. Brandon Cammack wasn't either one of them, was
24 he?

25 A. No. He had --

1 Q. He wasn't an attorney pro tem, was he?

2 MR. HARDIN: Your Honor, he keeps
3 interrupting the witness. He should be entitled to
4 finish his answer.

5 MR. LITTLE: You're right, Mr. Hardin.
6 I apologize, Mr. President. May I try
7 again?

8 PRESIDING OFFICER: You may try again.

9 Q. (BY MR. LITTLE) Mr. Cammack was not an
10 attorney pro tem ever, to your knowledge. True?

11 A. Like I said, I don't recall the distinction
12 between the two categories of prosecutors, but he was
13 not hired to be a prosecutor.

14 Q. He wasn't hired to be any type of prosecutor,
15 true?

16 A. Yes, sir.

17 Q. He was hired as outside counsel because that's
18 how you drafted the contract personally, yes?

19 A. Yes, sir.

20 Q. So when it says Warren Kenneth Paxton misused
21 his official powers by violating the laws governing the
22 appointment of prosecuting attorneys pro tem, Brandon
23 Cammack wasn't a prosecuting attorney pro tem, was he?

24 A. Not based on my understanding of what that --

25 Q. I didn't think so either.

1 MR. LITTLE: Article VI if you would,
2 Mr. Arroyo.

3 Q. (BY MR. LITTLE) You are familiar with this
4 allegation dealing with whistleblowing, correct?

5 A. Yes, sir.

6 Q. Don't you kind of think Ken Paxton had a right
7 to be upset with you reporting him to the FBI without
8 any evidence?

9 A. I suppose he's entitled to whatever feelings
10 he may have felt at the time.

11 MR. LITTLE: Article X, if you would
12 Mr. Arroyo.

13 Q. (BY MR. LITTLE) This says that the Paxtons,
14 and it says Ken Paxton. But you understand he's married
15 to Angela Paxton, right?

16 A. Yes, sir.

17 Q. So when somebody's spouse gets accused of
18 bribery, and the form of the bribery is improvements to
19 a home that are owned by both of them, really you're
20 accusing both of them of being corrupt. Right?

21 A. I'm -- I don't know.

22 Q. Don't you think?

23 A. I don't know the elements of bribery. I'm not
24 a criminal lawyer. So I'm not sure what the implication
25 could be.

1 Q. As you sit here today, you know darn well that
2 the Paxtons paid for the renovations and repairs to
3 their home, don't you?

4 A. No, I don't know that actually.

5 Q. You don't know who paid for them?

6 A. No.

7 Q. Maybe it'll come out in this trial.

8 Mr. Vassar, would you expect to be placed
9 on investigative leave for sending a set of secret grand
10 jury subpoenas to your outside counsel and then deleting
11 that email?

12 A. No, sir. I mean --

13 Q. You wouldn't expect anybody to investigate
14 that?

15 A. For sending an email to my personal lawyer
16 relating to my report to law enforcement?

17 Q. Yeah.

18 A. And to be retaliated against by being placed
19 on investigative leave; is that --

20 Q. No. My question is a little bit different, so
21 let me be clear about what the question is. Wouldn't
22 you expect the Office of the Attorney General to
23 investigate your use of your office email to send secret
24 grand jury subpoenas to that man, Johnny Sutton, and
25 then delete the email? Wouldn't you expect to be

1 investigated for that? Yes or no?

2 A. No, not necessarily.

3 Q. Okay. Wouldn't you expect to be fired for
4 that?

5 A. No.

6 Q. Wouldn't you expect to be fired for reporting
7 your boss to the FBI without any evidence?

8 A. No. I -- I would expect an opportunity to
9 answer questions based on answers that I was provided
10 when I asked what documents are you alleging that I
11 disclosed. And when no response was given, I couldn't
12 give any further information about who the messages may
13 have gone to or for what purpose.

14 MR. LITTLE: Mr. President, I'm conscious
15 of the indulgence of the hour. And I want to make sure
16 that I'm not running up against any type of deadline
17 or --

18 PRESIDING OFFICER: We were prepared to
19 go to 7:00, if needed.

20 MR. LITTLE: Would you like me to
21 continue?

22 PRESIDING OFFICER: You may continue.

23 MR. LITTLE: I will be happy to.

24 Q. (BY MR. LITTLE) You were the chief of the
25 general counsel division at the Office of the Attorney

1 General, correct?

2 A. At one point, yes, sir.

3 Q. Yeah. So for the ladies and gentlemen of jury
4 who are here and may not be lawyers, and for the people
5 of Texas who may be watching, you were really a lawyer
6 to lawyers, correct?

7 A. You could describe it like that, yes.

8 Q. That's how I would describe it. General
9 counsel is really a lawyer's lawyer. Yes?

10 A. Yes, sir.

11 Q. And so what happens in the Office of the
12 Attorney General, when you are in the general counsel's
13 office, actual lawyers come to you and ask you for legal
14 advice. Yes?

15 A. Yes, sir.

16 Q. And that happened regularly, true?

17 A. Yes.

18 Q. You're first chief of the general counsel
19 division, and then you were deputy attorney general for
20 legal counsel. True?

21 A. That's right.

22 Q. And your first involvement with anything
23 related to this impeachment was being approached in the
24 fall of 2019 with a question about an open records
25 request made to the Texas State Securities Board. True?

1 A. That's true.

2 Q. And Ryan Bangert approached you with a
3 question -- remember, you're the lawyer's lawyer. He
4 approached you with a question about whether the State
5 Securities Board's involvement in a joint task force
6 could harm the law enforcement or investigative
7 privilege. True?

8 A. That's my recollection, yes, sir.

9 Q. And you answered his question. Yes?

10 A. Yes, sir.

11 Q. And then you were not involved in anything
12 else related to this impeachment matter until
13 March 2020. True?

14 A. That's -- that's not true. I think it was May
15 of 2020, which was the DPS request.

16 Q. You're wrong about that, but --

17 A. Okay.

18 Q. -- I just want to make sure I understand what
19 your understanding of the timeline is, okay.

20 So when was the period of time when you
21 believe you first got a request -- or an open records
22 request related to this impeachment matter?

23 A. Well, to back up just a little bit, if I may,
24 I was not promoted to deputy for legal counsel until
25 April 1st of 2020. So I wouldn't have overseen the open

1 records division until after April.

2 So I don't know when the DPS request was
3 submitted to our office. That could have been the date
4 that we received it in March, but I wouldn't have been
5 tasked with anything related to it until after I was
6 promoted on April 1st, and then the conversations that I
7 had in May of 2020.

8 Q. Tell the ladies and gentlemen of the jury who
9 Joe Larsen is.

10 A. I believe he's an attorney representing Nate
11 Paul.

12 Q. And what type of work does he do, to the best
13 of your understanding?

14 A. I'm -- I'm not sure. He was -- he was a
15 requestor in two of the open records requests.

16 Q. Yes.

17 A. I don't know if that's his practice.

18 Q. In fact, Joe Larsen works at -- he's pretty
19 well known in the state of Texas for being a Public
20 Information Act lawyer. Yes?

21 A. I'm -- I'm not sure.

22 Q. Had you ever encountered him before?

23 A. No, sir.

24 Q. Okay. So I'm going to tell you my
25 understanding is on March 3 of 2020, Joe Larsen sent

1 what I call "the big request" to DPS, okay. So the one
2 that happened in 2019 was a request -- public -- for
3 public information was made to the Texas State
4 Securities Board. Yes?

5 A. Yes.

6 Q. Ken Paxton asked you about the law enforcement
7 privilege. You answered his question -- I'm sorry, Ryan
8 Bangert asked you about the law enforcement privilege.
9 You answered his question. And that went away, poof.
10 Yes?

11 A. I never heard anything else, yes, that's
12 right.

13 Q. Then March 3 of 2020, Joe Larsen made a Public
14 Information Act request to DPS, what I call "the big
15 request." He's asking for a whole lot of information
16 related to the search warrant execution on Nate Paul.
17 Yes?

18 A. I don't know about the dates. Again, I don't
19 know when he submitted it to DPS, but yes, if that's how
20 you want to categorize "the big request," then yes, that
21 is accurate.

22 Q. Well, this is probably beneath many of the
23 people on the jury who very well understand this, but
24 for people who are watching at home, when someone makes
25 a Public Information Act request of an agency in the

1 state, the agency comes to the Office of the Attorney
2 General for representation, says help us, help us
3 decide. Yes?

4 A. It's not representation, but it's a request
5 for a ruling.

6 Q. Yeah. They want a ruling.

7 A. Right.

8 Q. And so in this situation, DPS wanted a ruling.
9 Yes?

10 A. Correct. If they want to withhold anything
11 under the Public Information Act, they must request a
12 ruling.

13 Q. But Joe Larsen didn't wait for your ruling,
14 did he?

15 A. I'm -- I'm not -- I don't think I follow.

16 Q. On April 10th of 2020, Joe Larsen sent a
17 demand to DPS saying, I asked for this stuff. Give it
18 to me now.

19 Are you familiar with that request or
20 demand?

21 A. No, sir.

22 Q. On April 16 he filed a lawsuit to get it. Are
23 you aware of that, sir?

24 A. I recall the lawsuit.

25 Q. I'm going to show you what's been marked as

1 Exhibit 5. Maybe like one copy.

2 MR. LITTLE: Your Honor, may I approach
3 the witness?

4 PRESIDING OFFICER: Yes, you may.

5 MR. LITTLE: Thank you. We move for
6 admission of AG Exhibit 5.

7 PRESIDING OFFICER: Mr. Hardin?

8 MR. HARDIN: No objection, Your Honor.

9 PRESIDING OFFICER: AG Exhibit 5 should
10 be admitted into evidence.

11 (AG Exhibit 5 admitted)

12 MR. LITTLE: Thank you, Mr. Arroyo.
13 Exhibit 5, if you would. This is good.

14 Q. (BY MR. LITTLE) What is this, Mr. Vassar?

15 A. This appears to be a petition for mandamus
16 filed by Joe Larsen -- Joseph Larsen, as plaintiff
17 against the Department of Public Safety, April 16 of
18 2020.

19 Q. Who did he sue?

20 A. He sued the department, it appears.

21 Q. What did he sue to get?

22 A. I'm not sure.

23 Q. Take a moment and look through it. Maybe you
24 can figure it out.

25 A. Sure.

1 So according to Count 1, Joseph Larsen --

2 Q. You don't need to read it out loud.

3 A. I'm not. I'm not.

4 Q. Okay.

5 A. I'm summarizing.

6 Q. I'm sorry. Go ahead.

7 A. He's suing DPS because of his claimed refusal
8 to produce the information that he requested.

9 MR. LITTLE: Mr. Arroyo, can you find
10 Count One for the ladies and gentlemen of the jury so
11 that they're not listening to this blind?

12 A. Do you want me to continue?

13 MR. LITTLE: Not quite.

14 There you go. Thank you.

15 Can you just pull up Count One?

16 Q. (BY MR. LITTLE) Mr. Larsen is suing DPS based
17 on his big request for all the documents that DPS has
18 related to the Nate Paul search warrant, true?

19 A. I don't -- I don't know -- it looks like, yes,
20 Page 1 references the March 4th, 2020, DPS request for
21 all communications. So we could call that one the big
22 one, if that's the big request.

23 Q. I call it "the big request."

24 A. Okay.

25 Q. So in the big request, Mr. Larsen is suing to

1 get all the raid information. Yes?

2 A. Yes. I mean --

3 Q. Probable cause affidavit. Yes?

4 A. It says all communications in this document,
5 but I would assume it would have said all records.

6 Q. He wants the full Monty?

7 A. Right.

8 Q. Everything DPS has related to the Nate Paul
9 search warrant. Yes?

10 A. I presume so.

11 Q. And he's suing to get it. Yes?

12 A. Yes, it appears so.

13 Q. And the OAG was aware of this litigation.
14 True?

15 A. Yes. We became aware of it. I don't recall
16 when, but --

17 Q. It would be pretty stupid for Nate Paul to sue
18 to get something that he already had, wouldn't it?

19 A. Well, this predated any conversation --
20 this -- this lawsuit could have even predated a request
21 for ruling to our office, so --

22 Q. Let me -- let me press pause there for a
23 second.

24 To be clear, this big request is the
25 request to which OAG responded and said, we take no

1 position on it. True?

2 A. Yes, the big request.

3 Q. Yeah, the big request.

4 So this thing -- by the time OAG even
5 decides anything, Joe Larsen has already sued DPS to get
6 it, true?

7 A. Correct. If I'm following -- so this was
8 filed, it appears to be, April 16th. The OAG's
9 nondecision in the big request was June 2nd. So this --
10 this lawsuit -- and I apologize if I'm not following
11 you, but --

12 Q. You are following.

13 A. Okay.

14 Q. Mr. Vassar, you are following me.

15 What happened is Joe Larsen says, I'm not
16 going to wait to see what the OAG decides on this. I'm
17 suing. Right?

18 A. Sure. I don't know what he was thinking at
19 the time, but --

20 Q. And the OAG's no decision on the big request
21 did not lead to the production of any documents to Nate
22 Paul, did it?

23 A. Not -- not under the Public Information Act,
24 no, sir.

25 Q. No. But Joe Larsen didn't stop there, did he?

1 A. If you're talking about the public information
2 request to the Office of the Attorney General for the
3 FBI brief, then you are correct, he did not stop there.

4 Q. All right. Press pause there.

5 This third request from Joe Larsen was
6 for an unredacted copy of the FBI's brief. Let's go
7 back a step.

8 This is very confusing and arcane, so I
9 want to go slowly. All right?

10 When Joe Larsen made the original big
11 request of DPS for the search warrant, et cetera, DPS
12 had to give notice to the FBI. Yes?

13 A. Yes, sir.

14 Q. Because they were holding the FBI's own
15 documents. Yes?

16 A. That's right.

17 Q. Said, hey, we're holding some stuff that
18 probably by right belongs to you. Do you want to
19 object?

20 And the FBI has a period of time to
21 object. Yes?

22 A. That's right.

23 Q. And what the FBI did in response to that was
24 they sent a legal brief. Yes?

25 A. Yes, sir.

1 Q. And that legal brief is a bunch of legal
2 arguments from a lawyer at the FBI. Yes?

3 A. That's right. The brief identifies the
4 content of the information that the agency wants to
5 withhold.

6 Q. And the brief that the FBI generated and gave
7 to Mr. Larsen was almost completely redacted, like
8 something you might get from the CIA, right?

9 A. I don't recall exactly, but based on what I
10 recall, it was redacted.

11 Q. It was just basically a bunch of pieces of
12 paper with big black blocks on them, right?

13 A. I -- I don't recall, but it was redacted. I
14 do remember that.

15 Q. And Joe Larsen says, this is no good.

16 He makes a demand for the unredacted FBI
17 brief. He made a third request, so Request No. 3 under
18 the Public Information Act, for an unredacted version of
19 that brief. And he made it directly to the OAG's
20 office. Yes?

21 A. Yes, sir.

22 Q. He didn't make it to DPS. He didn't make it
23 to FBI. He made it to your office. Yes?

24 A. Yes, sir.

25 Q. And what happened is, the OAG sent notice to

1 the FBI, the same notice DPS had sent earlier, and said,
2 hey, this guy wants a copy of the unredacted brief. You
3 guys need to show up and object if you don't want him to
4 get it. True?

5 A. Yes. That would have been the third-party
6 notice.

7 Q. And the FBI blew it, right?

8 A. I don't recall. I was not involved in those
9 conversations. I don't recall what happened.

10 Q. The FBI didn't respond in time. True?

11 A. That could --

12 Q. True?

13 A. I believe that could be true. I don't recall.
14 It -- I'm happy to refresh my recollection if you
15 have --

16 Q. Joe Larsen got the unredacted FBI brief. Yes?

17 A. Yes, I believe so.

18 Q. And he -- and he got it because your office
19 decided the FBI blew the deadline. Yes?

20 A. That's functionally correct.

21 Q. Functional -- what do you mean? What does
22 that mean?

23 A. Well, after we had advised General Paxton
24 about the issue --

25 Q. What did you need to advise him about? Ken

1 Paxton -- hold on a second.

2 Ken Paxton --

3 MR. HARDIN: Excuse me. Excuse me. He
4 asked him what you mean. He's in the middle of
5 answering, and he cuts him off because he don't want the
6 answer.

7 PRESIDING OFFICER: Sustained.

8 MR. HARDIN: Excuse me --

9 PRESIDING OFFICER: Slow down.

10 MR. LITTLE: You're very right. My
11 apologies.

12 Q. (BY MR. LITTLE) Did you need Ken Paxton to
13 tell you that the FBI blew the deadline?

14 A. I'm sorry. Did I -- did I need Ken Paxton to
15 tell me that the FBI missed the deadline?

16 Q. Yes.

17 A. No, sir. No. We -- I brought it to General
18 Paxton --

19 MR. LITTLE: Object. Nonresponsive to
20 everything after "no, sir."

21 PRESIDING OFFICER: Sustained.

22 Q. (BY MR. LITTLE) So after the FBI blew the
23 deadline, Joe Larsen got the unredacted FBI brief fair
24 and square. Yes? Yes?

25 A. I assume so. I did not provide it to him, but

1 I assume a copy was provided in response to the decision
2 to let the brief go out.

3 Q. Okay. Just make it -- like -- tell the ladies
4 and gentlemen of the jury like you would a seventh
5 grader. Did -- did Joe Larsen get the unredacted FBI
6 brief because the FBI blew the deadline?

7 A. It was mainly because General Paxton told us
8 to release the FBI brief.

9 Q. And he told you to do that because the FBI
10 blew the deadline, right?

11 A. I don't know if that's why he told us that.

12 Q. But they did blow the deadline. Yes?

13 A. I don't recall. I -- I was not involved in
14 contacting them directly. I don't know what any
15 responses we would have received or when.

16 Q. This is you -- sorry.

17 You're in charge of this. Yes?

18 A. That's right.

19 Q. And you can't remember, right?

20 A. No, I don't -- I didn't have direct contact
21 with the FBI about a brief or a notice. Those are all
22 handled by the opinions division.

23 Q. Are you satisfied in your own mind that the
24 proper notice was provided to the FBI and the deadline
25 was not satisfied?

1 A. To -- based on my knowledge, yes. I didn't
2 see it, but --

3 Q. Nate Paul's lawyer got that fair and square,
4 didn't he?

5 A. Maybe under the Public Information Act.

6 Q. The law, you mean?

7 A. Correct. Just under an interpretation of
8 whether sufficient notice was provided or whether a
9 third party submitted briefs that it wanted to submit.

10 Q. It's just a brief. It's just a bunch of legal
11 arguments, isn't it?

12 A. It is.

13 Q. You told Rusty Hardin when he asked you on
14 direct that this item contained all types of information
15 that would -- that would subject law enforcement to
16 potential retaliation, that somebody might come and
17 shoot them at their home or something like that. That's
18 not true.

19 A. Well, that's not exactly what I said.

20 Q. This unredacted FBI brief is just a bunch of
21 legal arguments from some Fed lawyer, isn't it? Isn't
22 it?

23 A. The -- the act requires the brief to identify
24 information to which exceptions might apply.

25 Q. That's all he asked for, right, the brief?

1 A. Correct.

2 Q. So the insinuation that Ken Paxton somehow got
3 the file in sneaky sneaky, delivered it to Nate Paul,
4 you don't have any evidence to substantiate any of that,
5 do you?

6 A. I have no direct knowledge of what he did with
7 the file when it was in his possession.

8 Q. You want to make an accusation while you're
9 here on the stand? You want to accuse the elected
10 attorney general of the state of delivering something to
11 Nate Paul that he shouldn't have? You want to do that
12 now?

13 A. I don't -- I don't know what he did.

14 Q. So when Ken Paxton asked for the file, you
15 gave him the file, right?

16 A. Yes, sir.

17 Q. He had every right to ask for that. Yes?

18 A. Yes.

19 Q. If he just felt like looking at it, he could
20 ask for it. Yes?

21 A. That's right.

22 Q. And irregardless of his feelings about Nate
23 Paul and whether he was unjustly being railroaded or the
24 feds are mistreating him, he had every right to look at
25 it, didn't he?

1 A. Yes, sir.

2 Q. And you don't know that Ken Paxton did
3 anything illicit with that file, do you?

4 A. No, sir, I don't.

5 Q. You're not here to testify about any of that,
6 are you?

7 In fact, when Ken Paxton had this meeting
8 with you about the file, he told you that he had spoken
9 to Nate Paul. He didn't hide that, did he?

10 A. No, sir.

11 Q. He told you he would believe that Nate Paul
12 was being railroaded, just like he has been. Yes?

13 A. Yes, sir.

14 Q. He told you he didn't trust DPS or the feds,
15 didn't he?

16 A. Yes, sir.

17 Q. And he didn't hide that, did he?

18 A. Not -- not in that meeting.

19 Q. Do you, by the way? Do you trust the feds?
20 Trust the FBI?

21 A. Yes. I have no reason not to. I trust law
22 enforcement and our peace officers.

23 Q. You can't think of one reason in the last
24 three or four years not to trust the FBI?

25 A. I'm speaking mainly personally.

1 Q. Ken Paxton told you he didn't want to use his
2 office to help the feds in any way, didn't he?

3 A. Yes, sir.

4 Q. He didn't hide that from you, did he?

5 A. No, sir.

6 Q. And when you were discussing the ruling, what
7 I'll call the no decision ruling on the big request, you
8 reached an impasse where each side made its case. And
9 he's the boss, right? Yes?

10 A. Yes, sir.

11 Q. And he didn't overwhelm you. He didn't tell
12 you to do anything against your conscience, did he?

13 A. No, sir.

14 Q. He told you to be a lawyer and make a
15 decision, right?

16 A. No. No, sir.

17 Q. Well, you made a no decision. Yeah?

18 A. Well, to clarify, it -- it wasn't my decision
19 to make. It was his decision for the ruling to be a
20 nondecision. There was a couple of decisions in there
21 that maybe confused me.

22 Q. Have you ever seen the probable cause
23 affidavit in connection with Nate Paul's search warrant?
24 Have you seen it personally?

25 A. Yes, sir.

1 Q. Earlier you said that you delivered a file
2 to -- you gave a file to Drew Wicker. And just show the
3 ladies and gentlemen of the jury with your fingers how
4 thick that manila envelope was. Like that?

5 A. I'd say less than a quarter of an inch. You
6 know, just -- not very thick.

7 Q. Probable cause search warrant affidavit is 224
8 pages, isn't it?

9 A. I don't know.

10 Q. You don't know. You said you saw it?

11 A. Well, I saw the body of the affidavit. I
12 don't know if there was anything else attached to it.
13 When DPS submitted its request to us, it was a request
14 based on representative samples of information. So we
15 would have received a representative sample of whatever
16 DPS provided. And I don't recall seeing a document of
17 that size.

18 PRESIDING OFFICER: Counselor, we'll go
19 maybe ten more minutes. You can stop anywhere you like
20 in between.

21 MR. LITTLE: You're very kind. Thank
22 you.

23 Q. (BY MR. LITTLE) I want to talk about the
24 foreclosure guidance for a few minutes before we retire
25 for the evening. The legal question from Ryan Bangert

1 was, are foreclosure sales gatherings, quote/unquote,
2 since the governor and the local county judges and
3 mayors have prevented gatherings of ten or more people,
4 right?

5 A. Yes, that's what I remember his question to
6 be.

7 Q. That's really the simple legal question. And
8 you, as a lawyer at the OAG's office, you do your
9 research and then you take a position. Yes?

10 A. That's right.

11 Q. Okay. And we agree that what you were doing
12 was not a formal attorney general opinion. True?

13 A. It was not formal, that's right.

14 Q. These are what you call informal letters or
15 announcements. Yes?

16 A. Yes. Informal opinions, I mean --

17 Q. Let me just -- let's save us a little bit of
18 time.

19 I have a transcript of what you told the
20 House Board of Managers. And what you told them was
21 this AG foreclosure guidance was an informal letter or
22 announcement. Yes? True?

23 A. If that's -- if that's what you're saying.

24 Q. Is that what you said?

25 A. I don't recall. Again, based on my

1 recollection of 402 and 418, those are the only two
2 statutes that give the Office of the Attorney General
3 express statutory authority to issue legal opinions.

4 Q. And after you and Austin -- after Austin
5 Kinghorn did the research and he explained to you his
6 position on it, you talked to Ryan Bangert. True?

7 A. Yes.

8 Q. And Ryan Bangert called you and said, well,
9 that's not the right answer. True?

10 A. We prepared a draft, and then provided that to
11 Ryan Bangert. And then, yes, he called me and said
12 that's not the right answer.

13 Q. And Ryan Bangert told you, General Paxton
14 wants to stop these foreclosure sales, right?

15 A. Yes. He said we reached the wrong answer.

16 Q. Yes. And so what you know secondhand is Ken
17 Paxton disagreed with the result that you and Austin
18 came up with, didn't he?

19 A. Yes. That's what --

20 Q. And he has the right to do that, doesn't he?

21 A. Yes.

22 Q. And he was elected to make those decisions,
23 wasn't he?

24 A. Yes.

25 Q. Did Ryan Bangert tell you -- you know what,

1 Ryan Vassar -- there's two Ryans -- I'll sign this so
2 you don't have to ruin your career, Ryan? Did he tell
3 you that?

4 A. No, sir, I don't recall.

5 Q. Did he intimate that?

6 A. No.

7 Q. Did he imply it?

8 A. No. It was basically a timing.

9 Q. What do you mean it was basically a timing?
10 Tell me what you mean.

11 A. We prepared the first draft. By the time Ryan
12 had finalized the second draft, it was 11:00 or
13 midnight, 11:00 o'clock at night or midnight. And he
14 was talking with General Paxton, is my understanding.
15 So I had gone to bed, and Bart wasn't available to sign
16 it.

17 Q. Were you happy to sign it?

18 A. I would have signed it.

19 Q. You didn't avoid signing it, right?

20 A. No.

21 Q. You didn't say, Ryan, I don't feel
22 comfortable. Would you sign this instead of me?

23 A. No, sir. I didn't say that.

24 Q. So Ryan Bangert didn't jump on the grenade, so
25 to speak, and say, you know what, this is really

1 dangerous, Ryan Vassar. I'm going to sign it, did he?

2 A. Not that I remember.

3 Q. Did Ryan Bangert tell you, Ryan, I totally
4 disagree with what we're doing here, but I'm going to do
5 it over my own strenuous objections?

6 A. I don't remember him saying that.

7 Q. You worked on this opinion on Saturday night,
8 right?

9 A. It was all day Saturday, yes, sir.

10 Q. But that wasn't even the only COVID opinion
11 that went out that day, that Saturday, was it?

12 A. I'm not sure. I would have to go back and
13 look.

14 Q. Well, I'll put it in front of you here in a
15 little bit.

16 You do not have the first clue whether
17 this informal foreclosure guidance stopped a single
18 property foreclosure, do you?

19 A. I have no direct knowledge.

20 Q. And you heard it secondhand from some Austin
21 business journal article, right?

22 A. That's right.

23 Q. Did you believe it? Did you believe it?

24 A. I had -- I had no reason to disbelieve it,
25 just based on the timing.

1 Q. Did you do any research yourself?

2 A. No, sir.

3 Q. Any investigation at all?

4 A. No, sir.

5 Q. Just one problem, it's 100 percent false.

6 Never happened. It's not true. It's pure fiction. Did
7 you know that?

8 A. No. I wouldn't have had any reason to know
9 that.

10 MR. LITTLE: Your Honor, I believe this
11 is a good time to stop for tomorrow, if Your Honor is
12 willing to conclude for the day.

13 PRESIDING OFFICER: Yes. Court will
14 adjourn for the day. 9:00 a.m. tomorrow morning.

15 (Proceedings recessed 6:48 p.m.)

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C E R T I F I C A T E

STATE OF TEXAS)

COUNTY OF TRAVIS)

I, Lorrie A. Schnoor, Certified Shorthand Reporter in and for the State of Texas, Registered Diplomat Reporter and Certified Realtime Reporter, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Certified to by me this 7th day of September, 2023.

/s/ **Lorrie A. Schnoor**

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