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

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

TRIAL
VOLUME 6 - PM SESSION
SEPTEMBER 12, 2023

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

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

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1 not be admitted.

2 Bailiff, call the witness.

3 (Witness entered Senate chamber)

4 PRESIDING OFFICER: Mr. Hardin, your
5 witness. And now we'll start the clock.

6 MR. HARDIN: Thank you, Your Honor.

7 PRESIDING OFFICER: Mr. Hardin, that
8 saved you some time on the clock by resolving some of
9 those issues, so you got your extra five minutes.

10 MR. HARDIN: Thank you, Your Honor.

11 BRANDON CAMMACK,

12 having been previously first duly sworn, testified as
13 follows:

14 DIRECT EXAMINATION (CONTINUED)

15 BY MR. HARDIN:

16 Q. Something just came up at the -- how do we
17 pronounce your name, by your preference? We've said
18 "Cammack." We've said "Camock."

19 A. "Cammack."

20 Q. "Cammack." All right. Thank you.

21 Mr. Cammack, I have several other
22 documents I want to go over with you. I first want to
23 show you and ask you to look -- on that hard copy you
24 have there, do you have a hard copy of 649 with you up
25 there?

1 A. Let me take a look.

2 Yes, sir.

3 Q. All right. And I want you to look at that 649
4 without testifying as to the contents yet. Tell me if
5 that is a document that was prepared by you.

6 A. No, sir.

7 Q. All right. Who was it prepared by?

8 A. This document was prepared by Michael Wynne.

9 Q. By Michael Wynne?

10 A. Yes, sir.

11 Q. And would you tell us the circumstances real
12 quickly as to how you got that document from
13 Michael Wynne?

14 A. This was e-mailed to me.

15 Q. E-mailed to you.

16 And did you ask for it?

17 A. No, sir. This was unprompted.

18 Q. All right. And then -- and this particular
19 document is still not in evidence. I have a couple more
20 questions for you.

21 A. Yes, sir.

22 Q. When you received that from Michael Wynne --

23 PRESIDING OFFICER: Mr. Hardin?

24 MR. HARDIN: Yes.

25 PRESIDING OFFICER: Excuse me. So there

1 was an objection on 649.

2 MR. HARDIN: Yes, sir. I haven't -- I
3 haven't asked him questions about the contents yet for
4 that reason.

5 PRESIDING OFFICER: Okay. I'm going to
6 sustain the objection on 649.

7 MR. HARDIN: I -- but I understood at
8 this bench you wanted us to set a predicate if we were
9 going to try to overcome it.

10 PRESIDING OFFICER: Yes.

11 MR. HARDIN: That's all I'm trying to do.

12 Q. (BY MR. HARDIN) But don't -- the -- it's
13 not -- you understand as a lawyer it's not in evidence.
14 An objection has been made. Preliminary sustained. I'm
15 being allowed to ask you a few more questions about it
16 without describing the contents.

17 A. Yes, sir.

18 Q. Okay. Now, when you -- this particular
19 document -- and notice here you forwarded that document
20 to whom?

21 A. I sent this document to Mr. Paxton.

22 Q. All right. And in the case of Mr. Paxton,
23 when you sent it to him, is this an example of how you
24 kept him informed of things that were being done?

25 A. Yes, sir. This was one of the ways.

1 Q. All right. And this particular document, then
2 did you as you -- you -- then -- that you got from
3 Mr. Wynne, did you use it as a basis to prepare any
4 documents yourself?

5 A. No, sir.

6 Q. All right. Did you do anything with this
7 document?

8 A. No, sir.

9 Q. So is it your testimony you received this
10 document from Mr. Wynne? You passed it on to the
11 attorney general. Did you and the attorney general ever
12 discuss this document?

13 A. No, sir.

14 Q. Did you ever have any personal or
15 over-the-phone contact with the attorney general about
16 this document?

17 A. Yes, sir.

18 Q. All right. When was that?

19 A. It would have been around the time that I
20 received this, on this 9/16 date, but I don't recall the
21 exact date that I spoke with him.

22 Q. Can you discuss that conversation without
23 referring to the contents internally of this document?

24 A. Yes. Just like in other -- other things that
25 I forwarded to Mr. Paxton, if I had a conversation about

1 it, I would have said, Yes, sir, I sent you over
2 something that I got from Michael Wynne or Nate Paul --
3 or Michael Wynne actually.

4 Q. Did you represent Mr. Paxton personally,
5 individually?

6 A. I'm sorry. Could you --

7 Q. Did you ever consider yourself Mr. Ken
8 Paxton's personal lawyer?

9 A. No, sir.

10 Q. All right. And at that time had you been
11 retained by -- and you -- I believe you testified the
12 attorney general's office; is that correct?

13 By whom did you think you had been hired
14 by?

15 A. The Office of the Attorney General.

16 Q. Okay. All right. So now, was anything with
17 this document done in your preparation for any of the
18 things you did?

19 A. No. I -- I believe I skim-read this document
20 and just sent it on to Mr. Paxton.

21 Q. Without ever discussing it with him or
22 anything?

23 A. Just discussing that I had sent him over what
24 this document is, but not going any -- into any detail
25 about what was in this document.

1 Q. And is this a fairly typical process you had
2 through this whole representation during the
3 investigation?

4 A. The process of forwarding him e-mails and
5 maybe discussing things with him?

6 Q. Yeah.

7 A. Yes, sir.

8 Q. All right. And were you regularly getting
9 e-mails from Mr. Wynne that you would just pass on to
10 the attorney general?

11 A. I don't know about regularly. I would just
12 have to look at the e-mails that --

13 Q. Let me change the word "regularly." Then,
14 would you frequently pass on to the attorney general
15 documents or -- or e-mails you were getting from
16 Mr. Wynne?

17 A. I -- I had sent him -- sent him some things.
18 I -- I just don't recall what those specific documents
19 were. So I don't know if I can say that I frequently
20 did it or -- but I did send him things that -- and this
21 is one example of it.

22 Q. All right. And then let me ask it another way
23 finally. That's all I have on this.

24 Did you attempt throughout your
25 representation or throughout your retention as

1 investigator, try to keep the attorney general updated
2 on all of your activities?

3 A. Yes, sir.

4 Q. All right.

5 MR. HARDIN: Your Honor, I'll -- I'll
6 move and ask the Court to reconsider exclusion of 649.
7 It does -- there's -- there's a basis here. There's no
8 privilege from anyone. There is on this document.
9 We -- a business record had been filed with this. It's
10 covered by a business record. There is no statement
11 here by anyone other than Michael Wynne. It is not
12 hearsay, though, because he's not making a statement,
13 that being forwarded somebody else's statement.

14 And so for all kinds of reasons, I
15 respectfully request that this be admitted.

16 MR. COGDELL: May I speak with
17 Mr. McCammack -- Cammack -- Cammack -- I'm sorry,
18 Brandon -- Cammack on a predicate question, Your Honor?

19 PRESIDING OFFICER: Yes, you may.

20 VOIR DIRE EXAMINATION

21 BY MR. COGDELL:

22 Q. Mr. Cammack, if you could look at the top of
23 House Managers' Exhibit 649, and I think the fourth line
24 down regarding this subject, does it -- it says, does it
25 not, Discovery Plan - Work Product?

1 A. Yes, sir.

2 Q. I'm -- I'm assuming based upon your
3 designating the document with that description that you
4 considered this to be part of the work product that you
5 were performing in your role as an outside lawyer for
6 the attorney general's office, correct?

7 A. Yes, sir.

8 Q. You acted like that was a trick question. It
9 wasn't -- it wasn't meant to be.

10 So would you agree with me, Mr. Cammack,
11 that the act of reviewing it and then forwarding it was
12 consistent with your description at the top of being
13 work product, agree?

14 A. Yes, sir.

15 MR. COGDELL: So it would be covered by
16 the work-product privilege, Mr. President.

17 PRESIDING OFFICER: So your objection is
18 work product?

19 MR. COGDELL: Yes, sir.

20 MR. HARDIN: Your Honor, the work-product
21 privilege on this document belongs to this witness and
22 witness alone. And the question would become if he
23 considers this his work product, he's produced it to us,
24 which waives his work product. And I think I suspect he
25 would concur again that he's not claiming the work

1 product, and he's the only one in this equation that has
2 the right to, and he's provided it to us voluntarily
3 through this production. So it's waived, even if he
4 did. But I --

5 MR. COGDELL: With respect, I don't agree
6 with the last --

7 MR. HARDIN: I've never heard of a third
8 party waiving somebody else's work-product privilege.

9 MR. COGDELL: I'm simply directing the
10 witness to answer the question, which is it was sent
11 pursuant to --

12 PRESIDING OFFICER: Hold on, Mr. Cogdell.

13 MR. COGDELL: I'm sorry.

14 Brandon, are you okay on water? You're
15 good?

16 THE WITNESS: Yes, sir.

17 PRESIDING OFFICER: The Court will
18 sustain the objection on hearsay.

19 MR. COGDELL: Yes, sir.

20 DIRECT EXAMINATION (CONTINUED)

21 BY MR. HARDIN:

22 Q. Mr. Cammack, did Michael Wynne -- what is your
23 testimony as to whether or not he regularly or
24 frequently throughout this kept providing you
25 information to assist you in your investigation? Did

1 he?

2 A. He did send me information throughout the
3 course of this investigation.

4 Q. Many times was it unsolicited?

5 A. Towards the end it -- it was --

6 Q. All right.

7 A. -- yes, sir.

8 Q. And did -- would he send you things that were
9 to be -- that gave you names that he was trying to get
10 you to issue grand jury subpoenas for him?

11 MR. COGDELL: Objection. Leading.

12 MR. HARDIN: That's not leading. That
13 question was would he do so and so. He can answer yes
14 or no. It doesn't tell him which answer to give.

15 PRESIDING OFFICER: Overruled.

16 MR. HARDIN: Thank you.

17 THE WITNESS: I'm sorry. Could you
18 repeat?

19 Q. (BY MR. HARDIN) Yeah. Would he -- did he
20 send you things that -- did he give you names that he
21 was trying to get you to issue grand jury subpoenas for
22 him?

23 A. No, sir. Not -- he gave me names in an Excel
24 spreadsheet that I think we discussed, but it -- it was
25 never these are the people that you need to --

1 Q. But, Mr. Cammack, did he also --

2 MR. COGDELL: Excuse me. Excuse me. May
3 the witness be allowed to answer -- finish answering the
4 question?

5 MR. HARDIN: Certainly. I thought you
6 were through.

7 Q. (BY MR. HARDIN) Were you through?

8 PRESIDING OFFICER: Were you through,
9 Mr. Cammack?

10 MR. HARDIN: Pardon me?

11 THE WITNESS: Yes, Judge. Yes, sir.

12 MR. HARDIN: Thank you.

13 Q. (BY MR. HARDIN) Now, when he -- what all kind
14 of information was Mr. Wynne regularly providing you, if
15 he was?

16 A. I'm so sorry. I --

17 Q. Was he regularly providing you information?

18 A. Yes.

19 Q. And what type of information was he providing
20 you?

21 A. There were -- there were a couple of Excel
22 spreadsheets that he had forwarded to me that had the
23 names and demographic information of individuals as they
24 related to the -- the referral that I got. There was a
25 timeline that I was given early on. There was a memo

1 that was provided to me, like a prosecution memo. There
2 was -- and as I sit here right now, I just -- I can't
3 think of anything else other than those three.

4 Q. Would you look at 650 up there, please?

5 A. Yes, sir.

6 Q. All right. You've got 649 already. We talked
7 about that, correct? The contents are not in evidence
8 where you looked at. We talked about that, did we not?

9 A. Exhibit 649, yes, sir, we talked about it.

10 Q. And now you've got 650 in front of you?

11 A. Yes, sir.

12 Q. You just referred -- you just mentioned a
13 prosecution memo that he provided you?

14 A. Yes, sir.

15 Q. And what was the purpose of him giving you a
16 prosecution memo?

17 MR. COGDELL: Objection. Conjecture and
18 speculation.

19 PRESIDING OFFICER: Sustained.

20 Just rephrase it.

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

22 Q. (BY MR. HARDIN) What was the stated purpose
23 of him getting a prosecution memo?

24 A. That was also an unprompted e-mail to me with
25 this prosecution memo.

1 Q. Were all of these things you were provided
2 designed to help your investigation of the allegations
3 of Mr. Paul?

4 A. The information that he gave me was helpful to
5 my understanding of what the investigation was about and
6 what was to be done.

7 Q. Yes. And, of course, you were conducting an
8 investigation. Your view you've mentioned before was
9 that Mr. Paul was your sort of complaining witness as a
10 prosecutor in your mind, correct?

11 A. Yes, sir.

12 Q. Okay. And were these different things that
13 Mr. Wynne was providing you, were they intended to help
14 you in your investigation of the complaint that was
15 filed by Mr. Paul?

16 A. They were helpful to the investigation, yes,
17 sir.

18 Q. All right.

19 A. I don't know -- and I'm sorry. I just don't
20 want to speak for Mr. Wynne about what the intention
21 was, but they were helpful.

22 Q. Well, we -- Mr. Wynne was representing
23 Mr. Paul, wasn't he?

24 A. Yes, sir.

25 Q. We can kind of agree, can't we, that he's not

1 going to be providing things to you that are harmful to
2 Mr. Paul? Can't we agree on that?

3 A. Yes, sir.

4 Q. Okay. So would you agree with me, as you
5 think about it, that Mr. Wynne was frequently providing
6 you with information that was potentially helpful to
7 Mr. Paul's complaint that you investigated?

8 MR. COGDELL: Objection. Leading.

9 PRESIDING OFFICER: Sustained.

10 Q. (BY MR. HARDIN) Were you getting information
11 regularly from Mr. Wynne, number one? Were you?

12 A. Yes, sir.

13 Q. And was that information, information designed
14 to help you in investigating Mr. Paul's complaint?

15 A. It was helpful.

16 Q. All right. You -- you know it was helpful,
17 then, right?

18 A. Yes, sir.

19 Q. All right. Did Mr. Wynne provide you a
20 prosecution memo for you to adapt into one of your own?

21 A. He provided the prosecution memo to me
22 unprompted. But that was kind of my jump-off point for
23 the investigative report that I was going to
24 ultimately -- ultimately put together and -- and turn
25 back into the attorney general's office.

1 Q. Yes, sir. He actually, did he not, provided
2 you a prosecution memo, that is 650, that was being
3 designed for you to help write your report at the end of
4 the investigation? Is that a fair statement?

5 MR. COGDELL: Objection. Leading.

6 PRESIDING OFFICER: Sustained.

7 Q. (BY MR. HARDIN) What was the purpose of this
8 prosecution memo?

9 A. I viewed it as giving me information about
10 everything that had happened, more detailed information
11 than just the timeline that I got initially at the first
12 meeting.

13 Q. Yes, sir. And it was all information from the
14 perspective of Mr. Paul, was it not?

15 MR. COGDELL: Objection. Leading.

16 MR. HARDIN: I'll ask it another way.

17 Q. (BY MR. HARDIN) Was this information --

18 PRESIDING OFFICER: Sustained.

19 MR. HARDIN: Excuse me.

20 Q. (BY MR. HARDIN) Was this information offered
21 to you for (sic) help Mr. Paul?

22 MR. COGDELL: Conjecture and speculation.
23 He can't know what the purpose of it was.

24 PRESIDING OFFICER: I'll overrule.

25 THE WITNESS: I'm sorry. Could you

1 repeat it?

2 Q. (BY MR. HARDIN) You can answer the question.

3 Was this information provided to you to
4 help Mr. Hall -- Paul or to harm Mr. Paul?

5 A. It was helpful -- it was helpful from my
6 perspective to be able to wrap my mind around all of the
7 different moving parts within that investigation.

8 Q. All right, sir. I'm going to refer you to
9 Exhibit 650 in front of you.

10 A. 650.

11 Q. Do you have it?

12 A. Yes, sir.

13 Q. It's not in evidence yet, but is this an
14 e-mail sent -- that you got from Mr. Wynne, or is this
15 an e-mail you created yourself?

16 A. This is an e-mail that I created myself and an
17 e-mail that I sent to Mr. Paxton.

18 Q. All right. Was this -- so was this e-mail --
19 I mean, was this -- is this the prosecution memo we've
20 been talking about?

21 A. Yes, sir.

22 Q. And was the prosecution memo prepared by you?

23 A. This -- this document was, yes.

24 Q. All right. And did you use as a basis for
25 this a -- a prosecution memo proposed by Mr. Wynne that

1 he sent you?

2 A. Yes, sir.

3 Q. And then did you forward it on to the attorney
4 general?

5 A. I didn't forward Mr. Wynne's memo. I created
6 my own.

7 Q. All right.

8 A. And then forwarded it on.

9 Q. So did you forward 650 to the attorney
10 general?

11 A. Yes, sir.

12 Q. As far back as the date of 9/13; is that
13 correct?

14 A. Yes, sir, 9/13.

15 Q. Now, you're not here today claiming any type
16 of privilege on this document, are you? Did you produce
17 it to us?

18 MR. COGDELL: Excuse me. Those are two
19 different questions.

20 Q. (BY MR. HARDIN) Down at the bottom I would
21 ask you to look and see if you see your name.

22 A. Could you repeat?

23 MR. COGDELL: That's a third question.

24 Q. (BY MR. HARDIN) Yes. Did you produce this
25 document to us?

1 A. I believe my counsel did.

2 Q. Yes, your counsel did. I know.

3 You -- you -- in total openness, you
4 provided us about 2,000 documents, didn't you?

5 A. Yes, sir.

6 Q. It was a bunch, right? And 650 is one of
7 those documents you provided us, correct?

8 A. Yes, sir.

9 Q. And you weren't claiming work-product
10 privilege at that time or anything, were you?

11 A. My lawyers are the ones who produced all of
12 it. I didn't make any claim one way or the other with
13 respect to privilege.

14 Q. To both sides, correct?

15 A. Correct.

16 Q. All right. So my question to you is: Is this
17 a document you prepared and just forwarded it to the
18 attorney general for his information?

19 A. Yes.

20 Q. Did you ever discuss this document with him?

21 A. I did.

22 Q. When?

23 A. I believe it was around the time either just
24 before or just after I prepared this. I spoke with him
25 about it to let him know that I had sent it.

1 Q. That you intended what, to prepare a
2 prosecution memo?

3 A. Yes. That I had sent this, uh-huh.

4 Q. To him?

5 A. To him.

6 Q. Did you discuss the contents with him at that
7 time?

8 A. I did briefly, just to let him know that I had
9 sent this over here and that it had some ideas about the
10 case.

11 Q. All right. And so was this designed to let
12 him know that you were working on the case and this is
13 where you were in the middle of September?

14 A. Yes, sir.

15 MR. HARDIN: Okay. Now, again, Your
16 Honor, I move to introduce Exhibit 650.

17 MR. COGDELL: Objection. Hearsay.

18 MR. HARDIN: Your Honor, there are about
19 three different reasons it's not.

20 PRESIDING OFFICER: Overruled.

21 Q. (BY MR. HARDIN) All right. Now --

22 PRESIDING OFFICER: The exhibit is
23 admitted 650.

24 (HBOM Exhibit 650 admitted)

25 MR. HARDIN: Thank you, Your Honor.

1 MR. COGDELL: I'm sorry, Mr. President.
2 I couldn't hear you.

3 PRESIDING OFFICER: I'm sorry. I said,
4 overruled. 650 has been admitted into evidence.

5 MR. COGDELL: Thank you.

6 MR. HARDIN: Now, if we go over to the
7 Bates stamp 1986 of Cammack, Stacey.

8 Q. (BY MR. HARDIN) All right. Up at the top
9 number 6 says, establishing a predicate to issue legal
10 process. Do you see that?

11 A. Yes, sir.

12 Q. And it has a list of names there. Where did
13 you get those names?

14 A. I got these names from Michael Wynne.

15 Q. All right.

16 MR. HARDIN: And if we go over to the
17 first page of it, Stacey.

18 Q. (BY MR. HARDIN) Did you -- can you tell us
19 where you got this heading and the dates of it, what it
20 is, the factual summary where it says, A more detailed
21 chronology is attached to this memorandum?

22 Did you get the information that you used
23 as a basis of that from Mr. Wynne?

24 A. Yes, sir, from that original prosecution memo.

25 Q. All right. So would it be a fair -- would it

1 be a fair statement that everything you prepared in this
2 document, that the research and writing of it was
3 information provided by Mr. Paul or Mr. Wynne?

4 A. So -- yes. Yes.

5 Q. All right. I'll let you explain. You're --
6 you said "so," so I want to give you an opportunity if
7 you wanted to explain that.

8 A. Sure. Well, this -- the prosecution memo that
9 I got initially from Mr. Wynne, I had reached out to him
10 about it after I had spoken with Mr. Paxton about
11 sending it to him. And I -- you know, as lawyers, I
12 checked with him. I said, you know, I need to -- I'm
13 going to prepare this and send it over. Would it be --
14 would it be okay if I use some of the things that you
15 put in here, statutes, and reviewed some of the case law
16 that was in there.

17 So, you know, he said, No problem. Have
18 at it. So I used that as the basis of what was going to
19 ultimately be an investigative report to turn in at the
20 end.

21 Q. All right. I'm going to show you what is a
22 new exhibit marked 696.

23 A. 696.

24 Q. I don't think you have it up there. I want to
25 show you and ask you just to look at this document,

1 first of all, and see if you recognize it. Don't
2 testify about the contents or anything.

3 A. Okay.

4 Q. Okay.

5 PRESIDING OFFICER: Mr. Hardin, I don't
6 have 696.

7 MR. HARDIN: No, sir. It's a proposed
8 new exhibit.

9 PRESIDING OFFICER: Okay.

10 MR. COGDELL: I don't either.

11 Q. (BY MR. HARDIN) And my question is simply do
12 you recognize it?

13 A. Yes, sir.

14 Q. Can you identify what it is without talking
15 about the internal contents?

16 A. This is an e-mail from Michael Wynne dated
17 9/25/2020, with what appears to be like a Word document
18 attached to it.

19 MR. COGDELL: Thank you.

20 Q. (BY MR. HARDIN) And did you -- what did you
21 do with that document, if anything?

22 A. The truth is I read it and I kind of just one
23 ear out the other with it.

24 Q. All right. Now, is that -- is that additional
25 information Mr. Wynne prepared for you?

1 A. Yes, sir.

2 Q. And without going into the contents of the
3 documents, what was the purpose of that particular
4 document?

5 A. This document appears to be a -- a list of
6 individuals to approach about an interview.

7 Q. All right. So let me ask you this -- may I
8 have it back?

9 A. Sure.

10 MR. HARDIN: I move -- I move to
11 introduce 696.

12 MR. COGDELL: Objection. Hearsay.

13 MR. HARDIN: Hearsay? We already have a
14 record -- a business records' affidavit which addresses
15 the reliability of it. It is not a statement. It is a
16 suggestion to this man by a co-conspirator in this case,
17 not a co-conspirator with him, but a co-conspirator with
18 the attorney general and Mr. Paul as they keep feeding
19 this information in pursuit of their conspiracy. That's
20 the reason we offer it.

21 MR. COGDELL: And therein lies the
22 problem. Mr. Hardin suggests, as "they" keep feeding
23 the information. There is zero evidence that Ken Paxton
24 saw this document, participated in this document,
25 created this document before it was sent by Mr. Wynne to

1 Mr. Cammack. And for Mr. Hardin to suggest there's not
2 a statement is -- is belied on the face of the document.
3 Look at the very first --

4 PRESIDING OFFICER: Your objection is
5 sustained --

6 MR. HARDIN: All right.

7 PRESIDING OFFICER: -- as to hearsay.

8 MR. HARDIN: May I -- just for the
9 record, I have one thing.

10 Mr. Paxton doesn't have to have seen this
11 if there is an actual conspiracy going on. It only
12 needs to be somebody that is a member of that
13 conspiracy, any overt act or making any statement like
14 that. I just want that in the record, Your Honor. I
15 certainly don't want to quarrel with you.

16 PRESIDING OFFICER: I sustained it to
17 hearsay.

18 MR. HARDIN: All right. Thank you,
19 Judge.

20 Q. (BY MR. HARDIN) Now, let's move forward. You
21 are going to issue grand jury subpoenas, were you not?

22 A. Yes.

23 Q. I said "are," but you were; is that correct?

24 A. Yes, sir.

25 Q. And in preparing those grand jury subpoenas, I

1 think we've testified you used the assistance of the
2 AG's office or the district attorney's office to get the
3 forms prepared, correct?

4 A. That's correct.

5 Q. Did anybody in the district attorney's office
6 work with you or anything as to the content or the
7 people they would be sent to or the wording or anything
8 like that?

9 A. I believe I received a form from them in an
10 e-mail, like a sample form. That's the only thing that
11 I received back from them as far as assistance go.

12 Q. So is what you sent -- what you received from
13 them -- what I'm really asking is did any lawyer or
14 anyone working on behalf of the content, did anybody try
15 to talk to you about the content or the people to
16 subpoena or anything like that?

17 A. No, sir.

18 Q. All right. Was their -- their duty simply
19 aiding you to get the grand jury subpoena before a judge
20 decides?

21 A. Yes, sir, they facilitated that.

22 Q. Did you -- did you discuss with anybody in the
23 District Attorney's Office anything about who you wanted
24 to subpoena or anything like that, or did you simply
25 provide them the information, they helped you with

1 format, and presented it to a judge for you?

2 A. Yes, sir. So I just e-mailed the application
3 for the subpoenas.

4 Q. All right.

5 A. I did not offer any assistance or make any
6 comments or anything about the contents.

7 Q. All right. Was there anyone in the attorney
8 general's office aiding you at all in terms of
9 investigating this -- this complaint of Mr. -- Mr. Paul?

10 MR. COGDELL: Objection. Conjecture and
11 speculation.

12 PRESIDING OFFICER: Sustained.

13 Q. (BY MR. HARDIN) All right. Now, at the end
14 of the time when you issued these subpoenas -- let's go
15 to the dates and times you did it.

16 A. Yes, sir.

17 Q. Did you issue some subpoenas originally by
18 e-mail?

19 You've got your billing record up there?

20 A. Yes, sir, I'm looking at the --

21 Q. And your records or your memory show you when
22 you did it. When did you first start serving these
23 subpoenas?

24 A. It would have been September 25th, 2020.

25 Q. Pardon me?

1 A. It would have been September 25th, 2020.

2 Q. All right. And then after you sent -- do you
3 remember how many of those you sent out by e-mail?

4 A. It was roughly 35 to 40, somewhere in there.

5 Q. All right. And then after you sent out some
6 by e-mail, then did you reserve some that you were going
7 to serve and serve personally?

8 A. I think there were a few that I was going to
9 serve personally for the second referral.

10 Q. For the second one?

11 A. Yes, sir.

12 Q. So why did you decide to send an e-mail for
13 the e-mails in -- on Mr. Paul's complaint, but decide to
14 serve personally those in the second referral?

15 A. Because when I -- can I explain myself?

16 Q. Sure.

17 A. So some of the -- so I have this list that
18 I'm -- I'm given of individuals that are subject to
19 either the first or second referral. I get that from
20 Michael Wynne. And what I was -- the grand jury
21 subpoenas were going to go out for e-mail address, like
22 to and from; you know, the e-mail log; to, from, what
23 time, around the time that this search had taken place.

24 And then there were also phone numbers to
25 see if any contacts had been made around that time

1 between cell phone numbers. So I say all of that to say
2 this: Most of the people who were on this list either
3 had a gmail account or a hotmail or a Microsoft account.
4 So rather than piecemeal, you know, let me get a couple
5 of subpoenas here, there, there was no intention of it
6 to be this shock value of sending out so many subpoenas.
7 It was like, Let me get all of this information
8 together. I will go through it and then go from there.

9 And with respect to those that I e-mailed
10 out, that's the way I look it up. You know, I went to
11 the -- I went and looked that up, like, okay, how does
12 Microsoft receive a subpoena? Well, you can fax or
13 e-mail it.

14 With respect to the banks that I served
15 those subpoenas on, I just did it in person.

16 Q. Well, and then you notice -- you sent out, did
17 you not, on the e-mails you did also that you were
18 subpoenaing personal cell phones records? Did you send
19 that out by e-mail?

20 A. Those were by e-mail --

21 Q. Yeah.

22 A. -- the cell phone records.

23 Q. So were you sending out subpoenas for personal
24 phone records of law enforcement officers, state and
25 federal?

1 A. I would have to look that up, but I believe
2 some of them were.

3 Q. And were you sending out -- did you even send
4 out a subpoena for the cell phone records of somebody
5 who worked as a deputy for a federal magistrate, a
6 courtroom deputy?

7 A. I would have to look at that. I believe so.

8 Q. Okay. And then you don't happen to recall off
9 the top of your mind right now who all you did, correct?

10 A. I do not, sir.

11 Q. Okay. That's all right.

12 So then when you sent out these different
13 subpoenas, did you have any knowledge one way or the
14 other that some of the people that you were sending
15 subpoenas to were opposing counsel to Mr. Paul in civil
16 litigation? Did you know that?

17 A. No, sir.

18 Q. All right. If you had known that, would you
19 have done it?

20 A. No.

21 Q. All right. Who did you get the list from as
22 to who to subpoena?

23 A. I got the list from Michael Wynne and
24 Nate Paul.

25 Q. So is it an accurate statement to say that you

1 issued grand jury subpoenas on behalf of the person that
2 you -- that was under a state charges, you issued
3 subpoenas to his agency, the Securities Board?

4 MR. COGDELL: Objection. Assuming facts
5 not in evidence.

6 Q. (BY MR. HARDIN) Did -- did you realize that?
7 That's really my question. Let me restate --

8 PRESIDING OFFICER: Sustained.

9 MR. HARDIN: Thank you. Thank you,
10 Judge.

11 Q. (BY MR. HARDIN) Let me put it this way: The
12 first person out of the box in that prosecution memo we
13 went over is Mr. Rani Sabban, right? Did you know that?

14 A. Yes, sir.

15 Q. All right. And you knew him as one of the
16 agents involved in the search, correct?

17 A. That's correct.

18 Q. Were you aware that he was -- he was an
19 employee of the Securities Board and was involved in the
20 criminal case where charges were filed and pending at
21 this moment still against the attorney general?

22 MR. COGDELL: Objection. Assumes facts
23 not in evidence.

24 Q. (BY MR. HARDIN) Did you know that? That's
25 all I'm asking.

1 PRESIDING OFFICER: Sustained.

2 Q. (BY MR. HARDIN) Were you aware of what his
3 role was?

4 A. Of the gentleman -- I think you said Rani
5 Sabban?

6 Q. Yes.

7 A. No, sir.

8 Q. All right.

9 A. I just only knew him as one of the individuals
10 who had searched Mr. Paul's residence.

11 Q. Fine. All right. And then different other
12 people -- did you know that Mr. Ray Chester, who was on
13 your list, was opposing counsel in a lawsuit with the
14 Mitte Foundation? Just did you know?

15 A. No.

16 Q. All right. So did Mr. Wynne provide you these
17 names without informing you that part of what they were
18 seeking was information with people that were either in
19 litigation against the attorney general, namely the
20 criminal charge pending, or in litigation against
21 Mr. Paul --

22 MR. COGDELL: Okay. That's --

23 Q. (BY MR. HARDIN) -- namely the Mitte
24 Foundation?

25 MR. COGDELL: I'm sorry --

1 Q. (BY MR. HARDIN) Were you aware of any of
2 that?

3 MR. COGDELL: Multifarious. Assuming
4 facts in evidence.

5 MR. HARDIN: It's all in evidence.

6 MR. COGDELL: No, it's not. And it's
7 multifarious.

8 MR. HARDIN: We have heard -- well,
9 excuse me. Let me let the Court rule.

10 PRESIDING OFFICER: Overruled.

11 MR. HARDIN: Thank you very much.

12 Q. (BY MR. HARDIN) Did -- were you aware of
13 that?

14 A. I'm sorry. Can you please rephrase that
15 question?

16 Q. Sure.

17 So did Mr. Wynne provide you these names
18 without informing you that part of what they were
19 seeking was information with people where they're either
20 in litigation against the attorney general, namely the
21 criminal charge pending, or in litigation against
22 Mr. Paul in the Mitte Foundation litigation? Were --
23 did he inform you of that?

24 A. No, sir.

25 Q. Okay. Now, then you move on to the -- the

1 subpoena that you were going to serve personally. And
2 is it testified those -- those subpoenas were based
3 on the second referral that Mr. Paul had filed with
4 the -- originally with the DA's office on September
5 the 23rd?

6 A. Those were for the second referral, yes, sir.

7 Q. All right. And that's -- that's the referral
8 that you had said you got on the 24th, right?

9 A. Yes, sir.

10 Q. Okay. Now, at the time you sent out these
11 subpoenas the previous week, after you sent them out and
12 the judge signed them and they were ready to be sent out
13 and you sent them out into the world of the Internet,
14 did you inform the attorney general?

15 A. I did.

16 Q. How did you inform him?

17 A. I believe I sent him an e-mail.

18 Q. All right. Did you send him an e-mail at any
19 time letting him know which people you were subpoenaing?

20 A. No.

21 Q. All right.

22 A. I don't think I individually named --

23 Q. If you'll stay with the microphone, please.

24 A. I don't believe I individually named each
25 person, but I --

1 Q. All right.

2 A. -- just don't recall that.

3 Q. Now, when you went out to serve the subpoenas
4 in person, what dates did you do it and how did you do
5 it?

6 A. That would have been on September the 29th of
7 2020.

8 Q. September the 29th?

9 A. Yes. Yes, sir.

10 Q. All right. And had you made arrangements with
11 Mr. Wynne for him to go on these services of subpoenas
12 with you?

13 A. So he was insistent on going.

14 Q. What did he -- I mean, how long had he been
15 insistent talking to you about wanting to go with you?

16 A. Just maybe a day or so. I -- you know, I told
17 them -- I was informing them of what I was going to do
18 to serve -- you know, I was going to go drop off the
19 subpoenas, and he insisted on going. And I was like,
20 you don't really need to do that. I didn't really think
21 it was appropriate.

22 But he said, you know, I'm -- I'm
23 Nate Paul's lawyer, and I'm -- it's important for me to
24 be there in case they ask you any questions about his
25 case or anything that's going on.

1 And so, you know, I felt a little
2 pressure to say okay. And he -- yeah, he rode along
3 with me.

4 Q. Share with us why you felt pressure to accede
5 to that?

6 A. It just -- kind of pressure to perform. I
7 wanted to do a good job, and I -- I trusted -- frankly
8 trusted Michael.

9 Q. Okay. Did he inform you there was a statute
10 prohibiting an interested party from serving subpoenas?

11 A. I was not aware of that.

12 Q. Okay. And then -- so when you made
13 arrangements to go with him, where did you first meet
14 up?

15 A. I was staying -- I forgot the hotel I was
16 staying at down here. And he was at a hotel. And I
17 just picked him up and we went.

18 Q. What day of the week was it? The 28th was a
19 Monday, was it not?

20 A. I don't know. It was September 29th.

21 Q. September 29th. I don't think anybody is
22 going to argue if I can say it was a Tuesday.

23 A. Okay.

24 Q. By the way, by this time, Tuesday the 29th,
25 how much contact did you have with the attorney general

1 about this investigation? How many times? First of
2 all, go -- how many times did you talk to him by phone?

3 A. Between phone calls and text messages, I mean,
4 it had to be somewhere 15-to-20-times range over that
5 three-and-a-half, four-week period.

6 Q. So that would be 15 or 20 times that you were
7 in contact with the attorney general about the case,
8 correct, and leading up to the 29th? And would you
9 agree that you really actively get involved on the
10 3rd of September?

11 A. Oh, I'm sorry. One more time.

12 Q. Roughly the 3rd.

13 A. The 3rd?

14 Q. Yes. Remember the billing records? The first
15 thing you billed is September 3rd.

16 A. Yes, sir, that was a typo. The date that I
17 actually went out there was on 9/4.

18 Q. All right. So can we say that those 15 to
19 20 -- 15 to 20 times that you're in personal contact
20 about this case with the attorney general, it was 15 to
21 20 times in the days between the 3rd and the 29th of
22 September?

23 A. I think that's accurate.

24 Q. All right. And how many of those do you think
25 they were personal phone calls?

1 A. I'm sorry. What?

2 Q. How many -- how many of those 15 to 20 times
3 were phone calls?

4 A. I would have to --

5 Q. Roughly, just approximately.

6 A. I mean, maybe 7 to 10 times.

7 Q. All right. How many of them were personal
8 visits?

9 A. I didn't have any personal visits during that
10 time.

11 Q. During that time. You had the first meeting,
12 and you described when you were hired; is that correct?

13 A. Yes, sir. I had the 8/26, the 9/4 day, and
14 then throughout the month of September I didn't meet
15 anymore in person.

16 Q. Okay. And by the middle of it, he is
17 communicating with you by a particular type of encrypted
18 app; is that right?

19 A. Mostly through cell phone texts. And then I
20 was asked to download the Signal App. And I don't think
21 we had -- I don't even think we had a conversation on
22 the Signal App, maybe. I mean, I had that and then my
23 cell phone.

24 Q. Now, did the attorney general, was -- did you
25 give the attorney general advanced notice that you were

1 going to go -- going out on the 29th and serving
2 subpoenas?

3 A. Yes, sir.

4 Q. Had you sent him any preliminary list of who
5 you were serving on?

6 A. No, sir.

7 Q. Had you told him approximately how many you
8 were going to serve?

9 A. No, sir.

10 Q. How many did you -- were you planning to
11 serve?

12 A. I believe there were four in-person. There
13 were the banks who were kind of -- the ones that were
14 being accused in that second referral of the -- this
15 bank fraud deal.

16 Q. All right. And so the e-mail subpoenas that
17 you sent out had to do with Nate Paul's Referral No. 1;
18 is that correct?

19 A. The e-mails that I sent out?

20 Q. Yes.

21 A. Yes, sir.

22 Q. Those subpoenas?

23 A. Yes, sir.

24 Q. And then the subpoenas you served in-person
25 had to do with Referral No. 2; is that what you're

1 saying?

2 A. Yes, sir, that's -- that's correct.

3 Q. All right. And when you took Mr. -- would you
4 just tell us in your own words, recite to us how you
5 served those subpoenas.

6 A. We -- first -- we went to two banks.

7 Q. Now, let me stop you there just a second.

8 In each of these banks that you went to,
9 did you identify yourself as a special prosecutor for
10 the attorney general's office?

11 A. Yes, sir, I did.

12 Q. All right. And Mr. Wynne was with you at each
13 one, correct?

14 A. Yes, sir.

15 Q. Did you attempt at each of these banks to do
16 some interviews of the people you had served them on?

17 A. Just talking to them, yes, sir.

18 Q. Yeah.

19 A. And giving the subpoena.

20 Q. And did you talk to each of these people
21 during that -- on -- in some cases a little bit about
22 why you were there in terms of the case?

23 A. Yes, sir.

24 Q. All right. And you were there about a case
25 Mr. Wynne -- Mr. Paul contended was a mortgage fraud

1 case, correct?

2 A. Yes, sir.

3 Q. And that was a case in which he wanted you to
4 subpoena also and investigate a federal bankruptcy
5 judge, correct?

6 A. Yes, sir.

7 Q. Okay. And then did you conduct an interview
8 of the husband of a court deputy during one of these
9 services of subpoena?

10 A. There was a -- it wasn't -- I wasn't serving a
11 subpoena. I don't believe it was a -- I was trying to
12 talk to him.

13 Q. All right. That was an interview without
14 serving a subpoena.

15 Who -- without giving the person's name,
16 unless counsel asks for it -- and I think it's in the
17 records. Without giving the person's name, who did you
18 go interview? Was it the husband of a deceased deputy?

19 A. Yes, I think she was a clerk of the court.

20 Q. And where -- where had the deceased clerk of
21 the court been a clerk?

22 A. She was -- I forget which court it was. It
23 was the court basically where this first initial
24 referral came out of, the search warrant that came out
25 of that made the basis of the first complaint.

1 Q. So she was a previous clerk for the federal
2 magistrate?

3 A. Yes.

4 Q. And who were you talking to? Her husband?

5 A. Her husband.

6 Q. And did you actually -- did you have some
7 suspicions or so that made you inquire as to how she
8 died or anything?

9 A. I think there was a -- yeah, there was a -- I
10 can't think of the right word. There was like an
11 indication that maybe there was some kind of foul play
12 or something there with this clerk.

13 Q. Now, Mr. Cammack, that -- that had been a
14 suggestion to you by Mr. Wynne, had it not?

15 A. And Mr. Paul.

16 Q. And Mr. Paul.

17 A. Yes.

18 Q. So Mr. Paul tells you a deputy at the court
19 that issued the warrant that I'm complaining about died
20 out of suspicious circumstances. That's what Mr. Paul
21 tells you, right?

22 A. I don't remember if those are his exact words,
23 but it was something like that.

24 Q. And maybe not that tone of voice, right?

25 A. Yes, sir.

1 Q. But my point is he actually led you to
2 somebody that you in good faith interviewed, making you
3 think that this husband might tell you suspicious
4 circumstances of his deceased wife's death, correct?

5 MR. COGDELL: Object -- objection.
6 Leading and argumentative.

7 Q. (BY MR. HARDIN) Is that correct?

8 PRESIDING OFFICER: Sustained.

9 MR. HARDIN: Thank you.

10 Q. (BY MR. HARDIN) Now, my only point was you
11 issued those two. You served those two. Were they on
12 the 29th to these two financial institutions?

13 A. Yes, sir.

14 Q. And do you remember what the names of the two
15 financial institutions were?

16 A. I don't recall. I -- I don't recall.

17 Q. All right. After you issued those subpoenas
18 on the 29th, what happened?

19 A. I get back to Houston the following day, and I
20 received an e-mail from I think Microsoft at that point
21 and then also an e-mail from counsel for one of the
22 banks saying we need some credentials to --

23 Q. And, of course, you had been saying all along
24 to the attorney general you wanted credentials, right?

25 A. Yes, sir.

1 MR. COGDELL: Objection. Excuse me.

2 Q. (BY MR. HARDIN) In order to take care of this
3 particular problem --

4 MR. COGDELL: Excuse me.

5 Q. (BY MR. HARDIN) -- is that right?

6 MR. COGDELL: Excuse me. Third time.
7 Objection. Leading. Both questions.

8 PRESIDING OFFICER: Sustained.

9 Q. (BY MR. HARDIN) Well, when you -- had you --
10 how many conversations did you say you had had with the
11 attorney general trying to get credentials for this kind
12 of work?

13 A. I think four or five.

14 Q. All right. And then once you got those
15 e-mails, were those e-mails -- if you served them on the
16 29th, were you receiving those the day after you served
17 them, or would you receive them all the same day that
18 you served them, if you remember?

19 A. It would have been after. And I -- you can't
20 quote me on that exact day, if it was the 30th, but I do
21 remember receiving e-mails to the effect --

22 Q. And then what was the next thing that happened
23 in your relationship, in your conduct with this?

24 A. I got a cease and desist letter.

25 Q. From whom?

1 A. From a gentleman named Mark Penley.

2 Q. What did you do?

3 A. I responded to his cease and desist and
4 said --

5 Q. And --

6 A. Okay.

7 Q. And then did you do anything else besides
8 respond to it? Did you reach out to anyone?

9 A. I reached out to Mr. Paxton once I got the
10 cease and desist.

11 Q. Were you successful in reaching him? How did
12 you reach out?

13 A. I believe I called him.

14 Q. All right. Were you able to talk to him?

15 A. I don't remember if it was that -- if he -- if
16 I spoke with him that day.

17 Q. Did you also get a visit from federal law
18 enforcement?

19 A. I did get -- yeah, the U.S. Marshal showed up
20 at my office down in Houston.

21 Q. Yeah. Do you remember what day that was?

22 A. Maybe October 1st, around there.

23 Q. So who was there -- the federal marshals were
24 at your office?

25 A. They came by my office.

1 Q. When -- who was the first person you
2 contacted?

3 A. I called Mr. Paxton, blowing his phone up,
4 like, why are there U.S. Marshals at my office?

5 Q. How many times did you call him?

6 A. Probably five or six times, text messaging.
7 And he answered his phone.

8 Q. On the fifth time?

9 A. One of the times.

10 Q. All right. And how often were you calling him
11 until you got him?

12 A. Well, my secretary comes back and says, There
13 is U.S. Marshals here at the office.

14 And I'm like, What? What is going on?

15 And then I just start blowing his phone
16 up until he answers it.

17 Q. And in your mind certainly, had you done
18 anything wrong that would merit anybody in law
19 enforcement coming to see you, in your mind?

20 A. No, sir.

21 Q. All right. So the first person you called was
22 the attorney general?

23 A. Yes, sir.

24 Q. And when you got him, what did he say?

25 A. He told me, Don't talk to them without

1 counsel.

2 Q. So he told you to get a lawyer before you
3 talked to them?

4 A. That's correct.

5 Q. Okay. Did you -- did you talk about the
6 merits or anything or why they were there?

7 What did -- do this: What did you say to
8 him and what did he say to you?

9 A. Yes. I said, There's U.S. Marshals at my
10 office. What is this all about?

11 And he told me, Well, don't talk to them
12 without a lawyer. I don't know what it's about either.

13 Q. Okay.

14 A. And then hung up the phone.

15 Q. He hung up the phone or you hung up?

16 A. I don't remember. We both hung up the phone.

17 And --

18 Q. Okay.

19 A. -- I went out there and greeted those
20 gentlemen and went to my conference room. And I said,
21 Hey, with all due respect, I can't talk to you without
22 having a lawyer present. And can I have a business
23 card?

24 And I got the business card from those
25 two gentlemen, took a picture of it. And I sent it to

1 Mr. Paxton. Said, These are the guys who showed up at
2 my office. And that was -- that was that.

3 Q. All right. What's the next thing that
4 happened to you in connection with this?

5 A. I had sent my invoice back to Mr. -- I got a
6 cease and desist letter, and I sent my invoice back
7 over. And then I get an e-mail the following day from
8 Jeff -- Jeff Mateer.

9 Q. And what did Mr. Mateer tell you?

10 A. He sent me another cease and desist letter,
11 you know, accusing me of crimes and all of this other
12 stuff. I'm like, Whoa. You know, what is going on
13 here?

14 Q. All right. And then at some time, did you go
15 back to Mr. Vassar with a request to be paid, and then
16 he responded to you?

17 A. They said there was no valid contract, and so
18 I sent him the contract that I had from Mr. Paxton.

19 Q. And all along had you believed you had a valid
20 contract?

21 A. Yes, sir.

22 Q. And when you sent him the valid contract, was
23 it signed -- who was it signed by?

24 A. It was signed by Mr. Paxton.

25 Q. The one you sent back to him?

1 A. The one that I -- they said that I didn't have
2 a valid contract. I sent him the contract that I had
3 from Mr. Paxton with Mr. Paxton's signature on it.

4 Q. Was Mr. Paxton's signature on the one you sent
5 them?

6 A. The one that I sent them -- I'm sorry.

7 Q. When did you get a contract that had
8 Mr. Paxton's signature?

9 A. I believe I got that on September 28th.

10 Q. How had that happened?

11 A. So this was about the time that I'm getting
12 ready to go with the subpoenas. And I still don't have
13 my badge or credentials, and I was talking with Michael.

14 Q. I know.

15 A. Went about it. And I was kind of frustrated
16 at the time, because I am like, Well, you know, I'm
17 supposed to go serve subpoenas and do this work. I
18 don't even have my credentials, which my contract, I
19 mean, I don't have a badge. I don't have a governmental
20 e-mail address. And Mr. Wynne asked me, I guess, well,
21 send me over your agreement.

22 And I had planned on coming out to Austin
23 the following day to come do these subpoenas. So I -- I
24 get out to Austin to go over --

25 Q. Now, let's put a day on it. What day do you

1 get to Austin?

2 A. That was on the 28th.

3 Q. All right. The 28th would be a Monday.

4 A. September 28th.

5 Q. All right. And you -- you arrive in Austin on
6 the 28th. And what happened when you got -- who did you
7 go to see?

8 A. I'm meeting over at Nate Paul's office, and
9 Michael Wynne is there.

10 Q. All right. And what do you find when you get
11 there?

12 A. My contract was there on the table.

13 Q. And was it signed by who?

14 A. Myself and Mr. Paxton.

15 Q. Had you ever seen a contract signed by
16 Mr. Paxton before September the 28th?

17 A. No, sir.

18 Q. And, in fact, all of this time that you
19 thought you had a valid contract, did you have a
20 contract that was only signed by you?

21 A. I sent -- I sent Mr. Vassar my signed copy
22 back on the 4th and said, Please send me back an
23 executed contract. And I never got one. You know, I
24 didn't know.

25 Q. I just want to make sure real quickly here.

1 You got back from Mr. -- you sent Mr. Vassar your
2 contract, which had only your signature on the 4th; is
3 that right?

4 A. That's correct.

5 Q. And then from then until the 28th in
6 Mr. Paul's office, did you ever see a contract that had
7 the attorney general's signature on it?

8 A. No, sir.

9 Q. And on -- when was it that you complained to
10 the attorney general, if you did, that you did not have
11 a contract signed by him? When was the last time you
12 did that before you saw it on the 28th?

13 A. I don't recall the exact date, but I had told
14 him about a badge, you know, credentials, and e-mail
15 address. And so I just never received it.

16 Q. On the morning of the 28th before you left,
17 did you have a conversation -- to go up there early in
18 the morning, did you have a conversation with Mr. Wynne?

19 A. I did.

20 Q. And what did you tell Mr. Wynne?

21 A. I believe he had texted me the night before
22 and said -- you know, because I was kind of -- I was
23 frustrated, so I was telling him, I don't have my
24 credentials, like meaning my contract or my badge or any
25 of that.

1 So he -- he texted me. I think I was
2 already sleeping. And he said, Send me your contract.
3 So I wake up at like 5:00 in the morning, and I send it
4 to him.

5 Q. The contract you sent to Mr. Wynne early that
6 morning --

7 A. About 5:00 a.m.

8 Q. -- 5:00 a.m. had only your contract -- your --
9 your signature?

10 A. Yes, sir.

11 Q. All right. And then how soon after that was
12 it that you arrived in Mr. Wynne's office where they had
13 a contract signed by the attorney general?

14 A. We went to Nate Paul's office, not Mr. Wynne's
15 office.

16 Q. Okay.

17 A. And we -- that was -- had to be around
18 lunchtime maybe.

19 Q. And you walked in and saw what?

20 A. My contract was there on the deal signed.

21 Q. Signed by the attorney general?

22 A. Yes, sir.

23 Q. And that was the first time you had ever seen
24 one --

25 A. Yes, sir.

1 Q. -- signed by him. All right.

2 Now, finally, when things -- things got a
3 little hectic for you after that, did they not, after
4 you -- after the 29th and 30th of September?

5 A. Yes, sir.

6 Q. When -- when was the next time that you saw
7 the attorney general?

8 A. I don't remember the exact date. I'm sorry.

9 Q. On the 29th or the 30th, did you see him, or
10 the -- or the 1st of October or the 2nd of October or
11 any of those dates? Did you have occasion to have
12 contact with the attorney general again?

13 A. I did.

14 Q. When?

15 A. I just don't remember the exact date. It was
16 after I had received the second cease and desist letter
17 from Mr. Mateer.

18 Q. And what -- how -- what were the circumstances
19 of you seeing him?

20 A. I got a phone call from Michael Wynne, and he
21 had said, Hey, I need you to come out to Austin. It was
22 like last minute and it was in the evening.

23 And I'm like -- he's like, You need to
24 come out to Austin and come over to Nate Paul's house.

25 Q. What time of the day were you supposed to get

1 there?

2 A. I don't remember what time I got there.
3 Maybe -- it was in the evening. The sun was going down.

4 Q. All right. And so when you drove up there to
5 Austin to Mr. Paul's house, did you have any idea why
6 you were there?

7 A. I mean, I figured because I -- you know, at
8 this point I've gotten a cease and desist letter, gotten
9 basically the rug pulled out from under me, like I'm
10 going and working. Everything is okay. I'm getting
11 affirmation that everything is good. And then all of a
12 sudden, I've got cease and desist letters, U.S. Marshals
13 showing up at my office, and I'm trying to figure out
14 how did we go from that to -- to this.

15 And I'm just trying to get answers about
16 what is going on because I -- I still don't know. And
17 so that's what I figured this was all about.

18 So yeah, I get out to the house. I drive
19 to Nate Paul's house. I tell my fiance at the time,
20 like, Hey, I'm going out here. I'll be back later.

21 And then -- yeah. Like --

22 Q. You walk -- so what happens when you walk in?
23 Can you basically describe the meeting?

24 A. Yeah. I go -- I go in. And Michael Wynne is
25 there and Nate Paul is there and Mr. Paxton is there.

1 Q. Where is Mr. Paxton and what is he doing?

2 A. Shook his hand, and he was like on the phone,
3 and then just spent most of the time just out on the
4 balcony on the phone.

5 Q. Was he -- was there anything surprising about
6 him being there to you? Did you know he was going to be
7 there?

8 A. I didn't know he was going to be there.

9 Q. Pardon me?

10 A. I didn't know he was going to be there.

11 Q. And then, you know, what were the
12 circumstances at the scene? How was he -- how was
13 everybody dressed? What was everybody doing? All that
14 jazz.

15 A. I mean, I was dressed in a suit because I
16 thought it was, you know, for business. And, you know,
17 they were dressed casually. I think Michael had a suit
18 on. Mr. Paxton had like running shoes and running
19 shorts on, just casual.

20 Q. Did they talk to you while you were there?

21 A. So while Mr. Paxton was out on the balcony,
22 you know, Michael and -- Michael Wynne and Nate Paul,
23 they were just kind of commiserating about all of this
24 stuff that had happened in that last few days.

25 And when Mr. Paxton came in as I was

1 going to leave, I think I was there may be an hour, he
2 had mentioned, you know, that Mr. Penley didn't have any
3 authority to tell me to stop working. He told him to
4 stand down and just to continue to work on this report.

5 Q. At that time, you said he came in. Was he
6 outside the room but there when you arrived?

7 A. He was in the house, and then went outside on
8 the balcony or in the back and was on the phone the
9 entire time.

10 Q. All right. After Mr. Paxton told you that,
11 how long were you there?

12 A. Oh, I mean, I left.

13 Q. So what did you think? What -- what was the
14 meeting about?

15 A. Just a lot of talking about, you know, how I
16 can't believe that this happened. I can't believe what
17 these guys are doing. The fact that Mr. Penley had
18 reached out to Michael Wynne asking for documents, even
19 though Mr. Paxton had told him not to work on the case
20 and this type of stuff. But I still left there like
21 very -- in my mind, I'm like, Hey, I've got two cease
22 and desist letters. I'm not doing any more work.

23 And I haven't been paid for anything, and
24 so I'm just -- I'm just kind of listening trying to get
25 answers on what I should be doing.

1 Q. So did you have -- did you wonder on the way
2 home why the hell you had been there?

3 A. Yeah. I mean, yes, sir. That was annoying to
4 have to drive out a three-hour drive for an hour meeting
5 and then come back.

6 Q. When is the next time you saw the attorney
7 general about this matter?

8 A. Within the next couple of days I got a call to
9 come out to his office and meet with him and some of his
10 staff.

11 Q. And what did they want?

12 A. Mr. Paxton wanted me to meet Brent Webster,
13 who --

14 Q. Brent Webster, did he -- did you know who he
15 was by that time?

16 A. No, sir.

17 Q. Did you know what position he now had?

18 A. I knew when I got out there that he was, I
19 guess, the first assistant.

20 Q. And when did -- when and where did y'all meet?
21 What did you do? Just walk us through it.

22 A. So we met in the conference room over at the
23 attorney general's office with two other individuals.
24 And Mr. Paxton wanted me to just debrief what I had
25 learned, what the first referral was about --

1 Q. What did you tell him?

2 A. -- what I had done.

3 I spent the first few minutes kind of
4 just venting my frustration about how I felt like I had
5 been treated to that point, still not having any clear
6 answers. And, you know, the fact that I had a whole
7 entire life before all of this; you know, a docket, I
8 had clients. I mean, I didn't ask for any of this.

9 You guys reached out to me to come do a
10 job, and then now you're pulling the rug out from under
11 me, and I'm getting cease and desist letters. And now
12 my name is being thrown through the mud and the media.
13 And, you know, it's a totally new world to me.

14 So I let that out and just told them, you
15 know, what I -- what we kind of talked about here today
16 right now, that I had issued subpoenas, you know. I had
17 this PowerPoint presentation where they showed me this.

18 Q. And what did they say? What did he say? What
19 did the attorney general say?

20 A. I believe he asked me or Brent Webster asked
21 me to send him any documents that I had sent the
22 attorney general, to e-mail it to him.

23 Q. Did the attorney general apologize to you?

24 A. I don't think he apologized to me, no.

25 Q. And then did y'all stay there or did you go

1 somewhere else?

2 A. No. I left there. I left there and went back
3 to Houston.

4 Q. And then when was the next time that you saw
5 the attorney general?

6 A. The next time -- and I'm sorry, but I just
7 don't recall the exact date, but it was within that
8 week. I get a call from -- well, that last meeting, it
9 was like, Hey, you need to, you know, just continue to
10 work on the report. Everything is fine.

11 And in the back of my mind I'm like,
12 Yeah, right. I'm not doing anything else.

13 And then a few days go by, and I get a
14 call to come back out and meet with him, just like in
15 very short notice, maybe even the same day, to come out
16 to Austin again.

17 Q. You drove up again?

18 A. I drove up again.

19 Q. Do you recall what that date is?

20 A. No, sir. It had to be the first week of
21 October sometime, though.

22 Q. All right. And then where did you -- where
23 did you go when you drove up?

24 A. I went to the AG's office again.

25 Q. And then who was there?

1 A. Brent Webster and Mr. Paxton.

2 Q. And what happened there?

3 A. I thought we were going to meet to talk about
4 the contract and what is going on, and -- but instead,
5 you know, they were like, Well, let's not meet here in
6 the office. And they walked me over to a Starbucks
7 outside of the office to have a meeting.

8 Q. Did you ask why?

9 A. No, but it was uncomfortable. It was not
10 professional to me at all.

11 Q. So when you go to the Starbucks, who all is
12 there?

13 A. Mr. Paxton, Brent Webster, and then a couple
14 of other gentlemen who I don't know.

15 Q. And what happened at that meeting?

16 A. At that meeting, Mr. Webster did all the
17 talking and told me, Well, in fact, your contract is not
18 any good anymore. You know, stop working. Don't do
19 anything at all.

20 I asked him, Okay. Well, what about, you
21 know, paying me?

22 Q. Do you recall exactly how you put it about
23 whether you were going to get paid? Did you put the
24 amount in there?

25 A. I think I ball-parked it. I said, What about

1 my \$14,000 invoice?

2 And he's like, Well, you're going to have
3 to eat that invoice. I've had to eat \$40,000 invoices.

4 Q. Webster said he had to eat a \$40,000 --

5 A. That sticks out in my mind, sir.

6 Q. Yeah. Why does that stick out in your mind?

7 A. Just because it -- it was offensive.

8 Q. Yeah. What was the attorney general doing
9 during this whole conversation?

10 A. He was just listening in.

11 Q. Did one of them tell you your contract was now
12 terminated?

13 A. That's what Mr. Webster said.

14 Q. How long were you at the Starbucks?

15 A. Fifteen minutes, 20 minutes tops.

16 Q. Did you feel better knowing that Mr. Webster
17 says he had eaten a \$40,000 debt before? Did that make
18 you feel any better?

19 A. Did -- I'm sorry, what do you mean?

20 Q. How did it make you feel?

21 A. I don't know if I believed him or not, but I
22 know it -- it was offensive to me.

23 Q. And then what happens? How -- anything you
24 remember? What happened then?

25 A. Yeah. They left the Starbucks and tried to

1 get in the car and drive off.

2 I said, Excuse me. Can I get a ride back
3 to my car?

4 Q. So these guys take you to a -- is it -- are
5 you saying that these guys took you over to a Starbucks
6 outside the office, terminated your contract, told you,
7 you weren't going to get paid, and then drove off; and
8 if you hadn't said, Wait, wait, I've got my car, they
9 would have left you in the street?

10 A. That's what it looked like.

11 MR. HARDIN: Pass the witness.

12 PRESIDING OFFICER: Mr. Cogdell.

13 CROSS-EXAMINATION

14 BY MR. COGDELL:

15 Q. Good afternoon, Mr. Cammack.

16 A. Hi, Mr. Cogdell.

17 Q. We know each other distantly, I guess, is the
18 best way to put it?

19 A. Yes, sir.

20 Q. You also know my associate, Mr. Osso?

21 A. Yes, sir.

22 Q. Once upon a time there was a lot of discussion
23 in the court about young lawyers and five-year lawyers
24 and whatever.

25 At the time you got involved in the

1 Paxton matter, Mr. Cammack, you were a five-year lawyer,
2 right?

3 A. Yes, sir.

4 Q. Mr. Osso younger than you or older than you?

5 A. He's younger than me.

6 Q. Let me -- let me begin sort of near the back
7 and the marshals coming to your office.

8 You learned eventually, did you not, that
9 the purpose or the reason the marshals came to your
10 office was because of the visit that you had made to
11 the -- the, I guess, the widow or the widower at the
12 clerk's office, right?

13 A. I learned that from my lawyer, Andy
14 Drumheller, yes.

15 Q. Okay. And Mr. Paxton hadn't sent you to that
16 clerk's office or anything of the sort, right?

17 A. No, sir.

18 Q. That was -- that was Nate Paul.

19 You met with Mr. Hardin how many times
20 before you testified?

21 A. I've spoken with him three times.

22 Q. When was the first time?

23 A. I believe it was in the last two weeks. I --
24 I'm sorry, I don't remember the specific date.

25 Q. About how long was that meeting, Brandon?

1 A. That was approximately four to five hours, I
2 believe.

3 Q. And the next time you met with him?

4 A. I met with him last week when I came out here.
5 I thought I was going to be testifying on Friday.

6 Q. And about how long was that?

7 A. An hour and a half to two hours.

8 Q. And did you meet with him again last night?

9 A. I met with him last night for maybe an hour.

10 Q. So that's a total of how many hours that you
11 met with Mr. Hardin?

12 A. Roughly seven.

13 MR. COGDELL: Could we see Article of
14 Impeachment, Article V?

15 Q. (BY MR. COGDELL) Have you studied, I assume
16 you have not, Mr. Cammack, the Articles of Impeachment
17 in this case?

18 A. No, sir, I've not studied them.

19 Q. If I suggested to you this is, quote, why
20 you're here, closed quote, could you agree with me?

21 A. Yes, sir.

22 Q. I've --

23 A. I've read this. I've seen this.

24 Q. All right. Did Mr. Hardin ask you or show you
25 this article in any of those eight or so hours?

1 A. Sorry, I don't recall seeing this.

2 Q. So in the eight hours that you met with
3 Hardin, he never showed you the relevant article that
4 brings us here. So let's take it apart.

5 It says, While holding office as attorney
6 general, Warren Kenneth Paxton misused his official
7 powers by violating the laws governing the appointment
8 of prosecuting attorneys pro tem.

9 Will you agree with me, Mr. Cammack, that
10 you were not a prosecuting attorney pro tem? Agree with
11 me on that?

12 A. Yes, sir.

13 Q. Okay. It goes on to say that Paxton engaged
14 Cammack, a licensed attorney, to conduct an
15 investigation into a baseless complaint.

16 Mr. Hardin never asked you about that,
17 that language?

18 A. I'm sorry. Could you --

19 Q. Sure.

20 A. -- rephrase that? I'm sorry.

21 Q. Yes, sir, sure.

22 Mr. Hardin never went over this language
23 in the Article of Impeachment with you, right?

24 A. No, sir.

25 Q. And you will agree with me, Mr. Cammack, that

1 you certainly never believed that you were a part of an
2 investigation into a baseless complaint, right?

3 A. No, sir, I did not.

4 Q. Okay. Eight hours and you were never asked
5 that question by Mr. Hardin, right?

6 A. We didn't talk about a baseless complaint.

7 Q. Okay. Let's go for strike three, although you
8 just need one.

9 It says: During which Cammack issued
10 more than 30 grand jury subpoenas in an effort to
11 benefit Nate Paul or Paul's business entities.

12 You would agree with me, Mr. Cammack,
13 that was not your purpose? You were not there trying to
14 benefit Nate Paul or his business entities? That's not
15 why you agreed to get involved in this, agree?

16 A. Absolutely not. I would -- I didn't even know
17 Nate Paul or his entities or anything like that.

18 Q. Mr. Hardin has a reputation as a -- not a good
19 lawyer, a great lawyer, right?

20 A. Yes, sir.

21 Q. Could you give us a reason why a lawyer as
22 good as Mr. Hardin would have never asked you those
23 critical questions?

24 MR. HARDIN: In the words of a great
25 American, Your Honor, that's calling for speculation.

1 PRESIDING OFFICER: Sustained.

2 MR. COGDELL: Well, if that's a
3 suggestion that I'm a great American, I'll take it.

4 Q. (BY MR. COGDELL) Let's go back.

5 I think what may be lost in some of this,
6 Mr. Cammack, is this is in the late summer or fall of
7 2020, right?

8 A. Yes, sir.

9 Q. And this is when -- I don't want to say COVID
10 is raging, but COVID is ever present, omniscient. It's
11 taken over the world, right?

12 A. It's peak COVID, yes, sir.

13 Q. Peak COVID. So here you are a younger lawyer.
14 If I understand it correctly, you had just left not too
15 long before this practice with your father, right?

16 A. That's correct.

17 Q. He was also, is also, a criminal defense
18 lawyer?

19 A. Yes, sir.

20 Q. So you have your own practice, right?

21 A. Yes, sir.

22 Q. You had tried a number of cases with your dad,
23 I assume? A number of cases with others, right?

24 A. And myself, yes, sir.

25 Q. And yourself.

1 And you had tried, I guess, I'm assuming,
2 anything from misdemeanor cases to felony cases, right?

3 A. Yes, sir.

4 Q. You weren't some kid straight out of law
5 school that couldn't find a courtroom door with a seeing
6 eye dog and a search warrant? I mean, generally
7 speaking, you knew what you were doing at the Harris
8 County courthouse, right?

9 A. Absolutely.

10 Q. So along comes COVID. And like a lot of
11 Americans, what you took for granted suddenly was an
12 issue, right? Meaning your business, our business,
13 stopped. It didn't slow down. It came to a screeching
14 halt, right?

15 A. Yes, sir.

16 Q. Arrests went way down. Court -- courthouses
17 literally closed, right?

18 A. They did.

19 Q. So you're rolling along, I assume, and you get
20 a call from Mr. Wynne that the attorney general might be
21 calling you, right?

22 A. That's right.

23 Q. Now, I assume you never aspired to be a
24 prosecutor or you would have applied to the DA's office,
25 but still when the attorney general calls, that's a --

1 that's a big moment, right?

2 A. It was a big moment.

3 Q. Okay.

4 A. Yes, sir.

5 Q. You trusted Mr. Wynne, right?

6 A. I did.

7 Q. He's a Harvard-educated lawyer. You're aware
8 of that?

9 A. He's a serious lawyer.

10 Q. He's a serious lawyer.

11 And I assume that up to this point in
12 time, Mr. Cammack, you didn't have any real personal
13 connection in the terms -- in terms of going out and
14 having drinks or having dinner or whatever with
15 Mr. Cammack [sic], but you knew him
16 professionally/socially and you respected him, right?

17 A. With Michael Wynne?

18 Q. Yes, sir.

19 A. Just an acquaintance who was part of a couple
20 of clubs I was, and we had worked on that COVID-19 panel
21 with some of the district court and federal judges. And
22 he seemed like a nice person.

23 Q. Okay. He had a significant practice, at least
24 from your perspective?

25 A. A serious practice, yes.

1 Q. So it's good news. And if I'm remembering
2 your direct correctly, this -- this -- the call from
3 Mr. Paxton or from General Paxton came on your birthday?

4 A. Yes, it was on my birthday.

5 Q. You're thinking, What a great birthday
6 present, right?

7 A. Something at the time, I was like, Oh, wow,
8 what a coincidence.

9 Q. And look at you now, Mr. Cammack.

10 A. I know.

11 Q. It didn't turn out to be that perfect, did it?

12 A. I never would have imagined in a million years
13 getting a call to sitting in an impeachment hearing,
14 sir.

15 Q. Got it.

16 So let's go completely sideways for a
17 second. If there has been a suggestion, Mr. Cammack,
18 that it is wrong or illegal to challenge or investigate
19 the legality of a search, that is not your world view,
20 right?

21 A. I'm sorry, one more time.

22 Q. Sure.

23 If there has been a suggestion made in
24 this courtroom before these 31 senators that it is
25 somehow wrong or illegal to investigate the legality of

1 a search or a search warrant, that is not your world
2 view. Agree with me?

3 A. I agree with that.

4 Q. I mean, it's -- it's sort of born and bred in
5 a criminal defense lawyer. That's part of what we do.
6 You would agree with me?

7 A. That is what we do.

8 Q. And any criminal defense lawyer, I think,
9 that's been practicing longer than six weeks has
10 probably challenged the legality of a search warrant.
11 You would agree with me?

12 A. Yes, sir.

13 Q. And has probably looked into the conduct of
14 law enforcement agents in either the creation of a
15 search warrant, right?

16 A. That's right.

17 Q. The execution of a search warrant, right?

18 A. That's right.

19 Q. Again, that's called Wednesday in our
20 business. That's what we do?

21 A. That's a Wednesday in our business, yeah.

22 Q. Now, would you also agree with me that not
23 only do we have, I guess, the choice of challenging or
24 investigating the legality of searches, but we have the
25 obligation to do it on behalf of our clients, right?

1 A. Right. We're just on the other side of it,
2 that's right.

3 Q. Yes, sir. And if we don't do that on
4 occasion, we can get sued by the client, right?

5 A. That's right.

6 Q. We can have a grievance filed against us by
7 the client, by the State Bar, or someone else for
8 failure to investigate that sort of claim, right?

9 A. That's right.

10 Q. And I guess my long-winded point there is when
11 you were asked by Ken Paxton -- and we will get to that
12 conversation. But when you were asked by Ken Paxton or
13 told by Ken Paxton he wanted you to investigate the
14 possibility of an illegal search or the creation of an
15 illegal search warrant by agents, that didn't -- that
16 was like, Great. That's in my wheelhouse. That's --
17 that's what I do, right?

18 A. Well, it was an investigation into potential
19 violations of the Texas Penal Code, which is what I'm
20 familiar with doing. So it would be in my wheelhouse.

21 Q. Right. So it's in your wheelhouse and your
22 strike zone, whatever, right?

23 A. Right.

24 Q. And the fact that -- and we've, Oh, my God,
25 it's a federal agent, or, oh, my God, it's a federal

1 magistrate. I mean, again, they -- they deserve and are
2 owed their deference. But there's nothing sacrosanct
3 about an AUSA in our world view, right?

4 A. I have complete respect for government
5 officials, but, you know, Mr. Paxton also believed that,
6 Hey, this is a serious accusation and it requires a
7 serious focus. And, you know, if someone is doing
8 something like that, they should be held accountable for
9 it.

10 Q. And I assume, Mr. Cammack, you felt the same
11 way?

12 A. I did feel that way.

13 Q. Now, jumping ahead a little bit, but I think
14 in one of the conversations, Mr. Cammack, you had -- or
15 one of the answers to one of Mr. Hardin's questions that
16 somewhere along the line you heard either Mr. Wynne, I
17 believe, or Mr. Nate Paul say something, quote -- and
18 this is a statement attributable to Mark Penley --
19 There's no amount of information that could be presented
20 to him that would ever convince him that a federal
21 official could commit a crime, right?

22 A. That's right.

23 Q. And which was it that -- which person said
24 that? Was it Mr. Paul that said that about Mr. Penley,
25 or Mr. Wynne that said that about Mr. Penley, or do you

1 know?

2 A. It was Mr. -- Mr. Paul said that.

3 Q. Okay.

4 A. Mr. -- Mr. Wynne was there when he said that.

5 Q. Okay. And that's just not the house that you
6 live in?

7 A. I don't. No, I don't live in that house.

8 Q. You don't feel that same way, right?

9 A. I don't feel that same way, no.

10 Q. I'm assuming --

11 PRESIDING OFFICER: Excuse me. Can the
12 witness be a little closer to the mic and speak up a
13 little bit?

14 THE WITNESS: All right, Judge.

15 Q. (BY MR. COGDELL) I'm assuming, Mr. Cammack,
16 that you view federal prosecutors and magistrates and
17 judges just like defense lawyers, bankers, bakers, trash
18 truck drivers, whatever. There are good ones out there
19 and there are bad ones out there?

20 A. Base people off of their character, I mean --

21 Q. That's right.

22 A. That's it.

23 Q. And you do not automatically foreclose from
24 your mind or from your obligations an inquiry into the
25 legality of search warrants simply because it was signed

1 off by a -- a federal magistrate, right?

2 That's a mouthful. Nothing -- there's
3 nothing improper in your world view about investigating
4 a search warrant or the validity of a search warrant
5 simply because it is signed off by a federal magistrate,
6 right?

7 A. No. I mean, that's -- as a defense lawyer,
8 that's what we do, is challenge the validity of a search
9 warrant. I mean, this was just on the other side of it
10 where that person could be held accountable for it.

11 Q. Now, let's get to your first meeting with
12 Ken Paxton. On your birthday, I think the 22nd, he
13 calls, right?

14 A. Yes, sir.

15 Q. And I'm sure you have been asked this question
16 297 times. But the best of your recollection he says
17 what to you when he called you, Mr. Cammack?

18 A. I didn't speak with him that day. It wasn't
19 until the 23rd that I spoke with him. And he said that
20 he -- that he got my name from Michael Wynne. I think
21 the words were, My name was dropped in a hat.

22 And he got my name from Michael Wynne and
23 wanted to see if I would be interested in coming to talk
24 to him about working on a criminal investigation.

25 Q. And that would have been -- if it's the day

1 after your birthday, that would have been August
2 the 23rd?

3 A. Yes, sir.

4 Q. And did he give you any detail about what he
5 wanted -- what -- what was the job description
6 specifically that he wanted you to do?

7 A. Not at that time. It wasn't -- it wasn't
8 until I went out there and met with him in person that I
9 found that out.

10 Q. Okay. And if I'm recalling it correctly,
11 there was some request by someone to bring a -- a
12 resume, right?

13 A. Yes, sir.

14 Q. And it had been a while since you had a
15 resume, right?

16 A. Yes, sir.

17 Q. But you figured, Well, if I've got to audition
18 for the beauty contest, I'll find a swim suit. I'll --
19 I'll get a resume together, right?

20 A. Just trying to remain humble and do what he
21 asked me to do.

22 Q. Okay. And you met with him, right?

23 A. Yes, sir. On the 26th.

24 Q. On the 26th, Mr. Paxton, General Paxton, is --
25 I mean, you knew him by sight, right?

1 A. Yes, sir.

2 Q. He's gracious, professional, nice enough to
3 you?

4 A. He was nice, yes.

5 Q. And on that day on the 26th, Mr. Cammack, can
6 you share with us the description of what he wanted you
7 to do?

8 A. At that time, he told me that he was looking
9 to hire a special prosecutor to investigate whether, I
10 guess, these federal agents had tampered with or altered
11 a search warrant, basically violations of -- of state
12 law.

13 Q. Okay. And, again, we've talked about that
14 that's kind of been your wheelhouse?

15 A. Correct.

16 Q. You spend 20, 30 minutes with General Paxton?

17 A. Probably 20, 25, something like that.

18 Q. And he uses the phrase "special prosecutor,"
19 right?

20 A. Yes, sir.

21 Q. So -- so we've heard that sort of go through
22 the evolution of your story, but it is true that he was
23 the person that first put those words into your mindset,
24 right?

25 A. Yes, sir.

1 Q. If I heard your testimony directly, then,
2 Mr. Cammack, you go down the hall, and you meet with
3 Jeff Mateer, right?

4 A. Yes, sir.

5 Q. And he -- did he act like he knew why you were
6 there?

7 A. He did.

8 Q. And just collapse the conversation succinctly
9 that you had with Mr. Mateer.

10 A. Yes. So I had another copy of my resume. I
11 handed it to him. And I said -- well, it's kind of
12 awkward for a second, just communicating with him.

13 But he said -- I said, You know, I'm here
14 to interview about the special prosecutor position for
15 this investigation with respect to the search warrant.
16 And he -- he acknowledged that.

17 Q. Okay.

18 A. And said, Oh, yeah. You know what, I know a
19 little bit about that. And just kind of act disengaged.

20 Q. Gotcha. And I think that was the phrase that
21 you used with Mr. Hardin, "disengaged," right?

22 A. Yes, sir.

23 Q. But I guess my point, at least right here,
24 Mr. Cammack, is the phrase "special prosecutor" was
25 discussed with Jeff Mateer, right?

1 A. That's correct.

2 Q. And at no time did Jeff Mateer say, Oh, no,
3 no, no, no, you're not going to be a special prosecutor.
4 We can't hire a special prosecutor. That will not --
5 that never happened, right?

6 A. No, sir.

7 Q. Did Mr. Mateer, disengaged as he was, did he
8 ever indicate to you, Mr. Cammack, that there was no
9 need for a special prosecutor being hired?

10 A. He did not.

11 Q. Did he ever indicate to you that he felt like
12 this investigation was a baseless complaint?

13 A. His attitude was kind of like that, like he
14 didn't feel like it was important or worth pursuing.

15 Q. It didn't rise to his level of importance?

16 A. That's fair to say.

17 Q. Okay. But he certainly never said or
18 suggested to you that this was a crime or illegal for
19 you to be interviewing for this -- this job?

20 A. He did not. He did not.

21 Q. Okay. Now, you don't get the thumbs-up that
22 day, but you leave. You're optimistic, hopeful about
23 it, right?

24 A. That's right.

25 Q. And to put -- to put us back in your world

1 view at the time, again, we're in the middle of COVID.
2 Well, let me step back.

3 I -- I over-theatrically demonstrated or
4 referred to how long you had spent with Mr. Hardin. You
5 and I did meet last night, right?

6 A. Yes, sir.

7 Q. Spoke for 45 minutes or so?

8 A. About 45 minutes.

9 Q. It was late, right?

10 A. It was late.

11 Q. And it was after Mr. Hardin --

12 A. I met with Mr. Hardin, and then me and my
13 lawyers came and talked to you for about 45 minutes.

14 Q. Gotcha. So we -- we had discussed this
15 before. I'm not just getting lucky with every single
16 answer.

17 A. We have talked about this, yes, sir.

18 Q. Okay. So you're hopeful. Again, we got
19 COVID. You're thinking the attorney general. This is
20 great.

21 I believe that on your drive home, you --
22 you call your grandmother, right?

23 A. I think I told you that.

24 Q. You did.

25 A. I just met the attorney general.

1 Q. Right. And -- and your grandma had said, I
2 guess -- would act like any other grandma, Good for you.
3 That's -- that's awesome.

4 A. Yeah. That was her attitude.

5 Q. So you then go through a series of exchanges
6 about whether or not you might have a conflict, right, a
7 potential conflict with any other cases at the attorney
8 general's office, correct?

9 A. Yes, sir. Mr. Vassar at some point reached
10 out to me about a contract.

11 Q. Okay.

12 A. And told me that I needed to do a conflicts
13 check.

14 Q. Did -- did Mr. Vassar ever suggest to you,
15 Mr. Cammack, that you were unqualified?

16 A. No, sir.

17 Q. Did Mr. Vassar ever express to you that
18 hiring -- whether we call you an outside counsel or
19 special prosecutor, whatever, did he ever express to you
20 that the hiring of you was unnecessary?

21 A. No, sir. He reached out to me to set up a
22 phone call. And then on that phone call with him, I
23 said, Yeah, I'm interviewing -- or he's calling me -- I
24 guess you're calling me about this special prosecutor
25 position.

1 And then he acknowledged that, asked for
2 my e-mail address. And I think we talked a little bit
3 briefly about where he had gone to school and that type
4 of thing. So he, you know -- I told him the same thing
5 that I told Mr. Mateer as well.

6 Q. But he never gave you any pushback on the idea
7 of you getting hired for this job, right?

8 A. I never got any pushback from anyone at the
9 attorney general's office until I got a cease and desist
10 letter.

11 Q. Say that again.

12 A. I never got any pushback from anyone at the
13 attorney general's office or the Travis County District
14 Attorney's Office or anything until I got a cease and
15 desist letter.

16 Q. In fact, Mr. Cammack, it's true, is it not,
17 that in your, I guess, effort to be compliant,
18 appropriate, righteous -- that's probably overstating
19 it -- but in your effort to do the right thing, you
20 called the State Bar of Texas ethics hotline and
21 described what you were going through, right?

22 A. I did, sir.

23 Q. And without getting into what they told you,
24 you walked away from that conversation after explaining
25 to the ethics hotline at the State Bar of Texas what you

1 wanted to do, you felt like you had a blessing from the
2 State Bar of Texas to do exactly what you do, right?

3 A. Told me, Congratulations on the job.

4 Q. So in the middle of this alleged
5 conspiratorial dark world view effort, you're calling
6 the State Bar just to make sure you are literally
7 dotting your I and crossing your T, right?

8 A. That's correct.

9 Q. Now, I think Mr. Hardin had you talk about
10 your expectations about your sort of bell curve or what
11 have you of ability. In other words, when you first met
12 with Mr. Paxton, I think you thought, I can investigate.
13 I can issue grand jury subpoenas. I can appear in front
14 of a grand jury. I can make recommendations to the
15 grand jury. Heck, I might even get to go try this case.

16 That was kind of your world view when you
17 went into this, right?

18 A. I thought -- I didn't think there would be any
19 limitation all the way up into potentially presenting
20 the case for a charging instrument; whether it be an
21 indictment, a complaint, an information, or trying the
22 case in front of a jury panel. So I didn't -- once I
23 got my contract, then I realized how limited of a scope
24 it was.

25 Q. Yes, sir. You anticipated my next -- my next

1 area of question.

2 Once you got the contract back, it was
3 sort of the real world of, No, I'm not going to be
4 presenting this case to a grand jury. No, I'm not going
5 to be making recommendations. No, I'm not going to be
6 trying the case, but I'm going to be investigating the
7 case, right?

8 A. I was -- yes, I was still happy to be working
9 for the attorney general.

10 Q. Got it.

11 MR. COGDELL: Now -- and I don't know
12 when you want to break, Mr. President.

13 PRESIDING OFFICER: Let's go to about
14 3:10, about 15 more minutes.

15 MR. COGDELL: That's fine.

16 Q. (BY MR. COGDELL) At some -- at some point
17 along the way, you and General Paxton had a discussion
18 about your hourly rate. You said \$300 an hour, right?

19 A. Yes, sir.

20 Q. And you would agree with me that all things
21 being equal, that's a pretty reasonable moderate rate,
22 right?

23 A. Yes, sir.

24 Q. I guess, Mr. Cammack, the -- more important
25 than the money was sort of the prestige or the

1 opportunity or the resume, if you will, of getting to
2 work for the AG's office on this particular matter?

3 A. I thought it was a fair rate, and it was
4 not -- it was not about the money. And I have a whole
5 business before all of this. I still have today. So it
6 was not about the money. It was about trying to help
7 out.

8 Q. All right. So you get -- refresh my memory of
9 when you get a contract from and -- refresh my memory.
10 I should know, but I don't.

11 You got a contract from whom and on what
12 date, the first contract you received?

13 A. I received a contract -- this was my mistake.
14 But the contract came in on September 3rd in my e-mail,
15 and Mr. Paxton asked me did I receive it.

16 Q. Okay.

17 A. And -- but I didn't see it. It got lost in
18 the shuffle of all the other e-mails. So I responded
19 back and said, No, I didn't get it.

20 And then Mr. Vassar re-sent it to me on
21 September the 4th of 2020.

22 Q. So you have a recollection of Vassar
23 specifically sending you this contract, right?

24 A. I do, sir.

25 Q. And when you received this contract from

1 Mr. Vassar, you think that is an offer -- I mean, neither
2 one of us are contract lawyers, but you think that's an
3 offer. And by signing and sending it back, you think
4 that's an acceptance?

5 A. Yes, sir. I spoke with him, Mr. Vassar, about
6 the contract.

7 Q. Right.

8 A. I spoke with Mr. Paxton about the contract.
9 He followed up to see if I got the contract.

10 Q. Right.

11 A. He said he could get me the hourly rate. I
12 told him I was coming back out there. I mean, to me it
13 was very clear that I was being hired for this position.
14 And so I signed it and returned it to Mr. Vassar that
15 day when I got home.

16 Q. Gotcha.

17 And no one suggested to you during that
18 month of September that they had their fingers crossed
19 and you really didn't have an agreement?

20 In other words, you went through that
21 month believing you had a valid contract with the State
22 of Texas to be an outside lawyer, right?

23 A. Yes, sir.

24 Q. Now, I think you told us that you,
25 Mr. Cammack, attended a meeting with Nate Paul on

1 September 4th, right?

2 A. Yes, sir, I did.

3 Q. And that's here in Austin, right?

4 A. Yes, sir.

5 Q. Let me back up.

6 So Michael Wynne tells you, Hey, the AG
7 might be calling.

8 The AG calls, right. And then you
9 learned at some point that Michael Wynne not only had
10 recommended you, but was Nate Paul's lawyer who was the
11 complainant, for lack of a better description, in this
12 illegal search warrant claim, right?

13 A. Yes, sir.

14 Q. Do you know when it was, Mr. Cammack, that you
15 learned that Wynne was representing Nate Paul?

16 A. Yes, sir. It was once I got -- I got
17 confirmation about the job, I guess. And I sent --
18 Michael reached out to me and said to come meet with him
19 and the complainant, Michael -- or Nate Paul on
20 September 4th.

21 Q. Now, Mr. Hardin asked you if you did any
22 research about Nate Paul or you Googled Nate Paul or
23 words to that effect, right?

24 A. He asked me that, yes, sir.

25 Q. And when is the first time you had a

1 recollection of doing that? Before you met with Paul or
2 after you met with Paul?

3 A. Before I met with him. I just Googled him.

4 Q. And you knew obviously at some point that he
5 had a search warrant run on his home and his properties
6 and his business and all of that, right?

7 A. Yes, sir.

8 Q. You didn't come across news articles about
9 that in your search, however long that was or wasn't,
10 right?

11 A. No, sir.

12 Q. But what you came across were articles where,
13 for lack of a better description, he's the new golden
14 child of commercial real estate in Austin. He's the --
15 he's the new king or whatever, right?

16 A. There were just headlines about his career as
17 a real estate developer.

18 Q. From your perception, Mr. Cammack, you thought
19 you were sitting in front of or meeting with a valid
20 gentleman or person of substantial economic means, I
21 guess.

22 A. I thought, Okay. Serious guy, businessman,
23 serious lawyer, serious case. He took it very
24 seriously.

25 Q. Okay. So nothing about this, I guess, I'm --

1 I'm stumbling into -- nothing about this was off-putting
2 to you? You didn't think that there was -- in fact, you
3 thought this was -- this case just keeps getting better
4 and better for me, right?

5 A. I was just trying to focus on the facts of
6 what I was being presented with. I didn't have any -- I
7 didn't know any of these people.

8 Q. Okay. So you meet with him in Austin. I
9 believe you said you met with him for an hour and a
10 half, two hours, right?

11 A. Yes, sir.

12 Q. And it's -- and I say "him." Nate Paul is
13 there. Michael Wynne is there, right?

14 A. Yes, sir.

15 Q. Ken Paxton is not at this first meeting, if I
16 understand it, correct?

17 A. No, sir. He was not there.

18 Q. And they are explaining to you, that is
19 Mr. Wynne and Mr. Paul are explaining to you their
20 theory about why the search warrants may be invalid and
21 why they might have been altered, right?

22 A. Yes, sir.

23 Q. And I wasn't there, but as I understand it,
24 Mr. Paul showed you -- made a pretty convincing
25 presentation utilizing a computer diving into the

1 metadata, which at least convinced you that this
2 probably happened or this might have happened, right?

3 A. I was convinced --

4 Q. You were convinced?

5 A. -- there was something there.

6 Q. Okay.

7 A. I didn't make a judgment either way, but I --
8 it was a persuasive presentation.

9 Q. How computer literate are you, Mr. Cammack?

10 And that's a -- that's a vague question.

11 Do you know much about metadata?

12 A. No. I've -- I've never really worked with
13 metadata in that way.

14 Q. Okay. But it at least appeared to you at that
15 time that Mr. Paul was literate in that area, made this
16 explanation, made this -- this explanation, and you
17 accepted it, right?

18 A. Yes, sir. I think -- I mean, I was told that
19 this presentation was also given to Mr. Penley and
20 Mr. Maxwell --

21 Q. Okay.

22 A. -- as well, so it was just me -- you know, my
23 set of eyes looking at it. And I was -- I thought it
24 was persuasive.

25 Q. And you leave there, I think, and go meet with

1 Ken Paxton at his office here in Austin the same day.

2 A. Yes, sir, that's correct.

3 Q. Do you -- do you recall how you described your
4 world view of the explanation that -- I don't know why I
5 can't talk. I should -- I'm paid to talk.

6 You told Ken Paxton, I think,
7 Mr. Cammack, words to the effect of, I think there may
8 be something there, General?

9 A. I told him I was -- it was -- I was convinced,
10 like it was convincing what I was shown. And he agreed
11 with that.

12 Q. Okay. Now, let's go there.

13 When you say "it's convincing," exactly
14 what words did you say?

15 A. I said, It was -- it was convincing. It was
16 persuasive, and he -- he agreed with that. He said
17 he --

18 Q. Paxton agreed with you, right?

19 A. Yes, sir.

20 Q. Now, at no time, you would agree with me, I
21 think, that -- did Paxton ever suggest to you that this
22 investigation was a baseless investigation, right?

23 A. No. He -- he never indicated that it was a
24 baseless --

25 Q. You believed, recognizing that you don't know

1 what's in his head, but you believed that he believed
2 the same thing that you believed, right?

3 A. Yes, sir.

4 Q. At some point during this meeting with
5 Ken Paxton after you had met with Nate Paul, I think it
6 is then that General Paxton says to you, Get me a
7 wet-ink copy of the search warrant, right?

8 A. He said that after we got back from the press
9 conference and I was getting ready to go.

10 Q. Is that the same day?

11 A. The same day.

12 Q. Okay. So --

13 A. He did say that.

14 Q. And they probably understood it after
15 Mr. Hardin explained it, but just so that I'll be on the
16 same page with it, a wet-ink copy is a copy that is
17 actually signed by -- with ink by a judge, right?

18 A. It would just be the original document.

19 Q. And the -- your understanding of why a wet-ink
20 copy was important is it could -- if not definitively,
21 then -- then go a long way in establishing whether that
22 warrant had been improperly altered or not, right?

23 A. Yes, sir, that was my understanding.

24 Q. And the words of General Paxton to you, I
25 think, were along the lines of, If you can find me a

1 wet-ink copy of this search warrant, that's all I need.
2 game's over, right?

3 A. It was, If the wet-ink copy is the same as the
4 PDF document that was provided to Nate Paul and his
5 lawyers, if they're the same, then it's over.

6 Q. "It's over" meaning he would be satisfied?

7 A. He would be satisfied with that. And if -- if
8 they were different, then obviously this thing is going
9 to take a little longer --

10 Q. Okay.

11 A. -- to figure out.

12 Q. Now, did General Paxton ever pressure you to
13 find a given or a specific result?

14 A. With respect to the ultimate --

15 Q. Yes, sir.

16 A. -- my conclusions --

17 Q. Yes, sir.

18 A. -- about what I thought happened?

19 Q. Yes, sir.

20 A. No, he never pressured me one way or the
21 other.

22 Q. He didn't say, You've got to do this, dude. I
23 need one. I mean, if you get this done for me, you've
24 got a big job.

25 I mean, there was never any suggestion of

1 you engaging in any sort of impropriety or a request for
2 any sort of impropriety on the part of General Paxton.
3 Do you agree with me?

4 A. I agree with that.

5 Q. Did he use verbiage like, Look, I just want to
6 know the truth? Just tell me the -- find the truth in
7 this thing.

8 Do you remember that?

9 A. I do.

10 Q. And when was it, Mr. Cammack, that
11 General Paxton first told you, I just want to know the
12 truth, or find the truth?

13 A. That would have been in our first meeting on
14 August 26th when I first went out for the job interview.

15 Q. So to be clear, before you are ever hired,
16 that was his directive to you: I just want to know the
17 truth? Find me the truth?

18 A. It was, Yeah, I just want to know the truth.
19 And if something happened, that that would be an
20 injustice.

21 Q. Okay. Now, there has been a lot of
22 discussion, Mr. Cammack, about evidence and what's not
23 evidence and that sort of thing.

24 At the time that you first met with
25 Mr. Paul and Mr. Wynne, do you believe they gave you at

1 least some type of evidence for you to begin an
2 investigation in good faith based upon?

3 A. They gave me -- they -- they told me the story
4 about what happened. And I took some handwritten notes.
5 And then when I left there, I was given like this
6 timeline of events to kind of, I guess, help me digest
7 everything.

8 Q. Okay. And so you set about doing what a
9 lawyer should do. That is investigating, right?

10 A. That's right.

11 Q. And you could have done a number of things in
12 this investigation. I assume one of the things you
13 could have done is knocked on doors and started
14 interviewing people, right?

15 A. Yes, sir.

16 Q. But you didn't do that, if I understand it
17 correctly. Instead of knocking on doors, if I'm
18 understanding what you did, you issued subpoenas or
19 chose to have grand jury subpoenas issued, right?

20 A. Yes, sir.

21 Q. Would you agree with me, Mr. Cammack, that the
22 very intent and purpose of having the grand jury
23 subpoenas issued was for you to be able to obtain that
24 information without causing any alarm or concern on the
25 part of the people of whom you were seeking the -- the

1 information?

2 A. That is correct.

3 Q. All right. So for a week and a half, we have
4 heard, Oh, my God. The grand jury subpoenas would
5 intimidate these people and frighten these people and
6 scare these people.

7 It was exactly 180 degrees opposite from
8 that. Your intention was to do the exactly opposite of
9 that, right?

10 A. Can I explain that?

11 Q. Yes, sir.

12 A. But yes, sir, to answer your question, I
13 just -- when I spoke with Mr. Paxton about the idea of
14 grand jury subpoenas, he said it was a smart idea
15 because some of these individuals were people in
16 positions of power and this would be the most discrete
17 way to get that information.

18 Q. So if I'm understanding that conversation
19 then, not only did you believe that was the most
20 discrete way to obtain the information without alarming
21 or frightening somebody, so did General Paxton, right?

22 A. Yes, sir.

23 MR. COGDELL: Can we break now, Judge, if
24 it's okay?

25 PRESIDING OFFICER: Members, we will

1 stand at ease until 3:30, so a 25-minute break.

2 (Recess from 3:04 p.m. to 3:36 p.m.)

3 PRESIDING OFFICER: You may resume,
4 Mr. Cogdell.

5 MR. COGDELL: Thank you.

6 Q. (BY MR. COGDELL) Mr. Cammack, by my notes I'm
7 about halfway done, but let me see if I can speed this
8 up and get you --

9 PRESIDING OFFICER: Mr. Cogdell, would
10 you move your -- raise your mic up. There you go.

11 THE WITNESS: Yes, sir.

12 Q. (BY MR. COGDELL) We had to talk a little bit,
13 Mr. Cammack, about grand jury subpoenas and the reason
14 for that. At some point I think I heard you discuss
15 with my colleague, Mr. Hardin, that Paxton made a
16 statement to the effect that he was being critical of
17 Mr. Penley and Mr. Maxwell because they won't do any
18 work.

19 Recall -- do I recall that correctly?

20 A. I don't remember the exact question that I was
21 asked by Mr. Hardin.

22 Q. Okay. Do you remember back during this time,
23 that is back in September of 2020, that happening; that
24 is Mr. Paxton being critical of Mr. Penley and
25 Mr. Maxwell believing that -- or stating that they

1 didn't do any work?

2 A. Wasn't critical in the sense that like he gave
3 me any detail about what they were or weren't doing. He
4 just said that he couldn't get the people in his office
5 to do what he was asking them to do.

6 Q. Fair enough. Now, there are different ways of
7 conducting an investigation, you would agree with me?

8 A. Yes, sir.

9 Q. They're all kinds of different tools that law
10 enforcement can use; TCIC, NCIC, every initial in the
11 book sort of stuff, right?

12 A. Yes, sir.

13 Q. And even laypeople can do computer searches,
14 Google searches, Intelius, TruthFinder, LexisNexis, all
15 that sort of stuff, right?

16 A. Yes, sir.

17 Q. Are you literate on LexisNexis, or were you at
18 the time?

19 A. Yes, but more proficient in Westlaw.

20 Q. Okay. And PACER. Do you do much work on
21 PACER?

22 A. No, sir, but I'm familiar with it.

23 Q. And PACER is Public Access to Computer (sic)
24 Electronic Records, something like that?

25 A. I believe so.

1 MR. COGDELL: Okay. May I approach, Your
2 Honor?

3 PRESIDING OFFICER: Yes, you may. And
4 the witness, if you can speak up, Mr. Cammack.

5 THE WITNESS: Yes, sir.

6 PRESIDING OFFICER: Make sure all of our
7 senators can hear you.

8 THE WITNESS: Yes, sir.

9 PRESIDING OFFICER: Acoustics -- not your
10 fault, acoustics aren't the best. And some of our
11 hearing collectively is not the best either, so.

12 MR. COGDELL: I want to show you --

13 PRESIDING OFFICER: Hold on. Back to
14 your microphone. There you go.

15 MR. COGDELL: Yes.

16 Q. (BY MR. COGDELL) I'm showing you what is
17 marked as AG Exhibit 1047. And I don't know that you've
18 ever seen this, but I'm going to see if I can walk you
19 through it.

20 MR. COGDELL: I would offer AG 1047,
21 which is a docket sheet on the Contego matter.

22 PRESIDING OFFICER: Any objection,
23 Mr. Hardin?

24 MR. HARDIN: Judge, if I may, Your Honor,
25 just a second.

1 If I may, please.

2 PRESIDING OFFICER: Take your time.

3 MR. HARDIN: No objection.

4 PRESIDING OFFICER: No objection. Admit
5 into evidence AG Exhibit 1047.

6 (AG Exhibit 1047 admitted)

7 MR. COGDELL: All right, Erick. If you
8 can kind of blow up the top. And, again, I'm using you
9 as a -- as my ventriloquist right now because I don't
10 think you've ever seen this, or tell me if you have.

11 Q. (BY MR. COGDELL) Have you ever seen this
12 before?

13 A. No, sir.

14 MR. COGDELL: Erick, blow up the top of
15 it, which says obviously the -- the style of the case,
16 which is Contego Information Management.

17 Q. (BY MR. COGDELL) Are you familiar with that
18 name, Contego Information Management?

19 A. Yes, sir.

20 Q. And that is one of the entities, is it not,
21 Mr. Cammack, that Mr. Nate Paul was complaining that an
22 illegal search may have potentially occurred at -- at
23 that place right there, Contego, right?

24 A. Yes, sir.

25 MR. COGDELL: Now, if you will go to the

1 second page, Erick, of 1047.

2 Go back to the first page. My bad.

3 Q. (BY MR. COGDELL) And on the first page, it --
4 it shows, does it not, that Judge Mark Lane is the judge
5 in this case, right? Upper left-hand corner,
6 Mr. Cammack.

7 A. Yes, sir.

8 Q. That -- that's obviously public information.
9 And that Mr. Gupta with the U.S. Attorney's Office is
10 representing the Government, right?

11 A. Yes, sir.

12 Q. So the -- the whole world can see that based
13 on anybody that has a PACER account has access to that
14 sort of information, right?

15 MR. COGDELL: Now, if you can go to the
16 second page, Erick, and what that shows -- give us the
17 top half of that page.

18 Q. (BY MR. COGDELL) And what we see, do we not,
19 Mr. Cammack, is there's a motion for leave to disclose a
20 sealed search warrant that was filed on September 5th,
21 right?

22 A. Yes, sir.

23 Q. And an order granting that motion for leave to
24 disclose a sealed search warrant, right?

25 A. Yes, sir.

1 Q. So that would allow -- and that was granted on
2 the 5th. And then it is closed again on the 17th, where
3 someone files an order -- someone files a motion to
4 extend the sealing, right?

5 A. Yes, sir.

6 Q. But for those, whatever that is, 12 days, that
7 search warrant would have been -- the warrant, not the
8 probable cause affidavit -- they probably understand by
9 now, but I know you do; there's a difference between the
10 search warrant and the search warrant affidavit, right?

11 A. That's right.

12 Q. But the search warrant would have been visible
13 via PACER for those 12 days back in September. Again,
14 anybody with a PACER account could have logged in and
15 looked at that, at least during those 12 days. Agree
16 with me?

17 A. It was -- it was not sealed during those 12
18 days.

19 Q. Fair enough.

20 Now, when you were working on this
21 matter, did you ever see, Mr. Cammack, any evidence that
22 Mr. Penley or Mr. Maxwell had done anything in terms of
23 investigating the same complaints that you were
24 investigating? Meaning did you see any reports, any
25 memoranda, any conclusion, any -- anything?

1 A. No, sir.

2 Q. It is possible, is it not -- let -- let's say
3 that I want to investigate whether or not a given
4 prosecutor might have at least been accused in a
5 pleading of doing something improper. You or I can get
6 on PACER and enter that person's name and pull up every
7 case that lawyer has ever been assigned -- assigned to,
8 right?

9 A. Yes, sir.

10 Q. And they can do the same to us as well, right?

11 A. That's correct.

12 Q. But if we wanted to investigate whether or not
13 a given prosecutor was doing something, we could look at
14 their history, or at least their history that's visible
15 on PACER, right?

16 A. That's right.

17 Q. Same with the judge, correct?

18 A. That's -- it should be public record.

19 Q. Now, let me be -- let me be Captain Obvious
20 because it's a cape I wear a lot. Every single search
21 warrant that is a bad search warrant was signed by a
22 judge somewhere, wasn't it?

23 A. Theoretically speaking, it -- yes.

24 Q. Okay. Well, I guess my point is if someone is
25 arguing, Well, a judge signed it, therefore, it must be

1 good; well, if it's a search warrant that was executed,
2 chances are a judge signed it. That doesn't necessarily
3 make it a good search warrant. It's just a -- one more
4 search warrant that one more judge signed. Agree with
5 me?

6 A. I agree with that.

7 Q. I think we heard you testify that Mr. Wynne,
8 during, I guess, the latter part of September, stated
9 that Penley had reached out to him out of the clear blue
10 and asked for documents. Do you recall that?

11 A. Yes, sir. That's what I was told.

12 Q. Do you know when, Mr. Cammack, ballpark, that
13 was?

14 A. It would have been I believe the fourth --
15 sometime in the fourth week of September 2020.

16 Q. Okay. So if you were hired on September 4th,
17 you had been working on this case for several weeks, or
18 this investigation for several weeks, by the time you
19 heard that. Agree with me?

20 A. So approximately three weeks.

21 Q. Okay. Now, let's get into the time. Mr. --
22 Mr. Hardin had you walk through sort of the frequency of
23 contact that you had with Mr. Paxton during this, and
24 it's about a month. That's probably the easiest way to
25 describe it, is about 30 days, right?

1 A. Yes, sir.

2 Q. And Mr. Hardin had you describe your contacts
3 with Agent Paxton. And I think you said, I don't know,
4 15 to 20 times, something like that, right?

5 A. Yes, I did say that.

6 Q. And during that month or so period, you saw
7 him a grand total of how many times face-to-face? Two
8 or three?

9 A. Well, I can -- I can tell you the days. So
10 the 26th was one time.

11 Q. Okay.

12 A. November -- I mean, I'm sorry, September 4th
13 was the second time.

14 Q. Right.

15 A. And then there was the time at the end of
16 September at Nate Paul's house.

17 Q. That's three.

18 A. And then there was another time when I drove
19 out to meet with him and Brent Webster.

20 Q. That's four.

21 A. And then there was another time when we met at
22 the Starbucks.

23 Q. That's five, right?

24 A. That's five times.

25 Q. So let -- let's use as a demarcation,

1 artificial or not, I'm going to call it when the stuff
2 hit the fan, and that is September 30th or October 1st.
3 Okay?

4 A. Yes, sir.

5 Q. So before the stuff hit the fan, and we're
6 going to get to there, you had seen him a grand total of
7 three times; that is Mr. Paxton, right?

8 A. Two times.

9 Q. Two times. Okay.

10 Now, you said, I think, in reference to a
11 question by Mr. Hardin that you had talked to him 7 to
12 10 times on the phone, something like that?

13 A. Yes, sir.

14 Q. And there were some occasional texts as well,
15 right?

16 A. Yes, sir.

17 Q. Would you agree with me, generally speaking,
18 Mr. Cammack, that those phone calls are generally short,
19 to-the-point calls?

20 A. Yes, sir.

21 Q. Do any of them stand out in your memory for
22 one reason or another?

23 That's not -- that's not meant to be a
24 trick question. That's just an open-ended question.

25 A. I'm just thinking about what stands out in my

1 mind about the conversations.

2 Q. Okay. Let me keep going. And if it comes to
3 you, we'll come back to it. Fair?

4 A. Okay.

5 Q. Would you agree with me, Mr. Cammack, that
6 Mr. Paxton has -- General Paxton, whatever we want to
7 call him, has a, let's say, unique style of
8 communication? I'm sure it's not exclusive to him, but
9 what I mean by that is when he wants you, he -- he
10 reaches out to you and you're, generally accessible,
11 right?

12 A. Yes, sir.

13 Q. But the reverse isn't always true. When you
14 need him, it ain't always -- he doesn't pick up the
15 phone as quickly as you pick up the phone?

16 A. I would agree with that.

17 Q. Okay. And you had three or four of these
18 occasions where you were saying, Look, Mr. Paxton, or,
19 Look, General Paxton, I need an e-mail address, and I
20 need some identification, or I need a badge or
21 something, right?

22 A. Yes, sir.

23 Q. And the response that you get is, more or
24 less, Yeah, yeah, yeah. I'm working on it. Yeah, yeah,
25 yeah, right?

1 A. Yeah, I mean every time that's -- that was
2 kind of the --

3 Q. Fair enough.

4 A. -- response that I got.

5 Q. And -- and you would also agree with me that
6 just about every time you're in the presence of
7 General Paxton, he's either on the phone some of the
8 time or on the phone all of the time? Is that -- is
9 that fair?

10 A. The first two times that I met with him, he
11 was not on the phone.

12 Q. And those were the -- the interview, right?

13 A. The interview, and then the second time that I
14 went there.

15 Q. Yes, sir.

16 A. And then after that, he was on the phone quite
17 a bit of time.

18 Q. He's -- I mean, in your mind, I think, not
19 unlike perhaps others, he's kind of notorious for being
20 on the phone when you need the man's attention. That's
21 just how he rolls. Agree with me?

22 A. I mean, I didn't -- I didn't know him before
23 all of this.

24 Q. Okay. I'm just talking about your experience
25 with him.

1 A. I just figured he was busy.

2 Q. And he is, as far as you know, right?

3 Now, let's get to -- speaking of busy,
4 let's get to that point in time, Mr. Cammack, when you
5 were asking for a signed contract, and you told
6 Michael Wynne you hadn't gotten the signed contract.
7 And I think that was the night before. And then you
8 roll into Mr. Paul's office the next morning, leaving at
9 5:00 or thereabouts. And lo and behold, there is a
10 signed contract on the desk of -- or at Nate Paul's
11 office, right?

12 A. Yes, sir.

13 Q. Do you know whether or not, Mr. Cammack, that
14 on that date that Mr. Paxton was out of town? Do you
15 know one way or the other if he was?

16 A. No, sir.

17 Q. Okay. Would you agree with me that based upon
18 your observations of the man, he traveled frequently,
19 agree?

20 A. There was at least one other time that, yes,
21 sir, that he said he was traveling.

22 Q. Okay. So let's jump to the second. And,
23 again, I'm going to be quick running through these. But
24 we've talked generally speaking about the first referral
25 that you received from the Travis County DA's Office,

1 right? And that is the complaint about the search
2 warrant, correct?

3 A. Yes, sir.

4 Q. Not too long after you're involved, you get
5 this second complaint, right?

6 A. Yes, sir.

7 Q. And that complaint is referred to you
8 directly. It is mailed to your office, right?

9 MR. COGDELL: Somebody find that for me,
10 a copy of it, the second complaint.

11 THE WITNESS: I believe it was e-mailed
12 to me from Mr. Clemmer.

13 Q. (BY MR. COGDELL) Okay. Whether it was
14 e-mailed or mailed, my mistake.

15 A. Yes, sir.

16 Q. It was sent to you directly? Agree with me?

17 A. Yes, sir.

18 Q. And if someone were to come in here and state
19 that Travis County DA's Office had no idea who you were
20 or what you were doing and you were just some sort of
21 ghost out there in space; you would disagree with that,
22 would you not?

23 A. That would be a falsehood.

24 Q. And, in fact, Mr. Clemmer knew exactly who you
25 were and where to find you, right?

1 A. Yes, sir.

2 Q. And can you -- can you estimate for us,
3 Mr. Cammack, how many touches -- for lack of a better
4 description, how many touches you had with employees of
5 the Travis County DA's Office? And when I say
6 "touches," I mean, interfaces, e-mails, phone calls,
7 personal visits. How many -- how many touches are we
8 talking about?

9 A. Well -- and there's no disrespect to the folks
10 over there. I just don't remember everyone's name.

11 Q. Of course not. I'm not giving you that pop
12 quiz. I'm just asking you to estimate it, of course.

13 A. So I'm just -- I spoke with one individual who
14 referred me to Don Clemmer. And then I think there was
15 another woman named Amy maybe. Amy Meredith maybe.

16 Q. Okay.

17 A. Then I got referred to a woman named Bailey.

18 Q. Well, now, we're up to four, right?

19 A. I think we're up to four. And then from
20 there, there were multiple --

21 Q. Repeat visits?

22 A. Well, just back and forth on -- in the e-mail
23 exchange about the subpoenas. And then five or six
24 times there, like with Mrs. Molnar. And then -- and
25 then I got that other referral from Mr. Clemmer

1 directly.

2 Q. So if we are counting each subpoena as a
3 touch, we've got 35 or 40 subpoenas?

4 A. Well, I sent them in a -- on the application,
5 just multiple per -- you know, just sent them out.
6 There were several e-mails to their office.

7 Q. Several -- I'm interrupting you. I'm sorry.
8 I'm sorry. I apologize.

9 But there were several tranches of
10 subpoenas sent to the Travis County DA's Office?

11 A. Yes, sir, I agree with that.

12 Q. And -- and there were several people you
13 communicated with, right?

14 A. Yes, sir.

15 Q. Some were staff and some were lawyers, right?

16 A. Yes, sir.

17 Q. And -- and at least in your mind, Mr. Cammack,
18 they were well aware of who you were and what you were
19 doing, right?

20 A. Yes, sir.

21 Q. And you certainly never tried to hide that
22 fact from anybody? When you were working with the
23 Travis County DA's Office, you told them who you were.
24 You told them your job description. You told them what
25 you need. It's not like you were hiding, right?

1 A. I was not hiding.

2 Q. The second complaint is different,
3 Mr. Cammack, in kind, is it not, from the first
4 complaint, meaning, the first complaint is --

5 MR. COGDELL: May I approach, Your Honor?

6 PRESIDING OFFICER: Yes.

7 MR. COGDELL: Just to satisfy you, and
8 it's in, Mr. Hardin, as 124, AG 124.

9 Q. (BY MR. COGDELL) And, again, it's not -- not
10 a trick question. That is the copy of the second
11 complaint, correct?

12 A. Yes, sir, that's the second referral.

13 Q. So, again --

14 PRESIDING OFFICER: I'm sorry,
15 Mr. Cammack. I really need for you to speak louder when
16 you're answering because I know --

17 THE WITNESS: Yes, Judge, that's the
18 second referral.

19 Q. (BY MR. COGDELL) And, again, like the point I
20 made before you saw the document, although I don't think
21 there was a dispute about you, that was sent to you
22 directly with your name on it, with your address on it.
23 Clearly they know who you are, right?

24 A. Yes, sir.

25 Q. Okay. Now, the first complaint again focused

1 on the potential illegality of the search warrants. The
2 second complaint focused on an alleged fraud concerning
3 people trying to steal -- my words, not the complaint --
4 Nate Paul's property too cheaply, right?

5 A. Yes, sir.

6 Q. And I believe, correct me if I'm wrong, but
7 you utilized the resources of the Travis County DA's
8 Office to issue search warrants -- or I'm sorry, grand
9 jury subpoenas for the first complaint, correct?

10 A. Yes, sir.

11 Q. And you did the same thing with the second
12 complaint, meaning part of the thing that you did to
13 investigate it was send out grand jury subpoenas to try
14 to obtain information, correct?

15 A. Yes, sir.

16 Q. Now, I think I heard you say, Mr. Cammack,
17 correct me if I'm wrong, that you were not keeping
18 General Paxton apprised of the names of the individuals
19 that you had issued the -- the grand jury subpoenas
20 before, right?

21 A. I never spoke with him about like who
22 specifically I was issuing subpoenas for, but that's not
23 to say that I -- I don't know if -- I don't remember if
24 I has sent a -- forwarded an e-mail list or something
25 like that.

1 Q. Fair enough.

2 It's possible that you sent him on one or
3 more occasion a list of folks that -- or some sort of
4 detail on names, right?

5 A. That's possible.

6 Q. Not certain one way or the other if it
7 happened, but it's certainly possible?

8 A. As I am sitting here right now, I don't recall
9 that.

10 Q. Fair enough.

11 But you didn't, in any conversation, as
12 far as you can recall, Mr. Cammack, get gran -- get so
13 granular with General Paxton about the names of the
14 people that were being subpoenaed that you said, Look,
15 Joe Smith on this date, Bob Hunt on that date, Travis
16 Smith on the other? That didn't happen, right?

17 A. No, sir.

18 Q. And I assume it is a safe bet to say that if
19 you sent General Paxton an e-mail containing a list with
20 names on it, you don't know one way or the other whether
21 or not he opened that e-mail and read through it and
22 assimilated or understood what was entered or not?

23 Agree with me?

24 A. I'm sorry. Could you just rephrase that one
25 for me?

1 Q. That's a \$500 question. I don't know why I
2 asked it that way.

3 You don't know if he ever opened up any
4 e-mail you sent to him and read it or not, right?

5 A. That's right. I don't know.

6 Q. Okay. Now, in the -- thank you.

7 In the investigation of the second
8 complaint, did you think your marching orders from
9 General Paxton had changed? Meaning, if I recall your
10 testimony correctly, Mr. Cammack, in the first referral
11 he told you to go get the truth, find out the truth or
12 whatever, right?

13 Were you -- I assume you were operating
14 under the same belief system that General Paxton wanted
15 you to do the same thing in the second complaint,
16 correct?

17 A. That was my belief and my understanding.

18 Q. And at any point, Mr. Cammack, that you were
19 dealing with Ken Paxton, did he ever ask you to
20 misrepresent anything?

21 A. No.

22 Q. Did he ever ask you to, for lack of a better
23 description, lie, cheat, or steal?

24 A. Lie, cheat, or steal?

25 Q. Yes, sir.

1 A. No, sir.

2 Q. And I'm including that in a broad sense, not
3 in the literal sense.

4 But also in the broad sense, not the
5 literal sense, Mr. Cammack, never asked you to hide,
6 secrete, destroy? Never asked you to hide any record,
7 conceal anything you did, dispose of anything that you
8 obtained? There was never any suggestion of that, I
9 don't think, was there?

10 A. No, sir.

11 Q. Now, there was the time when the stuff hit the
12 fan, right?

13 A. Yes, sir.

14 Q. And that was October 1st?

15 A. I believe it was October 1st, whatever day
16 that I got a cease and desist letter from Mr. Penley.

17 Q. Okay. And, again, whether it's the 1st, or
18 2nd, 30th, whatever, you get the cease and desist
19 letter. And what was your reaction when you -- when you
20 got that? What was your thought?

21 A. I mean, I was shocked. I was confused and
22 felt like a rug had been pulled out from under me.

23 And --

24 Q. I heard shocked and confused, and then I
25 didn't hear the last thing that you said.

1 A. I just felt like the rug had been pulled out
2 from under me.

3 Q. Okay.

4 A. It just seemed that it came out of nowhere.

5 Q. And it really did come out of nowhere, if I'm
6 understanding your -- your story, right?

7 A. It did come out of nowhere. I had never
8 spoken with Mr. Penley over the course of those three
9 and a half, four weeks.

10 Q. And after Mr. Penley sent you that letter,
11 Mr. Mateer sent you another letter, right?

12 A. That's correct.

13 Q. And this is the -- and he's basically saying,
14 This is unauthorized. You're performing illegal
15 activity, whatever.

16 This is the very same Jeff Mateer whose
17 office you sat in interviewing for the job that you
18 took, right?

19 A. That's correct.

20 Q. If I'm recalling it correctly, Mr. Cammack,
21 when you got the first letter from the Penley letter,
22 you responded very professionally, very appropriately,
23 very succinctly. What -- he sends you this cease and
24 desist letter. And what do you reply back?

25 A. I think I told him that I would just stand

1 down and -- something along those lines.

2 Q. Unlike some other people that you might have
3 heard of, you didn't get volcanic on him? You didn't
4 pick up the phone and slur a bunch of invectives or
5 worse at him, right?

6 A. No. That would have been unprofessional.

7 Q. And -- and to be fair to you, Mr. Cammack, all
8 you were trying to do was do a job, do it well, do it
9 professionally, right?

10 A. Yes, sir.

11 Q. Then it gets even worse because the press
12 starts blowing up, right?

13 A. Yes, sir.

14 Q. And speaking for you, you are a five-year
15 lawyer. And you have authors, writers, people in the
16 press that you've never spoken to, that you've never
17 communicated with, that you've never heard of just
18 saying horrible things about you, right?

19 A. There were a lot of articles written, and I
20 read a couple of them and then chose just to put that
21 out of my scope of view, just move on with my life.

22 Q. That was probably a wise decision.

23 But it went into really needless detail
24 about disagreements that you had with your family and
25 just blowing everything out of proportion. And it was a

1 nightmare for you, simply put, was it not?

2 A. It had nothing to do with anything involving
3 this. It was just a bunch of trash. I'm sorry.

4 Q. That's all right.

5 And it was -- if you understand the
6 timeline -- or I guess if I understand the timeline, I'm
7 asking you if you understand it the same way,
8 Mr. Cammack, that by this point, the so-called
9 whistleblowers had gone to the FBI, and that's when all
10 of this volcanic eruption occurred, right?

11 A. I'm sorry. Could you repeat?

12 Q. Sure.

13 When the negative press started coming
14 out, it was after the time, at least insofar as what the
15 articles were claiming, that several individuals that
16 used to be with the attorney general's office had gone
17 and made a complaint with the FBI or made the so-called
18 whistleblower complaint. Is that consistent with your
19 memory?

20 A. I remember reading, I think, about that.

21 Q. And after this eruption, that is when you
22 drive to Nate Paul's house, right?

23 A. Yes, sir.

24 Q. And, I mean, it's just a surreal time, fairly
25 put, for you and for everybody else, right?

1 A. Yes, sir.

2 Q. You go to his house. You had never been to
3 his house before. You're hoping to resolve whatever
4 issues are outstanding.

5 Oh, by the way, you would like to get
6 paid for your work, right?

7 A. Right.

8 Q. And everybody is kind of standing around
9 shell-shocked. When I say "everybody," I mean you,
10 Mr. -- Mr. Wynne, your -- your friend or whatever,
11 Mr. -- Mr. Paul and Mr. Paxton, right?

12 A. That's what -- that's who was at that meeting.

13 Q. And, I mean, again, without engaging in
14 hyperbole, it's kind of like everybody is sitting around
15 with PTSD; just like what the hell was that, right?

16 A. Right.

17 Q. You were asked to continue the good fight,
18 keep working. And in your own mind, you say, No. I --
19 I'm done with that.

20 A. No.

21 Q. Right?

22 A. That's right, I was done.

23 Q. Okay. And then you have another occasion that
24 you detailed for Mr. Hardin where Mr. -- thank you --
25 Mr. Webster and -- and Mr. Paxton asked you to come to

1 Austin. You come to Austin. And it's just as weird as
2 the time before.

3 You don't go into the AG's office. You
4 go over to Starbucks. Brent Webster says, 15 grand
5 ain't nothing. I had to eat 40 grand. And you're
6 thinking, That's not going to put, you know, Post
7 Toasties in my -- in my bowl here. I don't really care.

8 My words, not yours, right?

9 A. That happened.

10 Q. Okay. And to this day, you've never been paid
11 anything, right?

12 A. Zero dollars.

13 Q. Okay. And the reward that you have gotten is
14 not really a good reward, right?

15 A. I don't -- I mean, I don't -- I haven't
16 received any benefit from any of this.

17 Q. Let me -- let me -- let me apologize for that
18 situation.

19 A. Thank you.

20 Q. That should have never happened.

21 A. Thanks.

22 Q. That should have never happened.

23 All of that having been said,
24 Mr. Cammack, it is still true, is it not, that what
25 Ken Paxton asked you to do: Find the truth?

1 A. That was -- that's what he told me when we
2 first met. He just wanted to find out the truth about
3 this first referral.

4 Q. And that's what you were trying to do?

5 A. Yes, sir, that's correct.

6 MR. COGDELL: I pass the witness.

7 PRESIDING OFFICER: Mr. Hardin, redirect?

8 MR. HARDIN: No, Your Honor.

9 PRESIDING OFFICER: Are both of you --

10 MR. COGDELL: He can be excused.

11 PRESIDING OFFICER: Can I excuse the
12 witness?

13 MR. COGDELL: Yes.

14 PRESIDING OFFICER: You may be. Thank
15 you, sir.

16 (Witness left the Senate chamber)

17 PRESIDING OFFICER: Call your next
18 witness.

19 MR. DONNELLY: Thank you, Mr. President.
20 The House calls Joe Brown.

21 PRESIDING OFFICER: Bailiff, please bring
22 in Joe Brown.

23 (Witness entered the Senate chamber)

24 PRESIDING OFFICER: This way.

25 Mr. Brown, if you'll raise your right

1 hand.

2 (Witness was sworn by Presiding Officer)

3 PRESIDING OFFICER: Thank you.

4 Please have a seat. And as they will
5 instruct you, talk as close into the mic as you can get.
6 Thank you.

7 MR. DONNELLY: May I proceed,
8 Mr. President?

9 PRESIDING OFFICER: Yes, you may.

10 MR. DONNELLY: Thank you.

11 JOSEPH DAVID BROWN,
12 having been first duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. DONNELLY:

15 Q. Sir, please introduce yourself to the
16 honorable members of the Senate.

17 A. Joseph David Brown. I go by "Joe."

18 Q. Mr. Brown, how are you currently employed?

19 A. I have a private law practice in Sherman.

20 Q. Could you please summarize for us, albeit
21 briefly, your history as an attorney, your jobs,
22 positions you've held?

23 A. I graduated from SMU Law School in 1995. I
24 started with a civil law firm in Dallas, about 100
25 lawyers, Cowles & Thompson. I did that work for about

1 five years. Returned to my hometown. Ran for district
2 attorney in 2000 in Grayson County. Was elected. Spent
3 17 years as the district attorney in Grayson County.
4 And then I was appointed as the Eastern District United
5 States Attorney in 2018.

6 Q. Was that a presidential appointment, senate
7 confirmation?

8 A. Nominated by the senators of Texas and
9 presidentially appointed and senate approved.

10 Q. And which -- under which administration were
11 you appointed?

12 A. I was appointed by President Trump.

13 Q. I'll ask you, sir, at some point were you
14 contacted by or on behalf of Attorney General Ken
15 Paxton?

16 A. Yes, sir.

17 Q. Can you tell us the substance of that?

18 A. I received a call in late August of 2020 from
19 a friend in McKinney who was a mutual friend of the
20 attorney general. He asked -- told me that Attorney
21 General Paxton would like to visit with me, if I would
22 be willing to, about a potential criminal special
23 investigation.

24 Q. Did you meet with the then -- excuse me, with
25 Mr. Paxton?

1 A. Within the hour, I received a call from
2 Attorney General Paxton. He introduced himself. We
3 visited a little bit. And he asked me if I would come
4 to Austin to visit about a matter that he had.

5 He did not give much detail at that
6 point. I knew it was criminal and it was a special
7 investigation. But I didn't know the role really. And
8 he said he would explain that to me if I came to Austin.

9 Q. Did you go to Austin?

10 A. I -- I came to Austin on August 27th of 2020.

11 Q. Did you meet personally with Mr. Paxton?

12 A. I did in his office, about 45 minutes. And I
13 met about 15 minutes with Jeff Mateer.

14 Q. Can you give us a summary -- I'll ask you, did
15 he provide you some information concerning this
16 potential complaint?

17 A. Are -- are you asking me to --

18 Q. Well, I'm asking you, did he give you
19 information about the complaint?

20 A. Attorney General Paxton told me about the
21 complaint, yes.

22 Q. And if you could, in just a few words, tell me
23 what the substance of the report was.

24 A. Well, I didn't know what role I would be
25 playing, whether I was going to be an independent

1 prosecutor or under the authority of the attorney
2 general, so we talked about that. But he told -- he
3 told me it involved a guy that was -- had a warrant
4 executed, and he believed the warrant could have been
5 possibly executed unlawfully. So we continued to visit
6 about that and -- and flesh that out.

7 Q. On the information that he provided you, just
8 off the top of your head, did you have any -- well, let
9 me -- let me retract that.

10 Did he -- did you ask of him whether or
11 not he had individuals within his own office who might
12 be able to investigate this matter?

13 A. Yes. We talked about the fact -- I remember
14 him talking about that it involved potentially a phone
15 line cut on some execution of a search warrant and the
16 warrant affidavit being changed. And, you know, I -- I
17 learned during that meeting that it was involving the
18 FBI and the Securities Board and DPS, and the
19 investigation would be involving that.

20 So, yes, we -- we talked about that. And
21 he said he could not get the people in his office to do
22 anything about it. And we talked a little bit more
23 about that. And he talked about the Ranger -- the
24 retired ranger that worked for him that wouldn't do
25 anything about it.

1 Q. Let me stop you there.

2 Did you ask him a question after he told
3 you that his own people weren't getting work done on it?

4 A. Yeah. I said, Why don't you fire them?

5 Q. What was his response?

6 A. It was complicated, and it just didn't work
7 that way.

8 Q. Fair enough.

9 Did he advise you whether or not there
10 were any other people in the race, whether you had
11 competition?

12 A. He told me that there was another lawyer, a
13 young lawyer that he was considering, but that he didn't
14 have the credentials that I did. And so I assumed that
15 if I wanted that, that he would choose me to do that.

16 Q. You said that he had identified, if I'm
17 correct, the FBI, the State Securities Board, and DPS;
18 is that accurate?

19 A. I remember those entities.

20 Q. Did those raise any concerns for you, just
21 that first question?

22 A. Now, as we're talking --

23 Q. Let me stop you there just so I don't get an
24 objection. The answer to the question is yes, correct?

25 A. Yes.

1 Q. Did you relay those concerns to Mr. Paxton?
2 And if so, what did you say?

3 A. Yes. I was aware of the fact that his
4 indictment involved those three agencies. And I said, I
5 have some concern about the fact that it would be
6 involving -- that I would be under your authority in
7 investigating the same agencies that were involved in
8 your indictment. As we talked about it, I eventually --
9 you know, I'm having to process this during this meeting
10 and learn all of this, and the red flags are going off.

11 So eventually I say, My preference is
12 that I would write a report and be able to evaluate
13 these conflicts before I would commit to any level of
14 prosecution. And he said, We have people that can
15 prosecute the case. That would be fine.

16 Q. From your recollection, did he appear affected
17 by these concerns that you raised? Did he indicate that
18 it was a problem?

19 MR. COGDELL: I'm sorry, conjecture and
20 speculation as to whether or not he was affected.

21 MR. DONNELLY: Your Honor --

22 PRESIDING OFFICER: Sustained.

23 Go ahead.

24 Q. (BY MR. DONNELLY) From what you observed,
25 sir, did you have any personal observations for how you

1 believed he took that news?

2 MR. COGDELL: Same objection.

3 THE WITNESS: He --

4 MR. DONNELLY: Your Honor, if I may,
5 we're talking about a lay witness opinion. This
6 individual was in the room with him and spoke directly
7 with Mr. Paxton and can testify as to what he observed.

8 PRESIDING OFFICER: I will sustain. I
9 think you can phrase it better, so try one more time.

10 MR. DONNELLY: Sounds like a challenge,
11 Your Honor. And I'm up for it, I hope.

12 Q. (BY MR. DONNELLY) You told him these concerns
13 that you raised; is that correct?

14 What did you observe, if anything?

15 A. He -- he told me -- when I said, I'm concerned
16 about these, he said, I understand. I'm not worried
17 about that. I just want to find the truth.

18 Q. Fair enough.

19 Did he tell you -- excuse me.

20 Did he indicate to you whether the
21 individual involved was a donor?

22 A. I did not learn he was a donor until I went to
23 talk to Jeff Mateer.

24 Q. Did you learn from Mr. Paxton that he had any
25 other relationship with this individual?

1 A. No. I -- I had no idea when I left the
2 attorney general that there was anything other than a
3 guy that he was -- that was wronged, and I was unclear
4 on why it was going to a special prosecutor, other than
5 what he had told me.

6 Q. So let's fast-forward. At some point do you
7 speak with Mr. Vassar about a potential contract?

8 A. Within a few days, he made contact --
9 Ryan Vassar made contact with me by e-mail and
10 eventually gave me a contract. It didn't have any
11 specific terms. It was just a general contract. And we
12 exchanged e-mails about the scope and some details of
13 the contract.

14 Q. What was your purpose in defining the scope?

15 A. I -- I repeated what I had told to the
16 attorney general, that -- that because of my concerns
17 about the conflicts, I would commit to investigating, to
18 writing a report, and would not commit to prosecution
19 until I had been able to evaluate the conflicts further.

20 Q. Was there an hourly rate that was addressed?

21 A. The hourly rate was -- I can't remember. It
22 was -- it didn't come from me. It was suggested with
23 the contract by Mr. Vassar.

24 Q. Would a rate of \$300 an hour be accurate?

25 A. That was the rate that was -- was given to me.

1 Q. Did you have any concerns about that rate?

2 A. I was -- had just been -- I was in two months
3 out from the U.S. Attorney's Office, and just starting
4 this was giving me an opportunity to stay involved in
5 something relevant. I mean, the attorney general is
6 asking me to help with an investigation, so it intrigued
7 me, so I didn't -- I wasn't worried about the money.

8 Q. You were prepared to do any sort of
9 investigation if you cleared conflicts for \$300 an hour;
10 is that accurate?

11 A. What was described to me, yes. I mean, I knew
12 I could -- if I needed to, you know, get out of it, I
13 could.

14 Q. Were you prepared to secure any insurance that
15 was necessary as provided by the contract?

16 A. Well, the insurance thing didn't come up
17 until -- when I get the contract it says you have to
18 have malpractice insurance. And I was two months out of
19 the U.S. Attorney's Office, so I did not have it. But,
20 you know, it was not -- that was not what kept me from
21 doing it.

22 Q. Did you, as a matter of fact, indicate to
23 anybody that you were willing to get insurance within 30
24 days?

25 A. I would have gotten insurance if that was

1 necessary. I thought it was something they could waive.

2 Q. And did you explain that to Mr. Vassar?

3 A. Yes.

4 Q. Did you feel in your opinion that that in any
5 way stood in the way of you getting the job, if you were
6 to be chosen?

7 A. Yeah. That would never --

8 MR. COGDELL: Excuse me, Mr. Brown.
9 Objection. Conjecture and speculation. He doesn't know
10 if it was in his way or not.

11 PRESIDING OFFICER: You also can speak
12 up, Mr. Cogdell, when you speak.

13 Sustained.

14 You can rephrase that.

15 Q. (BY MR. DONNELLY) Did you get a response when
16 you indicated that you could get insurance within 30
17 days?

18 A. We e-mailed, and he said it was something that
19 he thought they could take care of, or words to that
20 effect.

21 Q. Very good.

22 After you have raised concerns to the
23 general, Paxton, after you've indicated that you wanted
24 to limit the scope of your work so that you could make
25 sure that those conflicts and concerns were taken care

1 of, after you've indicated that you would work for \$300
2 an hour and get insurance, were you chosen?

3 A. No. I followed up a couple of times with
4 e-mails, and it just -- nothing happened after that.

5 Q. Are you familiar with federal filings of the
6 process of -- of performing federal filings as it
7 relates to search warrants?

8 A. Yes.

9 Q. You ran an entire office of assistant United
10 States attorneys, correct?

11 A. Yes. I mean, I wasn't on the front line of
12 the search warrants, but I certainly am familiar.

13 Q. Fair enough.

14 Are you familiar, sir, that when an
15 application for a search warrant is filed, there's an
16 application with an accompanying affidavit?

17 A. Correct.

18 Q. And then there's a search warrant order; is
19 that accurate?

20 A. Correct.

21 Q. Okay. And what we would call the application
22 and the warrant; is that fair?

23 A. Right.

24 MR. DONNELLY: Ms. Manela, if you would
25 please pull up AG 1047.

1 I apologize, Your Honor. We didn't have
2 a digital copy so we're putting it on the ELMO.

3 Q. (BY MR. DONNELLY) If you could look at line
4 number 1, please. Would you agree with me that on
5 August 16th, 2019, there's a seal -- there's a motion to
6 seal the search warrant application and the search
7 warrant?

8 A. That's what's reflected.

9 Q. And the search warrant application again
10 contains the application and the affidavit; is that
11 accurate?

12 A. And the proposed warrant.

13 Q. Okay. If we could go to line number 6 on the
14 second page, please.

15 At the top would you agree with me here
16 that it indicates that there's a motion for leave to
17 disclose the search warrant -- excuse me, the sealed
18 search warrant, correct?

19 A. That's the entry.

20 Q. Would you agree with me that there's nothing
21 on that entry that indicates that there is a motion for
22 leave to disclose the sealed search warrant application,
23 which would include the affidavit?

24 A. There's nothing that mentions the application.

25 Q. Very good.

1 Sir, are you familiar with OPR as it
2 relates to federal government?

3 A. Yes.

4 Q. Could you tell us what those initials stand
5 for, please?

6 A. The Office of Professional Responsibility.

7 Q. Do all assistant United States attorneys who
8 enter on duty, at least during your time, are they made
9 aware of the Office of Professional Responsibility and
10 their jurisdiction to investigate complaints regarding
11 United States attorneys?

12 MR. COGDELL: Objection. Conjecture and
13 speculation.

14 MR. DONNELLY: I'm asking from his direct
15 knowledge, Your Honor.

16 MR. COGDELL: No. You asked for recall.

17 PRESIDING OFFICER: Overruled.

18 Q. (BY MR. DONNELLY) Please answer the question.

19 A. Assistant United States attorneys are familiar
20 with what the OPR is and what their jurisdiction is,
21 yes.

22 Q. If there was a complaint regarding an AUSA and
23 the conduct in any one of their investigations, would
24 the Office of Professional Responsibility be charged
25 with investigating them?

1 MR. COGDELL: Objection. Conjecture and
2 speculation.

3 PRESIDING OFFICER: Overruled.

4 Q. (BY MR. DONNELLY) Please, sir.

5 A. That's one agency that could.

6 Q. As a former United States attorney,
7 presidentially appointed, are you aware, if there is an
8 OPR investigation ongoing, whether the United States
9 Attorney's Office where that employee who is complained
10 of works has any jurisdiction over the matter or if it
11 is entirely within Office of Professional
12 Responsibility?

13 MR. COGDELL: I'm sorry. Objection.
14 Vague. I don't understand the question.

15 MR. DONNELLY: Your Honor, if I may, I
16 think it's more important if the witness understands it.

17 PRESIDING OFFICER: Overruled.

18 You may answer.

19 THE WITNESS: I -- I'm not sure I do,
20 so --

21 Q. (BY MR. DONNELLY) That answers Mr. Cogdell's
22 question.

23 Would it be fair to say -- or let me ask
24 you this: In your experience as a presidentially
25 appointed United States attorney, if somebody within

1 your office, an AUSA within your office was being
2 investigated by the Office of Professional
3 Responsibility, would your office, the office in which
4 they worked, have any sort of responsibility for the
5 investigation or would it be entirely OPR?

6 A. No. My understanding goes to OPR out of
7 Washington, D.C., and they keep it separate.

8 Q. So the -- the office where the AUSA works has
9 no responsibility for that, correct?

10 A. That was my experience.

11 Q. Are you familiar with OIG?

12 A. Yes, the Office of Inspector General.

13 Q. Similarly, based on your experience, working
14 as a presidentially appointed United States attorney,
15 are AUSAs within your office made aware of and trained
16 on the Office of Inspector General and their
17 jurisdiction?

18 A. They're certainly aware of it. What the level
19 of training on it is, it doesn't take very long before
20 they know that there's oversight organizations within
21 the different areas of the Department of Justice.

22 Q. If there's a complaint for an agent within the
23 Department of Justice, not an AUSA anymore, but an
24 agent, would the Office of Inspector General have
25 oversight and jurisdiction?

1 A. It's my understanding they do. That's the
2 investigating -- that's who investigates the
3 investigators.

4 Q. Same question. Investigates the
5 investigators, and it is taken out of the hands of the
6 regional or local United States Attorney's Office; is
7 that correct?

8 A. That's my understanding.

9 Q. Thank you, sir.

10 MR. DONNELLY: Pass the witness.

11 PRESIDING OFFICER: Thank you,
12 Mr. Donnelly.

13 Mr. Cogdell.

14 CROSS-EXAMINATION

15 BY MR. COGDELL:

16 Q. Hi, Mr. Brown.

17 A. Good afternoon.

18 Q. I think we met?

19 A. We have.

20 Q. Okay. In -- in Sherman?

21 A. The courtroom in Sherman, yes, sir.

22 Q. A lovely courtroom, lovely judge. Nice to see
23 you again.

24 When you were meeting with Mr. Mateer,
25 Mr. Brown, did he tell you that this is a bogus

1 investigation and it shouldn't be investigated?

2 A. No, sir.

3 Q. Did he, that is Mr. Mateer, give any
4 indication to you that the investigation or that the --
5 that the job that you were applying for was -- was
6 unnecessary?

7 A. No. I sensed a little -- I sensed something,
8 but he never said anything directly, other than he was
9 glad that I was being considered because I would tell
10 the attorney general the truth.

11 Q. Okay. And the same with Mr. Vassar. When you
12 were communicating with -- with Mr. Vassar about the
13 details of the contracts, did -- did he suggest in any
14 shape, form, or fashion that the job that you were
15 applying for was unneeded, unnecessary, a sham, anything
16 of the sort?

17 A. No.

18 Q. And I hear you, Mr. Brown, on the troubling
19 fact, potentially troubling fact, that these are the
20 same agencies or some of the same agencies that had
21 charged Mr. Paxton with the State Securities fraud case,
22 which, by the way, do you know of your own personal
23 knowledge if that thing is still pending after eight
24 years?

25 MR. DONNELLY: Objection, Your Honor, as

1 to the relevance as it relates to this witness.

2 PRESIDING OFFICER: Overruled.

3 Q. (BY MR. COGDELL) Are you aware, Joe, that
4 that case is still pending?

5 A. The case against the attorney general?

6 Q. Yes, sir.

7 A. Yes, I'm aware of that.

8 Q. Okay. That was what was potentially troubling
9 to you, right?

10 A. That was part of it.

11 Q. Yes, sir, but not -- the allegations or the
12 claim, or whatever, that the FBI or these different
13 agencies had potentially engaged in misconduct, you were
14 still willing to investigate it, right?

15 A. I left it open that that could happen. I was
16 willing to.

17 Q. And you are the former United States Attorney
18 for the Eastern District, right?

19 A. Yes, sir.

20 Q. In fact, I think -- and somebody said that
21 you -- the other applicant wasn't as qualified as you.
22 Probably true because there are very few people in the
23 Eastern District that, on paper at least, would be more
24 qualified than the former DA from Grayson County and the
25 Eastern District United States Attorney, right?

1 A. I -- that's your words.

2 Q. Okay. In any event, you're a very qualified
3 person. You weren't chosen, but you did make two or
4 three calls trying to follow up to see if you could get
5 the job. Am I recalling that correctly?

6 A. I was willing to do the job. And I didn't
7 know what happened, yes.

8 MR. COGDELL: Thank you. Fair enough.
9 Thank you, Joe. Nice to see you.

10 MR. DONNELLY: No redirect, Your Honor.

11 PRESIDING OFFICER: Are both parties
12 finished with the witness?

13 MR. COGDELL: No problem.

14 MR. DONNELLY: Excused, Your Honor.

15 PRESIDING OFFICER: Okay. You're
16 excused, Mr. Brown. Thank you, sir.

17 (Witness left the Senate chamber)

18 PRESIDING OFFICER: The next witness?

19 MS. EPLEY: Thank you, Mr. President.

20 The House calls Kendall Garrison.

21 PRESIDING OFFICER: Bailiff, please bring
22 in Kendall Garrison.

23 (Witness entered the Senate chamber)

24 PRESIDING OFFICER: Mr. Garrison, if
25 you'll raise your right hand.

1 (Witness was sworn by Presiding Officer)

2 PRESIDING OFFICER: Please be seated.

3 And speak as closely into the microphone as you can.

4 Thank you.

5 Ms. Epley, your witness.

6 MS. EPLEY: Thank you. May I proceed?

7 KENDALL GARRISON,

8 having been first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. EPLEY:

11 Q. Please introduce yourself to the ladies and
12 gentlemen of the Senate.

13 A. Hi. My name is Kendall Garrison.

14 Q. Mr. Garrison, could you speak up a little for
15 me? It's a big room.

16 A. My name is Kendall Garrison.

17 Q. Thank you. And where do you work?

18 A. Amplify Credit Union.

19 Q. What is your role at Amplify Credit Union?

20 A. I'm president and chief executive officer.

21 Q. As you might have heard, I want to get through
22 this a little quickly so I'm going to jump right in.

23 I'm going to turn your attention to 2020.

24 During that time frame, were you familiar with Nate Paul
25 or World Class Holdings?

1 A. Yes.

2 Q. How so?

3 A. Mr. Paul and World Class Holdings obtained
4 loans from Amplify Credit Union.

5 Q. Okay. And what was the status of those loans
6 in the summer of 2020?

7 A. In the summer of 2020, we had issued a demand
8 letter inasmuch as those loans were delinquent and were
9 working their way toward foreclosure.

10 Q. Okay. Did your -- in the course of your
11 employment, and does your staff create records specific
12 to Amplify, their banking, and their foreclosures?

13 A. Yes.

14 Q. Have you provided those to the House?

15 A. I have.

16 Q. Would it surprise you to know that we have
17 provided copies to the defense?

18 A. It would not surprise me.

19 Q. Okay. Did you provide a business record
20 affidavit for those documents?

21 A. Yes.

22 MS. EPLEY: And for the Senate, for
23 Mr. President, that's been on record for over 14 days,
24 the business records affidavit. And as such I've
25 provided a copy to defense. And I have a copy for the

1 court.

2 Mr. President, you'll notice I provided
3 you an external document. I'll refer to that in a
4 moment. In the meantime, the -- Exhibit 657 has been
5 pre-admitted.

6 Q. (BY MS. EPLEY) Mr. Garrison, I would like to
7 talk to you a little bit about those records. Do you
8 remember three loans in particular related to Nate Paul
9 in the summer of 2020?

10 A. I do.

11 Q. And I would like to move you forward to the
12 end of July, early August of that year. What was the
13 status at that point of those loans?

14 A. Those three loans had been posted for
15 foreclosure.

16 Q. And when you say "posted for foreclosure,"
17 what does that mean?

18 A. That means a -- we had requested a substitute
19 trustee, and we had filed notice with the various
20 counties on where those three properties were located,
21 that we intended to foreclose on those on the first
22 Tuesday of August.

23 Q. Was Nate Paul aware of your intent to file and
24 proceed with foreclosure?

25 A. He was aware.

1 Q. Is documentation consistent with that provided
2 in Exhibit 657?

3 A. Yes.

4 Q. Now, after providing notice to Nate Paul, does
5 he immediately file a bankruptcy?

6 A. He does not.

7 Q. And just so that we're all aware, does the
8 filing of a bankruptcy create a legal automatic stay
9 foreclosing the ability to move forward with the
10 foreclosure, for example?

11 A. The filing of a bankruptcy does create a stay.

12 Q. Would we call that a nuclear option, though,
13 for Mr. Paul?

14 MR. LITTLE: Objection. Leading.
15 Argumentative.

16 PRESIDING OFFICER: Sustained.

17 Q. (BY MS. EPLEY) Does Mr. Paul make an effort
18 to prevent foreclosure and avoid bankruptcy?

19 MR. LITTLE: Objection. Calls for
20 speculation as to Mr. Paul's intent.

21 MS. EPLEY: If he knows, Your Honor,
22 which he does.

23 PRESIDING OFFICER: I'll overrule it. He
24 can answer the question.

25 THE WITNESS: I'm sorry. Can you repeat

1 the question?

2 Q. (BY MS. EPLEY) Yes, sir.

3 So at the end of July, early August of
4 2020, does Mr. Paul make any efforts to avoid
5 foreclosure and also avoid bankruptcy?

6 A. He had discussions with our staff, and his
7 counsel had discussions with ours about options to avoid
8 foreclosure.

9 Q. Yes, sir.

10 MS. EPLEY: Stacey, if you would for me,
11 would you pull up Exhibit 657, specifically .190?

12 Q. (BY MS. EPLEY) Can you see that -- excuse me.
13 Can you see that, Mr. Garrison?

14 A. It's small, but I can see it. It's more
15 legible now. Thank you.

16 Q. And what does this appear to be?

17 MR. LITTLE: Hang on a second. We don't
18 have anything on our monitor.

19 PRESIDING OFFICER: Hold on one moment.

20 Ms. Epley, you said it was admitted. We
21 do not have that on our sheet as being previously
22 admitted. Did I mishear you?

23 MS. EPLEY: It is possible, Your Honor.
24 And I'm happy to lay a predicate right now. This is
25 easily correctable.

1 MR. LITTLE: Mr. President, I can't see
2 anything. It's not on my screen. I don't know if the
3 jury can see it. I hope you can. But I don't have
4 anything on my monitor. Hopefully everybody can see it.

5 MS. EPLEY: And, Your Honor --

6 PRESIDING OFFICER: Hold on one second.

7 Is it up now? Do you have it?

8 MR. LITTLE: No, it is not.

9 PRESIDING OFFICER: Okay. Hold on.

10 Do the jurors have it? I have it. Can
11 we have -- Damian, if you can take a look. And we'll
12 just pause there for a second.

13 MS. EPLEY: Your Honor, can I ask that
14 this not count towards my time?

15 PRESIDING OFFICER: Yes, ma'am. It won't
16 count towards your time.

17 MS. EPLEY: Thank you.

18 PRESIDING OFFICER: Jurors, are your
19 monitors black now?

20 THE JURY: Yes.

21 PRESIDING OFFICER: Okay. They're all
22 black now, Damian.

23 MR. LITTLE: It's up now, Mr. President.

24 PRESIDING OFFICER: All right.

25 MS. EPLEY: Your Honor -- or,

1 Mr. President, for the record, I want to ensure, I'm
2 getting confirmation that 657 was pre-admitted by
3 agreement with defense. If, however, you would like me
4 to lay a predicate, I can do that quickly.

5 MR. LITTLE: That's not necessary. No
6 objection.

7 PRESIDING OFFICER: Okay. We just didn't
8 have it on our list.

9 MS. EPLEY: Thank you, Your Honor.

10 PRESIDING OFFICER: Go ahead, and I will
11 be sure you get a minute back.

12 MS. EPLEY: Thank you. Thank you.

13 Q. (BY MS. EPLEY) Now, Mr. Garrison, I'm going
14 to draw your attention back to Exhibit 657 at page 190.
15 Does this appear to be an e-mail from Nate Paul?

16 A. It does.

17 Q. And what's the date?

18 A. The date is August the 3rd of 2020. Monday,
19 August 3rd.

20 Q. Now, the senators and people viewing at home
21 can read, so I want to move you directly to the link
22 embedded in that e-mail. Do you know what that is?

23 A. I do.

24 Q. And what is it?

25 A. This was a link to an attorney general's

1 opinion that we referred to internally as "the midnight
2 opinion."

3 Q. Yes, sir. We refer to it the same. And I
4 think the senators are familiar with the foreclosure
5 letter or the midnight letter.

6 Let me ask you: What was the impact of
7 receiving that at Amplify Bank?

8 A. We had lots of discussions internally and with
9 our counsel on how to proceed. This -- this was highly
10 unusual. And I am in my 44th year of banking, and this
11 is the first time I've seen something of this nature.

12 As a direct result --

13 MR. LITTLE: I object to the narrative.

14 PRESIDING OFFICER: Sustained.

15 MS. EPLEY: That's okay. I'd be happy to
16 break it up.

17 Q. (BY MS. EPLEY) You mentioned that it's the
18 first time you'd seen something like this. But to be
19 fair, because I'm sure Mr. Little will ask, wasn't it in
20 the middle of COVID?

21 A. It was.

22 Q. So that's kind of unprecedented time anyway,
23 correct?

24 A. In many ways.

25 Q. So other than COVID, what was surprising about

1 this?

2 A. It was surprising to see a ruling issued on a
3 Sunday night or Sunday morning, I believe, maybe it was
4 Monday morning, that essentially prohibited foreclosures
5 in the state of Texas.

6 Q. What's the impact of that for Amplify and for
7 your resources and assets?

8 A. We had no choice, other than to pull those
9 bankruptcy filings -- I'm sorry, those foreclosure
10 filings.

11 Q. Thank you. We've heard that no foreclosures
12 in Texas were stopped because of the foreclosure letter.
13 Is that your experience?

14 MR. LITTLE: Objection. Leading.

15 MS. EPLEY: We'll come back --

16 PRESIDING OFFICER: Sustained.

17 Reask.

18 MS. EPLEY: Yes, Mr. President.

19 In that case I provided defense a copy of
20 Exhibit 676. They received a copy of this over the
21 weekend. It is external to the business record you
22 already have. And I'll approach the Court.

23 PRESIDING OFFICER: Is there any
24 objection, Mr. Little?

25 MR. LITTLE: To 676?

1 PRESIDING OFFICER: Yes.

2 MR. LITTLE: No objection.

3 PRESIDING OFFICER: Please enter 676 into
4 evidence.

5 (HBOM Exhibit 676 admitted)

6 Q. (BY MS. EPLEY) And, Mr. Garrison, what is
7 this?

8 A. This is an e-mail from Anh Nguyen to Brian
9 Elliott, who was the in-house counsel for World Class.

10 Q. You mentioned a moment ago that you had
11 changed your course in regards to the foreclosure; is
12 that right?

13 A. That's correct.

14 Q. What -- what did you choose to do?

15 A. We chose to withdraw those foreclosure notices
16 and not proceed with foreclosure on that Tuesday, the --
17 the 4th of August.

18 Q. On all three properties tied to Nate Paul?

19 A. Correct.

20 Q. What was the value of their bank's assets in
21 regards to those properties?

22 A. We had --

23 MR. LITTLE: Objection. Vague.

24 PRESIDING OFFICER: Overruled.

25 THE WITNESS: We had loans outstanding to

1 the World Class entities with Mr. Paul as a guarantor to
2 the tune of about \$11 and a half million.

3 Q. (BY MS. EPLEY) And were you receiving
4 payments on that note?

5 A. We were not.

6 Q. Hence the foreclosure, correct?

7 A. Correct.

8 Q. And by forestalling or delaying that
9 foreclosure, did it help make you money or cost you
10 money?

11 A. It was a cost to us.

12 Q. After delaying the foreclosure, did the bank
13 sell the properties?

14 A. Can you ask that question again?

15 Q. I sure can.

16 So on August 4th, the properties were
17 going to be foreclosed but were not, correct?

18 A. Correct.

19 Q. Did you maintain control of those notes?

20 A. We did maintain control of those notes for
21 some period of time after that.

22 Q. Okay. And then ultimately what happened?

23 A. Ultimately on -- I believe the date was
24 September the 9th, we sold those three loans and
25 assigned the deeds of trust to a third-party buyer.

1 Q. And just to be clear, because of allegations
2 made by Nate Paul's side of things, did you sell those
3 at a great deficit? Did you lose money?

4 A. We did not. We essentially sold the loans at
5 par, and we received our past due interest and some
6 attorney's fees as I recall.

7 Q. So in regards to your dynamic with Nate Paul
8 and foreclosures in August of 2020, who benefited from
9 the foreclosure letter?

10 A. Nate Paul.

11 MR. LITTLE: Objection. Calls for
12 speculation.

13 PRESIDING OFFICER: Overruled.

14 MS. EPLEY: Thank you.

15 Q. (BY MS. EPLEY) I don't think we heard you.
16 Can you repeat that?

17 A. Nate Paul and the World Class entities.

18 MS. EPLEY: Pass the witness.

19 PRESIDING OFFICER: Mr. Little.

20 MR. LITTLE: Mr. President, thank you.

21 PRESIDING OFFICER: Counsel, can we have
22 just a moment?

23 MR. LITTLE: Please.

24 PRESIDING OFFICER: Ms. Epley, could you
25 come up?

1 Mr. Little.

2 MR. LITTLE: I'm happy to. Can I ask the
3 witness to step down?

4 (Witness steps down)

5 (At the bench, off the record)

6 PRESIDING OFFICER: Jurors, if you can
7 take your seats again, we are ready to resume.

8 MR. LITTLE: Mr. President, if I may.

9 PRESIDING OFFICER: Yes.

10 CROSS-EXAMINATION

11 BY MR. LITTLE:

12 Q. All right. Mr. Garrison, in front of you I
13 think somewhere, did you get a thick pile of papers like
14 I did from Ms. Epley? Is it in front of you over there
15 somewhere?

16 A. No. No, I don't have any documentation before
17 me at this moment.

18 Q. I don't like working in 2-inch piles of paper,
19 okay. I'm going to show you exactly what happened.
20 We're going to go document by document. Okay?

21 MR. LITTLE: Your Honor, may I approach
22 the witness?

23 PRESIDING OFFICER: Yes, you may.

24 MS. EPLEY: Your Honor, may I approach as
25 well?

1 (At the bench, off the record)

2 PRESIDING OFFICER: You can start the
3 clock again. It was a brief pause.

4 Mr. Little.

5 Thank you for helping to clarify,
6 Ms. Epley.

7 Q. (BY MR. LITTLE) Now, Mr. Garrison,
8 interesting times during COVID as a banker, yeah?

9 A. Without a doubt.

10 Q. I'm sure your clients had -- your customers
11 took out PPP loans, yes?

12 A. They did.

13 Q. And you were probably working that all from
14 March forward, yes?

15 A. We were.

16 Q. With major clients of the bank, I'm sure,
17 true?

18 A. Yes.

19 Q. You had loans in workout from customers who
20 couldn't -- or customers who couldn't transact as much
21 business probably as they wanted to, true?

22 A. No.

23 Q. You didn't have any loans in workout during
24 COVID?

25 A. Three.

1 Q. Three? Three total for the bank?

2 A. Yes, sir.

3 Q. All right. We're going to go one by one
4 through them here in just a minute.

5 A. Yes.

6 Q. Are you familiar with the CARES Act that --
7 that prompted the PPP loans?

8 MS. EPLEY: Objection, Your Honor --
9 Mr. President. Relevance.

10 MR. LITTLE: It's about to get real
11 relevant.

12 PRESIDING OFFICER: I'm willing to let
13 that question in. Overruled.

14 Q. (BY MR. LITTLE) Okay. Are you familiar with
15 the CARES Act?

16 A. I am familiar inasmuch as I know it exists. I
17 did not read it in its entirety.

18 Q. There was an eviction moratorium, wasn't
19 there?

20 MS. EPLEY: Objection. Providing facts
21 not in evidence. He said he's not familiar with it.

22 PRESIDING OFFICER: Sustained.

23 Q. (BY MR. LITTLE) Let me try again. Did you
24 know there was an eviction moratorium under the CARES
25 Act?

1 A. Yes.

2 Q. Did you know there was a foreclosure
3 moratorium under the CARES Act?

4 A. Yes.

5 Q. Did you know that it went until July 30th of
6 2020?

7 A. I did not.

8 Q. As the president or CEO of your bank -- you're
9 president or CEO or both?

10 A. Both.

11 Q. As the president and CEO of the bank, or
12 Amplified Credit Union, why don't you tell the ladies
13 and gentlemen of the jury when the foreclosure
14 moratorium ended under the CARES Act?

15 MS. EPLEY: Objection. Relevance.

16 PRESIDING OFFICER: Overruled.

17 Q. (BY MR. LITTLE) If you would.

18 A. I don't know.

19 Q. You don't know. Okay.

20 A. No.

21 Q. Amplified wasn't Nate Paul's senior lender or
22 anything, was it, that three months?

23 MS. EPLEY: Objection. Speculation.

24 PRESIDING OFFICER: Sustained.

25 Q. (BY MR. LITTLE) Was Nate Paul -- was

1 Amplified Nate Paul's senior lender?

2 MS. EPLEY: Objection. Speculation.

3 Q. (BY MR. LITTLE) If you know.

4 PRESIDING OFFICER: He asked the
5 question. Overruled.

6 You can answer.

7 THE WITNESS: We were with respect to
8 these three properties.

9 Q. (BY MR. LITTLE) Three special purpose
10 entities that Mr. Paul set up, true?

11 A. Yes.

12 Q. Okay. I want you to take a look at what's
13 been marked as Exhibit AG 1031.

14 MR. LITTLE: And, Your Honor, at this
15 time we move for admission in bulk of Exhibits AG 1031
16 through 1044?

17 PRESIDING OFFICER: Any objection?

18 MS. EPLEY: Your Honor, I don't know. He
19 has not provided me a copy.

20 MR. LITTLE: I handed it to you, didn't
21 I? The big stack right there.

22 MS. EPLEY: Well, I don't know.

23 MR. LITTLE: It's got a sticky note.
24 It's purple. That's the ticket.

25 MS. EPLEY: I stand corrected.

1 Your Honor -- or, Mr. President, I think
2 they're an exact duplicate of what I've already
3 provided. No objection.

4 MR. LITTLE: Not quite. These are
5 actually in chronological order. But no objection,
6 right?

7 PRESIDING OFFICER: No objection,
8 Ms. Epley?

9 MS. EPLEY: No objection, Mr. President.

10 MR. LITTLE: Mr. Arroyo, if you would --

11 PRESIDING OFFICER: Hold on one second.

12 MR. LITTLE: Sorry.

13 PRESIDING OFFICER: Let me put it into
14 evidence.

15 AG 1031 through 1044 please -- AG 1031
16 through 1044, please admit into evidence.

17 (AG Exhibits 1031 through 1044 admitted)

18 MR. LITTLE: Mr. Arroyo, if you would, AG
19 Exhibit 1031.

20 Q. (BY MR. LITTLE) Your lawyers are Streusand,
21 Landon, Ozburn & Lemmon, correct?

22 A. Yes.

23 Q. And Steve Lemmon is a partner in that law
24 firm, correct?

25 A. His name is on the letterhead so one would

1 presume.

2 Q. Yeah. And he was actually the lawyer
3 representing the receiver in a separate Nate Paul case,
4 correct?

5 MS. EPLEY: Objection. Speculation and
6 relevance.

7 PRESIDING OFFICER: Overruled.

8 THE WITNESS: I don't know.

9 Q. (BY MR. LITTLE) You don't know, hmm.

10 Okay. What's the date of this item here?

11 A. The date is May 27th of 2020.

12 Q. Okay. And what is this document?

13 A. This is a notice of default and demand for
14 payment.

15 Q. Okay. May -- at least as of May 27, 2020, the
16 bank had hired -- I'm referring to Amplify Credit Union
17 as "the bank." Is that okay with you?

18 A. Perfectly fine.

19 Q. Great. The bank had hired an attorney. And
20 it had hired an attorney to make a demand on WC Alamo
21 Industrial Center LP, a Nate Paul entity, true?

22 A. In this case, yes.

23 MR. LITTLE: Mr. Arroyo, Exhibit 1032,
24 please.

25 Q. (BY MR. LITTLE) Same thing with regard to WC

1 707 Cesar Chavez, yes?

2 A. Yes.

3 MR. LITTLE: AG 1033, Mr. Arroyo.

4 Q. (BY MR. LITTLE) Same thing with regard to WC
5 Custer Creek Center Property, LLC, correct?

6 A. Yes.

7 Q. All three of those entities are in default at
8 the bank as of May 27 of 2020, right?

9 A. Yes.

10 Q. So you posted them for foreclosure in July of
11 2020, right?

12 A. We would have had to post those --

13 MR. LITTLE: I object. Nonresponsive.

14 PRESIDING OFFICER: Sustained.

15 Answer the question.

16 Q. (BY MR. LITTLE) So -- so you posted them for
17 foreclosure in July 2020, right?

18 A. Yes.

19 Q. No. You never did, did you?

20 MS. EPLEY: I object to relevance, Your
21 Honor.

22 Q. (BY MR. LITTLE) Did your bank post --

23 MS. EPLEY: I would ask --

24 PRESIDING OFFICER: Well, overruled.

25 Q. (BY MR. LITTLE) Did your bank post these

1 three properties for foreclosure in July of 2020?

2 MS. EPLEY: Objection. Relevance.

3 PRESIDING OFFICER: Overruled.

4 THE WITNESS: Can you ask the question
5 again?

6 Q. (BY MR. LITTLE) Let me try for the fourth
7 time.

8 Did your bank post these three properties
9 for foreclosure in July of 2020? Yes or no.

10 A. I don't know when we posted them for
11 foreclosure, but they were posted for foreclosure.

12 Q. That wasn't my question. And I believe the
13 answer to my question is you don't know, right?

14 A. If that's my only choice, then I don't know
15 when we posted them for foreclosure.

16 Q. They weren't posted for foreclosure in July of
17 2020 because there was a foreclosure moratorium under
18 the CARES Act, true?

19 A. If -- I am not aware of that -- how long that
20 moratorium was actually in place. But if you want to
21 foreclose on a property, you have to file a foreclosure,
22 I believe, 21 days before the scheduled foreclosure
23 date.

24 Q. That's right.

25 A. So filing is not a foreclosure. It is the

1 notice of intent to foreclose on the first Tuesday of
2 every month, as foreclosures take place in Texas.

3 Q. And surely the bank wanted to get its money
4 back through foreclosure as fast as possible, right?

5 MS. EPLEY: Objection. Argumentative.

6 PRESIDING OFFICER: Sustained.

7 Q. (BY MR. LITTLE) Did the bank want to get its
8 money back as fast as possible through foreclosure?

9 A. We wanted to receive repayment by whatever
10 means necessary.

11 Q. Very good.

12 MR. LITTLE: Mr. Arroyo, Exhibit AG 1034,
13 if you would.

14 Q. (BY MR. LITTLE) Now, this is an affidavit of
15 posting of a property for foreclosure, right?

16 A. It appears to be, yes.

17 Q. And the date of this is July 10 of 2020, yes?

18 A. Yes.

19 Q. And the entity that's being foreclosed upon is
20 WC Custer Creek Center Property, LLC, yes?

21 A. Yes.

22 Q. And that's in Plano, Texas, my neck of the
23 woods, Collin County, Texas, right?

24 A. Yes.

25 Q. So you posted this one on July 10th for August

1 foreclosure, yes?

2 A. It appears to be that, yes.

3 Q. Your testimony on direct was you posted all
4 three of them for August foreclosure, correct?

5 A. That is my recollection.

6 Q. But that's not right, is it?

7 Let's take a look at what is marked as
8 Exhibit AG 1035. This is an e-mail from Nate Paul to
9 some people at the bank, yes?

10 A. It is.

11 Q. And Nate Paul says, I am writing to confirm
12 you are aware of the attached announcement.

13 Ms. Epley went through that with you,
14 correct? Correct?

15 A. Can you ask that once again, please?

16 Q. Ms. Epley went through this e-mail with you,
17 correct?

18 A. Yes. And I saw the e-mail at the time.

19 Q. The last sentence of that first paragraph, it
20 says, In light of foregoing, please confirm before
21 5:00 p.m. today that you will not be attempting to
22 proceed with a foreclosure tomorrow.

23 A foreclosure tomorrow, not three, true?

24 That's what Nate Paul says in this
25 e-mail, right?

1 A. He does use the words "a foreclosure."

2 Q. And Anh Nguyen responds the next day. That's
3 House Board of Managers Exhibit 676, that was on the
4 screen earlier. And she says, Brian, it is -- she's
5 writing to Brian Elliott at World Class.

6 It is our position that the restrictions
7 cited in the unsigned, informal guidance would not apply
8 to our particular foreclosure sales. However, as a
9 courtesy to borrowers and per your/their request,
10 Amplify is willing to postpone the foreclosure sale to
11 September 1, 2020.

12 Right?

13 A. I don't have that document on my screen, so I
14 can't confirm or deny that's what it says.

15 Q. Would you like to look at my copy?

16 A. Sure.

17 MS. EPLEY: Mr. President, the House is
18 willing to concede that the e-mail written by them, his
19 client, is in the singular.

20 MR. LITTLE: It's a little late for your
21 concessions. I would like the witness to answer my
22 question, if I could, Mr. President.

23 PRESIDING OFFICER: Let him read it, and
24 then you can repeat the question.

25 MR. LITTLE: Thank you.

1 THE WITNESS: He does use the word "the."

2 MR. LITTLE: Mr. Arroyo, Exhibit AG 1036,
3 please.

4 Q. (BY MR. LITTLE) You didn't even notice the
5 substitute trustee sale for WC 707 Cesar Chavez until
6 August 7, after the AG's opinion was issued, correct?
7 Correct?

8 A. I have a different recollection of those
9 events.

10 Q. Well, that's why we have documents, right?

11 A. I believe this was the second posting --

12 Q. Oh, really?

13 A. -- to make it for the September sale.

14 Q. Do you have a document with you perhaps, or in
15 that massive pile of documents somewhere, where your
16 bank posted the other two properties for foreclosure in
17 August?

18 A. I do not.

19 Q. It seems kind of importantish, isn't it?

20 You don't have that, do you?

21 A. I do not have a document of that nature before
22 me.

23 Q. Well, in any event we know for sure that
24 there's an August 7 posting of that after the
25 foreclosure sale, yes?

1 A. It appears to be a notice regarding a
2 substitute trustee sale, yes.

3 MR. LITTLE: Exhibit AG 1037, if you
4 would, Mr. Arroyo.

5 Q. (BY MR. LITTLE) WC Alamo Industrial Center
6 also posted on August 7 of 2020, after the opinion was
7 issued, true?

8 A. Yes.

9 MR. LITTLE: Exhibit AG 1038, if you
10 would.

11 Q. (BY MR. LITTLE) A separate notice regarding
12 substitute trustee sale, August 7 of 2020, for WC Alamo,
13 true?

14 A. Yes.

15 Q. After the opinion, yes?

16 A. Yes.

17 Q. And just to be clear for the ladies and
18 gentlemen of the jury, and for the media who is
19 gathering information on this, you told the media you
20 had all three properties posted for foreclosure in
21 August of 2020. And we read about it in the newspaper,
22 true?

23 A. Yes.

24 MS. EPLEY: Facts not in evidence.
25 Objection.

1 Q. (BY MR. LITTLE) But you don't have --

2 MS. EPLEY: Objection.

3 PRESIDING OFFICER: What is your
4 objection?

5 MS. EPLEY: Facts not in evidence.
6 Relevance. And counsel is testifying.

7 MR. LITTLE: He just said yes.

8 PRESIDING OFFICER: Sustain the
9 objection.

10 Q. (BY MR. LITTLE) You told the media you had
11 all three properties posted for foreclosure in August of
12 2020, correct?

13 A. I don't recall my exact words, but I did tell
14 the media that we had those -- that we had World Class
15 properties posted for foreclosure, yes.

16 Q. You don't have a document to prove the other
17 two, do you?

18 A. No.

19 Q. I'll show you what is marked as Exhibit AG
20 1039. This is the affidavit of posting for WC 707 Cesar
21 Chavez, correct?

22 A. Yes.

23 MR. LITTLE: Exhibit AG 1040, if you
24 would, Mr. Arroyo. We're going fast, but I think you
25 can keep up.

1 Q. (BY MR. LITTLE) Mr. Garrison, wasn't -- we're
2 in August 10 of 2020. It says, Notice regarding
3 substitute trustee sale. This is for WC Custer
4 Creek, true?

5 A. Yes.

6 Q. You re-noticed it for the next month; is that
7 right?

8 A. Yes.

9 Q. Tell the ladies and gentlemen of the jury,
10 were any foreclosures being stopped in Collin County,
11 Texas, at this time?

12 A. I wouldn't have knowledge of that.

13 Q. You don't know, do you?

14 A. No.

15 Q. So when you testified on direct that for
16 whatever reason this opinion disrupted the business of
17 foreclosing these properties at the bank, you don't
18 really know whether Collin County stopped doing any
19 foreclosures at all, do you?

20 MS. EPLEY: Objection. Asked and
21 answered as to Collin County.

22 PRESIDING OFFICER: Overruled.

23 Q. (BY MR. LITTLE) You don't know, right?

24 A. I only have knowledge of what Amplified Credit
25 Union did in response to the midnight opinion.

1 Q. That really wasn't my question. So let me try
2 again.

3 Do you know whether Collin County was
4 doing foreclosures at this period of time or not?

5 A. I do not.

6 MR. LITTLE: Mr. Arroyo, Exhibit AG 1041,
7 if you would.

8 Q. (BY MR. LITTLE) And this is your affidavit of
9 posting of WC Custer Creek Center Property for
10 foreclosure on August 10 of 2020, correct?

11 A. Yes.

12 Q. Now, you sold all three notes, right?

13 A. We did.

14 Q. So you didn't have to foreclose any of the
15 three properties, correct?

16 A. Ultimately we did not have to foreclose on any
17 of the three properties.

18 Q. And you didn't have to foreclose any of them
19 because your bank lost zero dollars. You sold all three
20 notes, and your bank lost zero dollars as a result of
21 whatever this informal legal guidance was, correct?

22 A. That is correct. We ultimately sold those
23 notes.

24 Q. And you didn't lose a single dollar? Just
25 tell the jury.

1 A. We did not.

2 Q. Why -- well, let's put our heads together.

3 How did all three notes get sold at the
4 same time? Doesn't that seem coincidental?

5 A. It was not a coincidence at all.

6 Q. It wasn't a coincidence because Bryan
7 Hardeman -- it's a man who his name has -- may or may
8 not have come up in this trial at some point. He put
9 together three special purpose entities, and he had his
10 agents come and buy these notes from your bank. Yes?

11 A. I have no idea. I know that the notes were
12 purchased. I do not know who formed the special purpose
13 entities. I only know who I interacted with.

14 Q. Isn't it true that all three of these notes
15 were sold to special purpose entities of Bryan Hardeman?

16 A. I don't know.

17 Q. Isn't it true this is the same Bryan Hardeman
18 who is the subject of the bid rigging investigation in
19 Travis County District Attorney's Office Referral No. 2,
20 and the same man who sent Ken Paxton a picture of --

21 MS. EPLEY: Objection, Your Honor --

22 MR. LITTLE: I'm sorry --

23 (Simultaneous crosstalk)

24 MS. EPLEY: -- Mr. President, no,
25 absolutely not.

1 Facts not in evidence. And absolutely
2 staining someone who is not here without any basis.

3 MR. LITTLE: I wasn't quite finished,
4 but --

5 PRESIDING OFFICER: Sustained.

6 MR. LITTLE: Mr. President?

7 PRESIDING OFFICER: Sustained.

8 MR. LITTLE: very well.

9 Q. (BY MR. LITTLE) Do you know who Bryan
10 Hardeman is?

11 A. I do not.

12 Q. Who did you interact with on the sale of these
13 three notes?

14 A. Justin Bayne.

15 Q. Justin Bayne, okay.

16 So I guess what we would need to do if we
17 wanted to see if there was any connection between Justin
18 Bayne and Bryan Hardeman, we could probably just Google
19 Justin Bayne and Bryan Hardeman, right?

20 MS. EPLEY: Objection, Mr. President.

21 PRESIDING OFFICER: Sustained.

22 MS. EPLEY: Thank you.

23 MR. LITTLE: If you would, Mr. Arroyo,
24 Exhibit AG 1042, please.

25 Q. (BY MR. LITTLE) You sold that note to

1 somebody called Alamo Lanark, right?

2 A. Yes.

3 Q. Justin Bayne entity, B-A-Y-N-E, true?

4 A. Yes.

5 Q. Didn't lose a dime, yes?

6 A. I'm sorry, say again.

7 Q. The bank didn't lose a dime, right?

8 A. Right.

9 MR. LITTLE: Exhibit AG 1043, if you
10 would, Mr. Arroyo.

11 Q. (BY MR. LITTLE) You sold this note to
12 something called Cesar or Cesar Rainy Street, LLC,
13 right?

14 A. Yes.

15 Q. The bank didn't lose a dime, right?

16 A. Right.

17 Q. Justin Bayne entity, B-A-Y-N-E, right?

18 A. Yes.

19 MR. LITTLE: Exhibit AG 1044, please,
20 Mr. Arroyo.

21 Q. (BY MR. LITTLE) You sold this note to
22 something called Spring Custer LLC. And the bank didn't
23 lose a dime, right?

24 A. Yes.

25 Q. Justin Bayne entity, B-A-Y-N-E, right?

1 A. Yes.

2 Q. You've been in banking 44 years. Did I hear
3 that?

4 A. Yes.

5 Q. That's a long time, right?

6 A. It is.

7 Q. If somebody wanted to, I don't know, foreclose
8 on a piece of property themselves and wipe out the
9 existing owner's equity, this is probably a good place
10 to start, isn't it?

11 MS. EPLEY: Objection, Your Honor. The
12 default has to occur first. He's implying things that
13 aren't relevant.

14 PRESIDING OFFICER: Sustained.

15 MR. LITTLE: No further questions.

16 PRESIDING OFFICER: Redirect, Ms. Epley?

17 MS. EPLEY: No, Mr. President.

18 PRESIDING OFFICER: Do both of you excuse
19 the witness?

20 Mr. Little, excuse the witness?

21 MR. LITTLE: He is, Mr. President.

22 PRESIDING OFFICER: Okay. You're
23 excused. Thank you, sir.

24 MR. LITTLE: And I believe this was the
25 last noticed witness of the day, if I'm not mistaken.

1 (Witness left the Senate chamber)

2 MS. EPLEY: That's inaccurate.

3 MR. LITTLE: I am mistaken.

4 PRESIDING OFFICER: Ms. Epley, who are
5 you calling? Or Mr. DeGuerin. I'm not sure who is
6 calling the witness.

7 MR. DeGUERIN: Yes, Your Honor. The
8 House Board of Managers calls Darren McCarty.

9 PRESIDING OFFICER: Bailiff, if you'll
10 bring in Darren McCarty.

11 Bailiff, hold -- just hold the witness
12 outside for a moment.

13 Mr. Buzbee and Mr. DeGuerin, I understand
14 that both sides have agreed to exhibits, I guess, that
15 was earlier today, this morning.

16 MR. BUZBEE: That is correct, Your Honor.

17 PRESIDING OFFICER: And we're going to
18 read the exhibits into the record now, correct,
19 Mr. DeGuerin?

20 MR. DeGUERIN: Yes.

21 PRESIDING OFFICER: Both of you have
22 agreed?

23 Okay. You may read these exhibit
24 numbers.

25 MR. HOLLER: I'm going to start --

1 PRESIDING OFFICER: Turn on the
2 microphone. It's right behind the laptop there. There
3 you go.

4 MR. HOLLER: I'm going to start with the
5 House Board of Managers' exhibits first, Judge.

6 PRESIDING OFFICER: And read through them
7 relatively slowly. Don't race through them.

8 MR. HOLLER: Yes, Judge.

9 House Board of Managers 55, 62, 77, 85,
10 86, 91, 92, 94, 324, 346, 657, 677, 678, 680, 681, 682,
11 683, 684, 685, 693, and 694.

12 And, Judge --

13 PRESIDING OFFICER: You may continue.

14 MR. HOLLER: And, Judge, Attorney General
15 Number -- Exhibit Numbers 17, 33, 42, 47, 48, 84, 85,
16 141, 151, 155, 161, 165, 219, 223, 305, 307, 332 through
17 354, 371, 398 through 422, 428, and 429.

18 PRESIDING OFFICER: Thank you, sir.

19 Mr. DeGuerin, hold on one moment.

20 You may bring in the witness now.

21 (Witness entered the Senate chamber)

22 PRESIDING OFFICER: Please step over
23 there, Mr. McCarty. Raise your right hand.

24 (Witness was sworn by Presiding Officer)

25 PRESIDING OFFICER: Please be seated.

1 And is that stack of papers there from
2 the last witness?

3 MR. DeGUERIN: It must be.

4 PRESIDING OFFICER: Okay. Let me pick
5 those up.

6 And as closely as you can speak into the
7 microphone. You might want to raise that. You're a
8 little taller. Just a little bit. There you go.

9 Mr. DeGuerin, your witness.

10 DARREN MCCARTY,

11 having been first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. DeGUERIN:

14 Q. Mr. McCarty, we've had trouble with the sound
15 in here, so please get close to the microphone.

16 A. Absolutely.

17 Q. And tell the senators your name, please.

18 A. My name is Darren McCarty.

19 Q. And what -- what is your occupation?

20 A. I'm a lawyer.

21 Q. Give us the benefit of a brief statement of
22 your training and experience.

23 A. After law school, I clerked for Karen Williams
24 on the United States Federal Court of Appeals, the
25 Fourth Circuit. After that, I went to work for Gibson,

1 Dunn & Crutcher in Dallas. I spent -- I did do a couple
2 of stints at smaller firms and sort of finished my
3 original stint in private practice at Alston & Bird's
4 Dallas office, actually helped found that office. And
5 then after that, I came to the attorney general's
6 office.

7 Q. What year did you come to the -- month and
8 year did you come to the attorney general's office?

9 A. I believe it was maybe late April or early May
10 of '17.

11 Q. And how did you get that job?

12 A. Jeff Mateer. He was the first assistant at
13 the time, was somebody that I had known -- I had met
14 actually working as an intern for Congressman Dick Arme
15 in DC when we were both quite young. I think I was 17
16 or 18 years old. And I think Jeff was a couple of years
17 older than that.

18 We lost touch over time, but got
19 reacquainted because we were both doing pro bono work on
20 religious freedom cases. And, you know, sort of kept of
21 up our friendship, et cetera. And when he took the job
22 here, he initially approached me. I initially declined
23 because I just had a lot of things going on at the time.
24 I -- I couldn't move to Austin. But then eventually,
25 maybe six, eight months later, recontacted him, or he

1 recontacted me, something like that.

2 Q. When did you first meet Ken Paxton?

3 A. When I was interviewing.

4 Q. And did General Paxton interview you himself?

5 A. He did.

6 Q. Okay. It may not matter, but are you a RINO,
7 a Republican in Name Only?

8 A. Well, no. I wouldn't say that. I think I
9 started out when I was in eighth grade of my own
10 volition hanging door hangers for Ronald Reagan and was
11 a youth delegate to the Republican National Convention.

12 I took a semester off of college to help
13 staff a congressional campaign. It was actually the
14 last campaign of Republican against Jim Wright before he
15 stepped down from his Congressional office. And then,
16 you know, I continued working sort of in politics while
17 I was at the University of Texas.

18 I think I was the press secretary for the
19 University Republicans. And, you know, that's what I've
20 done for a long time.

21 MR. DeGUERIN: Okay. Could we have the
22 organizational chart up, please?

23 Q. (BY MR. DeGUERIN) I want to put on the screen
24 in front of you and in front of the senators the
25 organizational chart of the Office of the Attorney

1 General. Highlighted to the far right of the chart is
2 your name and photograph.

3 What was your role in the year of 2020 in
4 the attorney general's office?

5 A. I was a deputy attorney general for civil
6 litigation. In that -- with -- in that role, I oversaw
7 all of the civil litigation for the office. I think it
8 was 12 divisions, roughly 325 attorneys, and I think
9 total personnel somewhere north of 600.

10 Q. Among those duties, among those
11 responsibilities, was the charitable trust division
12 within your purview?

13 A. Yes. It was the financial litigation and
14 charitable trust division.

15 Q. And briefly what is the attorney general's
16 role statutorily with regard to charitable trusts,
17 charitable foundations?

18 A. Very briefly, the attorney general sort of has
19 broad powers to protect the public interest in charity.

20 Q. The public interest in a charity, does that
21 sometime include protecting a charity from attacks from
22 without?

23 A. Absolutely.

24 Q. And does it sometimes include protecting a
25 charity from itself, from mismanagement?

1 A. Yeah. From breaches of fiduciary duties, some
2 sort of mismanagement, yes.

3 Q. Is there a requirement under Texas law that
4 when a lawsuit involving a charity occurs, that the
5 attorney general is to get notice of that lawsuit?

6 A. Yes.

7 Q. What does the attorney general do then? What
8 does your charitable trust division do then when given
9 notice?

10 A. They look at the lawsuit, and, you know, do --
11 do some investigation to determine whether the charity
12 is qualified to protect itself and is protecting itself.
13 In other words, if there's some sort of management --
14 mismanagement issue with the charity or there's some
15 inability to legally represent itself, the charity in
16 the litigation, that might be a place where the attorney
17 general's office steps in to protect -- again, to
18 protect the charity.

19 Q. Give us a rough estimate of how many
20 charitable trusts exist in the state of Texas, if you
21 know.

22 A. I do not. Quite a number.

23 Q. Is it in the hundreds of thousands?

24 A. That would not surprise me.

25 Q. Okay.

1 A. Yes.

2 Q. And give us a rough estimate, if you will, of
3 how many times the attorney general's office in, let's
4 say a year, involves itself in some way in a charitable
5 trust litigation.

6 A. It's a handful.

7 Q. It's a handful?

8 A. At most.

9 Q. Okay.

10 A. So it may be, you know -- again, it may be a
11 management problem. Sometimes charitable trusts, you
12 know, are falling into a state where they sort of can't
13 be self-sustaining anymore, et cetera, and so, you know,
14 the AG's office will get involved. But it's not a --
15 it's not a common occurrence.

16 Q. How -- what -- what procedure does the
17 attorney general's office go through to determine
18 whether to involve itself in litigation involving a
19 charitable trust?

20 A. Well, first, the financial litigation and
21 charitable trust division, as it was organized then,
22 they have a group obviously within that that looks at
23 charitable trusts. So they analyze the situation. They
24 make -- the staff attorney will make a recommendation, I
25 think initially to the head of the charitable trust

1 group within the division, as to whether to intervene or
2 not. And then that's sort of -- if it's
3 nonintervention, typically it sort of stops at the
4 division level. It won't necessarily come up to me
5 unless they think it's a close call and they would need
6 someone in my role's advice.

7 If that's not the case and they believe
8 that they should intervene in the case -- in the case,
9 then there would be an executive approval memorandum,
10 and that would be signed off on -- that would be signed
11 off by the division chief. It would be signed off by
12 me. I believe it would have been signed off by the
13 Deputy First Assistant Attorney General and also by the
14 first assistant.

15 Q. I want to ask you some questions about the
16 Mitte Foundation and some litigation involving the Mitte
17 Foundation and Nate Paul or World Class Holdings.
18 You're familiar now with that litigation, aren't you?

19 A. Of course, yes.

20 Q. We -- we do not have an agreement on
21 Exhibit 54, but I'm going -- going to hand you
22 Exhibit 54.

23 MR. DeGUERIN: And ask that it be
24 introduced once he identifies it, Your Honor.

25 THE WITNESS: Thank you.

1 PRESIDING OFFICER: Any objection from
2 the --

3 MR. BUZBEE: No, Your Honor. We'll allow
4 this.

5 PRESIDING OFFICER: We'll admit
6 Exhibit 054 into evidence.

7 (HBOM Exhibit 54 admitted)

8 MR. DeGUERIN: Will you pull that up,
9 please?

10 Q. (BY MR. DeGUERIN) I want to direct your
11 attention to the first paragraph of this memo. First,
12 what is the memo?

13 A. This looks like a memorandum that
14 recommends -- I shouldn't say it looks like. It is a
15 recommendation by --

16 Q. Keep your voice up and get close to the
17 microphone.

18 A. I'm sorry. I was busy trying to read this.

19 This appears to be the memorandum that --

20 PRESIDING OFFICER: I'm sorry. It is on
21 the screen, if that's easier for you.

22 THE WITNESS: Okay. That is easier.
23 Thank you.

24 This is the memorandum that declined to
25 involve -- for the AG's office to become involved with

1 the Mitte Foundation. So this would have been prepared
2 at the division level and highly unlikely that it would
3 have come to me initially.

4 Q. (BY MR. DeGUERIN) All right. I want to draw
5 your attention to the first paragraph. And I'll just
6 read it as you look at it, if you'll highlight that
7 first paragraph.

8 I recommend waiving the attorney
9 general's interest in this matter regarding a private
10 real estate company's breach of fiduciary duties to its
11 investors, one of which is a charitable trust, the Mitte
12 Foundation.

13 Did I read that correctly?

14 A. You did.

15 Q. And that's a memoranda recommending to waive
16 the attorney general's interest?

17 A. That's correct.

18 Q. On the second side of that letter, if you'll
19 go to the second page, I want to highlight the paragraph
20 in the middle. In my opinion, starting there.

21 A. I see that.

22 Q. This office does not have a role in this
23 matter. The trust is zealously represented by counsel.
24 Counsel stated that once the receiver sells the 1st and
25 Trinity LP and WC 3rd and Congress LP, the trust will

1 likely make a massive return on its investment.

2 Did I read that correctly?

3 A. You did.

4 Q. And, finally, at the bottom: I recommend the
5 attorney general file a waiver for the following
6 reasons: The trust is represented by counsel, the
7 trust's assets are diversified, and the litigation will
8 not critically impact the trust's 2020 distributions.

9 Is that right?

10 A. Yes, that's what mine reads.

11 Q. So following this, did the attorney general
12 waive filing any -- waive interfering in this lawsuit?

13 A. Yes. We did not intervene in January or
14 around that time frame in 2020.

15 MR. DeGUERIN: Pull up Exhibit 55,
16 please. I believe this is agreed, entered by agreement.

17 Q. (BY MR. DeGUERIN) It's -- this is the
18 attorney general's waiver, isn't it, filed in the
19 lawsuit styled The Mitte Foundation against WC and
20 Trinity, so forth, the World Class -- or Nate Paul's
21 organizations?

22 A. That's correct.

23 Q. I want to highlight at the bottom of that
24 first page of the waiver: If any pleading is filed
25 herein that adds additional parties or causes of action,

1 then that would constitute new or an additional
2 proceeding, and then the attorney general might
3 intervene.

4 Correct?

5 A. That's correct.

6 Q. Did any new -- new parties, additional
7 parties, or additional causes of actions ever get filed
8 in that case?

9 A. I certainly don't recall any new parties, and
10 I was not aware of any additional causes of action.

11 Q. Did General Paxton order that an intervention
12 be made?

13 A. Well, yes.

14 Q. Let me ask you this, this way.

15 A. Yeah.

16 Q. Did you have a conversation with
17 General Paxton in which he expressed his request or
18 order that the intervention be made?

19 A. Yes, I did. So General Paxton eventually came
20 to me. And this was my first involvement with this
21 case, substantive involvement, right. There are 34,000
22 matters.

23 Q. Okay. So let me get into it this way.

24 Was this on your radar screen at first?

25 A. No.

1 Q. How did it get on your radar screen?

2 A. It got on my radar screen because
3 General Paxton particularly wanted to intervene in this
4 matter. I think -- I don't think my first discussion
5 about this matter -- matter was with General Paxton. I
6 think it was probably with Jeff Mateer. But at some
7 point soon thereafter, I had a meeting with
8 General Paxton, and he expressed a high level of
9 interest in some -- you know, some insistence that we
10 should intervene in this matter.

11 Q. In your experience, had General Paxton ever
12 expressed interest in any -- any litigation involving
13 charitable trusts that the attorney general was involved
14 in?

15 MR. BUZBEE: Objection, Your Honor.

16 Q. (BY MR. DeGUERIN) Attorney general was
17 involved in.

18 MR. BUZBEE: That's -- that's
19 speculation.

20 PRESIDING OFFICER: Sustained.

21 Q. (BY MR. DeGUERIN) Had there been any other --
22 any other litigation involving charitable -- charitable
23 trusts that you had any conversations with Paxton --
24 General Paxton about?

25 A. I did not.

1 Q. I'm sorry, I didn't hear you.

2 A. There were -- there were not, no. I had no
3 other conversations about any other charitable trust.

4 Q. But did you -- what was your thought about
5 General Paxton getting involved in this litigation?

6 A. I did think it was unusual at the time.

7 Q. You -- I'm sorry?

8 A. I did believe that was unusual at the time.
9 And that's probably all I thought about it at the time.
10 We had so much going on in my divisions at that time
11 with COVID and the Google lawsuit, et cetera. I did not
12 spend a great deal of time thinking about it, other than
13 sort of a mental note that that was a little bit -- that
14 was out of the ordinary.

15 Q. All right. So at any rate, did the attorney
16 general's office file an intervention in that lawsuit?

17 A. We did.

18 Q. At the time it was filed, do you rely on
19 advice from your staff of attorneys that generally
20 handled -- have hands-on handling of the litigation for
21 advice?

22 A. Of course. I always had advice from them.

23 MR. DeGUERIN: If we could have the
24 organizational chart again, please.

25 Q. (BY MR. DeGUERIN) Down the list of people

1 under you, there is a Josh Godbey. Joshua Godbey, who
2 is he?

3 MR. BUZBEE: Your Honor, I'm sorry.
4 Sorry, Mr. DeGuerin. Our screen shows the previous
5 document. I'm not sure why that is.

6 MR. DeGUERIN: I think you've got a
7 glitch over there.

8 MR. BUZBEE: Clearly.

9 PRESIDING OFFICER: We have the
10 correct --

11 MR. BUZBEE: I can tell the court
12 reporter does, but for some reason our table has
13 something completely different. And I'm not trying to
14 take away your time. I'm not trying to take the man's
15 time.

16 PRESIDING OFFICER: We'll pause. Pause
17 the clock for a moment.

18 MR. BUZBEE: It's just our table that
19 keeps doing this. I'm not suggesting a conspiracy, Your
20 Honor. I'm just saying it's happening.

21 PRESIDING OFFICER: Are the rest of the
22 tables of your attorneys have the right screen?

23 Damian will come to the rescue.

24 MR. BUZBEE: Okay.

25 MR. DeGUERIN: It looks like the senators

1 have the right one. I would request an extra 15 minutes
2 for this delay.

3 MR. BUZBEE: I bet you can negotiate him
4 down to one.

5 PRESIDING OFFICER: We've given you six
6 more minutes today, plus we saved you five, so your
7 11 minutes should be good.

8 Mr. DeGuerin. Mr. DeGuerin.

9 (At the bench, off the record)

10 PRESIDING OFFICER: Members, we're going
11 to take a -- this is the last witness of the day, but
12 there's still more questions in cross. So let's take
13 just a quick 10-minute break here, not our normal longer
14 break, and then we may be finished by -- a little
15 earlier this evening. So 10 minutes. Come back at 20
16 minutes before the hour of 6:00.

17 (Recess from 5:30 p.m. to 5:46 p.m.)

18 PRESIDING OFFICER: Mr. DeGuerin, before
19 you start, I think we had one correction on the exhibits
20 list I was told about. There was one mistake. These
21 are the exhibits that both sides agreed to.

22 If you would come up and just correct
23 that mistake. Oh, you're going to do it? Okay.

24 MS. GRAHAM: Yes, Mr. President. It was
25 incorrectly and inadvertently represented that we agreed

1 to the following exhibits. The following exhibits have
2 not been agreed to for preadmission: AG Exhibit 334,
3 335, 336, 337, and 345.

4 PRESIDING OFFICER: Thank you.

5 Mr. DeGuerin, you may continue.

6 MR. DeGUERIN: Thank you.

7 Q. (BY MR. DeGUERIN) All right. I started to
8 ask you about Joshua -- or Josh Godbey, who is shown on
9 the organizational chart as being several levels below
10 you. Who is Josh Godbey?

11 A. Josh Godbey?

12 Q. Yep.

13 A. Josh Godbey was the division chief for
14 financial litigation and charitable trusts. Actually he
15 was not several levels below me. He reported directly
16 to me and David Hacker, who was the -- my associate
17 deputy attorney general for civil litigation.

18 Q. Okay. And I ask you about that because I
19 wanted to ask you whether in deciding any intervention
20 in a charitable trust litigation, do you rely on advice
21 that you get from your -- the people in the trenches,
22 the ones that work on it?

23 A. I certainly seek and -- and consider that
24 advice, yes.

25 Q. Well, with the Mitte litigation, was

1 Mr. Godbey opposed to an intervention?

2 A. He did not believe an intervention was
3 necessary.

4 Q. And yet you intervened. Why?

5 A. We intervened because the attorney general,
6 Attorney General Paxton, you know, believed that it
7 was --

8 Q. I'm not asking what he believed.

9 A. Okay. Certainly.

10 Q. Did he tell you to intervene?

11 A. He told -- yes. General Paxton told me that
12 we should intervene in the litigation because the Mitte
13 Foundation was wasting a lot of money on unnecessary
14 litigation, and that the -- and that the Mitte
15 Foundation had had management problems in the past,
16 although those are pretty far in the past, I think, at
17 that point, and that it didn't make sense for this
18 lawsuit to continue and go forward, and that we needed
19 to try to intervene and see what we could do to bring it
20 to a conclusion.

21 Q. Well, was -- was one of the reasons that the
22 Mitte Foundation was wasting money on attorney's fees?

23 A. Well, they were locked in a very, very
24 contentious litigation with the World Class limited
25 partnerships that were headed by Nate Paul.

1 Q. Is it true that in the type of lawsuit that
2 the Mitte Foundation originally brought, if they were
3 successful, the Mitte Foundation would recover their
4 attorney's fees?

5 A. I don't know actually.

6 Q. Okay. At any rate, we've previously seen that
7 there were, I think, two people that wrote the waiver
8 menu -- not menu -- the waiver memo, a woman named
9 Henderson and a woman named Day. They're not even on
10 this chart. Were they -- were they down -- further down
11 from the hierarchy?

12 A. Yes.

13 Q. Okay. So when General Paxton asked that you
14 intervene, did you do so against the advice of
15 Josh Godbey and your -- who you relied on for advice?

16 MR. BUZBEE: Objection, Your Honor. This
17 is -- calls for hearsay from people that haven't
18 testified.

19 PRESIDING OFFICER: Sustained.

20 Q. (BY MR. DeGUERIN) Okay. I want you to
21 describe for the senators, please, the level of interest
22 that General Paxton took in the Mitte Foundation
23 litigation.

24 MR. BUZBEE: Objection, Your Honor.
25 Speculation.

1 Q. (BY MR. DeGUERIN) As you observed.

2 PRESIDING OFFICER: Sustained.

3 And reask.

4 MR. DeGUERIN: Well, let me -- I was
5 trying to cure the objection by saying that you
6 observed.

7 PRESIDING OFFICER: Yes.

8 Q. (BY MR. DeGUERIN) Describe for the senators
9 the level of interest that General Paxton took in this
10 litigation as expressed to you by General Paxton
11 himself.

12 MR. BUZBEE: Again, Your Honor, I -- if
13 he wants to tell us what General Paxton may have said to
14 him, I -- I won't object to that. But just telling us
15 what was in his mind, he cannot do that.

16 MR. DeGUERIN: I think that's what I
17 asked.

18 MR. BUZBEE: Objection. Speculation.

19 MR. DeGUERIN: As expressed to him by
20 General Paxton.

21 PRESIDING OFFICER: I think that's what
22 you asked. Overruled.

23 Q. (BY MR. DeGUERIN) You may answer.

24 A. General Paxton expressed sort of more interest
25 in the Mitte Foundation litigation than almost anything

1 else that my divisions were interested in. There was a
2 certain urgency and almost anxiety around what we were
3 doing in the Mitte Foundation lawsuit, you know, to the
4 extent that, you know, at times I was -- I got calls.

5 You know, I got a -- I remember a call
6 very early in the morning one time. I got pulled out of
7 an important teleconference that I was in to talk about
8 the Mitte Foundation. That was highly unusual. That
9 really didn't happen with any frequency about -- about
10 anything.

11 And, you know, General Paxton wanted to
12 be kept abreast of any developments in the Mitte
13 Foundation lawsuit.

14 Q. Was there other major litigation going on that
15 you were supervising?

16 A. Well, at the time --

17 Q. That's a yes or no. Was there other major
18 litigation?

19 A. Well, yes. Absolutely.

20 Q. What was the Google investigation and
21 litigation?

22 A. So I had been tasked to lead the Google
23 antitrust investigation that was being conducted by a
24 number of states. So it was a multistate investigation.
25 I believe 48 states at that point. Only Alabama and

1 California had not joined. And we were investigating
2 Google search function, antitrust potential violations,
3 and the Google ad tech antitrust violations.

4 Texas was really the lead on the ad tech
5 issues. So I sort of had a day job that was overseeing
6 the divisions, the civil divisions.

7 And then in addition to that, I was
8 trying to provide a leadership role for all the states
9 on those investigations. And, you know, of course, both
10 of those investigations, probably most of the people
11 know, resulted in significant lawsuits, filed not only
12 by Texas, but filed lawsuits by the federal government
13 and even in Europe.

14 Q. So in a nutshell, was the Google litigation
15 major -- a major involvement of the attorney general's
16 office? Yes or no.

17 A. Absolutely, yes.

18 Q. And compare the significance of the Google
19 litigation with the significance of the Mitte Foundation
20 against Nate Paul litigation.

21 A. Well, the Google litigation, of course, has --
22 had the potential to impact virtually every Texas and
23 U.S. citizen and frankly citizens across the world. The
24 Mitte Foundation litigation, as I understood it, was,
25 you know, a -- a dispute that Texas, in my view, did not

1 have a -- any significant interest in. And, you know, I
2 believe that the Mitte Foundation was being --
3 especially when I got involved with it, I believe the
4 foundation was being zealously represented.

5 Q. Okay. And that's one of the criteria for
6 intervening or not intervening. If everything is going
7 smoothly with the foundation, they're zealously
8 represented, correct?

9 A. Yes.

10 Q. All right. So I think you mentioned being
11 interrupted. As an example of General Paxton's interest
12 in the Mitte litigation as opposed to anything else, was
13 there an occasion when you were interrupted during an
14 important Google conference?

15 A. Yes.

16 Q. Yes or no?

17 A. Yes.

18 Q. Okay. What was that occasion?

19 A. I recall -- yeah, I recall that I was on a
20 telephone conference with an international economist of
21 some reputation, trying to interview that economist to
22 decide whether he would be a good fit to work on the
23 Google investigation at that time and possible
24 litigation. And General Paxton sort of opened my door.
25 And I put it on mute. And he said, Hey, can you come

1 down to my office?

2 And I explained roughly what I was doing.

3 And I said, Should I break this off and come down?

4 He said, Yes.

5 So I did.

6 And I went to his office and we had a
7 discussion about the Mitte Foundation.

8 Q. Did that seem unusual to you that he would
9 pull you away from an important conference on the major
10 litigation over Google to talk about the Mitte
11 Foundation litigation?

12 A. I don't recall another time when
13 General Paxton interrupted a conversation or discussion
14 with anyone else I was having to pull me away.

15 Q. Let's talk about some of the things that you
16 were requested to do. Did there come a time when you
17 received and you were on the e-mail chain of complaints
18 from Nate Paul about how the attorney general's office
19 was handling the Mitte Foundation litigation?

20 A. Yes. After I had --

21 Q. Okay. That's the answer to that. Then I'll
22 ask you about it.

23 A. Okay.

24 Q. So --

25 A. I'm a lawyer. I'm a bad witness. I'll try to

1 be better. I'm sorry.

2 Q. Lawyers are some of the worst witnesses, yes,
3 I agree.

4 So what happened with the -- the e-mails
5 that the office and you were copied and particularly
6 Josh Godbey was getting from Nate Paul?

7 A. Yes. So we -- we got a few communications, I
8 don't remember how many, from Nate Paul, and I think one
9 was either from Nate Paul or from Michael Wynne copying
10 Nate Paul or something like that, vigorously complaining
11 in really sort of a demeaning fashion about our work in
12 the Mitte Foundation lawsuit, and demanding that we do
13 more in the lawsuit, sort of taking this -- taking a
14 tone of directing us --

15 Q. Let me stop you there.

16 A. Uh-huh.

17 Q. So you said it was the e-mails were taking the
18 tone of Nate Paul directing you, the attorney general's
19 office?

20 MR. BUZBEE: Your Honor, I object. We
21 have the e-mails and we can look at them, but -- but
22 this is misrepresenting what the e-mails say, and I
23 object to it.

24 MR. DeGUERIN: Well, let's --

25 PRESIDING OFFICER: Sustained.

1 MR. DeGUERIN: -- let's look at the
2 e-mails. I agree.

3 House Managers 86. It's in by agreement,
4 if you can pull that up.

5 Q. (BY MR. DeGUERIN) Let's start -- let's start
6 on the second page of that, at the bottom of the second
7 page of the e-mail from Nate Paul to Josh Godbey in the
8 attorney general's office. I'll just read that first
9 line.

10 Josh, I am following up to my previous
11 e-mails for the fourth time. Your decision to not even
12 respond to my e-mails has only amplified my concerns
13 about your bias towards helping the Mitte Foundation.

14 Do you see that?

15 A. I do see that.

16 Q. First, is it -- is it proper for a litigant
17 who's represented by counsel to contact the lawyer for
18 the -- one of the other litigants? Is it or not?

19 A. It's -- it's certainly not something that's --
20 it's certainly something that's generally not done, that
21 is correct.

22 Q. All right. A little bit above that, a little
23 bit later, July the 2nd: Josh, I need to hear from you.
24 You are delaying this and it is unacceptable.

25 Is that the kind of tone that you're used

1 to receiving from a litigant?

2 A. Absolutely not.

3 Q. The first page of that exhibit. Sunday, July
4 the 5th, from Nate Paul. Josh Godbey: Josh, you have
5 exhibited highly unprofessional behavior.

6 Do you see that?

7 A. I do.

8 Q. And above that: Josh, I just wanted to make
9 sure your office is aware that you never responded to
10 any of the e-mails below.

11 First, what's your testimony about
12 whether it would be proper for Joshua Godbey to respond
13 to Nate Paul's e-mails?

14 A. That was something that we would not -- not
15 typically have done.

16 Q. So what was your thought about what was going
17 on here and how Nate Paul was treating the Office of
18 Attorney General?

19 A. Well, I thought his tone was demeaning and
20 demanding and wholly inappropriate, because thinking
21 about this, the way this is structured and the way
22 our -- our involvement with charitable trusts is -- is
23 structured is we are making the decisions about what is
24 in the public interest of the charity, not somebody
25 who's working against the charity in a lawsuit.

1 Q. Now, while this is going on, what's your
2 contact with General Paxton about what you're doing in
3 the Mitte Foundation lawsuit?

4 A. I was having fairly regular conversations with
5 General Paxton about --

6 Q. And what was he asking?

7 A. He was asking, you know, about ideas for how
8 we could really get to a point where we could terminate
9 the litigation. And, you know, I think he is looking
10 for a creative way to do that. You know, what -- and I
11 don't mean creative in the sense of outside, you know,
12 legal means, but a creative way for us to -- our
13 involvement to accelerate the termination of the
14 lawsuit. And --

15 Q. Well, let's talk about that for a second.

16 A. Yeah.

17 Q. To accelerate termination of the lawsuit. In
18 essence, was the lawsuit, the Mitte Foundation suing
19 Nate Paul because they're claiming that he was cheating
20 them?

21 A. Yes.

22 Q. And so --

23 A. In so many -- in so many words, yes.

24 Q. Well, I was trying to shorten the description
25 of it a little bit.

1 And so if that's the fact, if they're
2 suing Nate Paul for trying to cheat them, what's the
3 public interest in the Mitte Foundation litigation for
4 the attorney general to take? Which side are you
5 supposed to take?

6 A. Well, we're clearly supposed to take the side
7 of the foundation.

8 Q. And what was General Paxton's direction to
9 you?

10 A. General Paxton was highly critical of the
11 Mitte Foundation's litigation efforts, and he
12 characterized those to me as being overly zealous and
13 wasteful.

14 Q. Okay. Were you -- did you become aware during
15 this time that there had been a settlement of the
16 lawsuit previously by mediation between Nate Paul's
17 interest and the Mitte Foundation?

18 A. Yes.

19 Q. What was that settlement? What was the
20 amount, dollar amount, of that settlement, if you
21 remember?

22 A. It's testing my memory a little bit. But I
23 believe that Nate Paul's entities had agreed to pay the
24 Mitte Foundation 10 and a half million dollars to buy
25 out their interest in the World Class properties.

1 Q. And did he -- did he pay it?

2 A. No. The World Class -- World Class did not
3 pay it and breached -- therefore, breached the
4 settlement agreement.

5 Q. And that was a settlement agreement now after
6 mediation?

7 A. After a mediation, yes.

8 I -- can I pause there? I actually don't
9 remember whether it was the result of a mediation, but
10 it was certainly the result of some negotiation.

11 Q. Fair enough.

12 Did General Paxton press you to move for
13 a second mediation? I know you don't know whether it
14 was second or first, but did he press you to move for a
15 mediation?

16 A. Yes.

17 Q. Now, was Mr. Godbey supposed to be handling
18 this?

19 A. Mr. Godbey had sort of taken front-line
20 responsibility for this prior to my involvement, yes.

21 Q. And after these e-mails where Nate Paul was
22 criticizing Josh Godbey and his handling of it, what did
23 General Paxton tell you to do?

24 A. Well, on more than one occasion he asked me to
25 be directly involved.

1 Q. Is that unusual?

2 A. Incredibly unusual for someone in my role at
3 that time, yes.

4 Q. Explain why that's incredibly unusual.

5 A. Well, as I said before, we had 12 divisions,
6 we had 325 lawyers, and we had 34,000 open matters. So
7 for someone in my position to have direct involvement in
8 any particular litigation, what was just highly
9 abnormal, and so my -- in my experience during the two
10 years I was in that position, there were only a very few
11 limited examples of when I was directly involved in
12 litigation.

13 Q. Okay.

14 A. Very few.

15 Q. So ordinarily would it be handled by somebody
16 down the chain?

17 A. Yes. I might be advising if there were a
18 problem or it was significantly important, but not
19 important enough for me to be indirectly. But for me to
20 appear and be personally involved was highly unusual.

21 Q. So did there come a time when General Paxton
22 ordered you to appear in a hearing?

23 A. He did call me very early one morning. I want
24 to say it was sometime around 7:30 and asked me to
25 appear at a Mitte Foundation World Class hearing in

1 Travis County District Court that morning.

2 Q. Now, not to diminish the importance of a
3 Travis County District Court, but educate the senators
4 on whether the appearance of a deputy attorney general
5 in district court in Harris -- in Travis County would be
6 unusual.

7 A. I only did that one other time during the
8 course of my role, and that was when Google contested
9 our right to get information under a confidential
10 information demand issued by our antitrust division.

11 Q. But in this case, in this case involving the
12 Mitte Foundation lawsuit trying to get -- or suing
13 Nate Paul for fraud or cheating him, would it -- what's
14 the -- what's the unusual thing about having a deputy
15 attorney general appear there?

16 A. Well, I think in retrospect it sends -- it
17 certainly sends a message of interest from the attorney
18 general's office that's highly unusual. And also, you
19 know, that -- as I recall, that hearing was going to be
20 a very long hearing. I think it was scheduled for a
21 very long period of time. And, you know, obviously
22 there were a number of things going on at the AG's
23 office, and we concentrated on the Google matter.

24 But, you know, the COVID matters were hot
25 and heavy, I think, still at that point. You know,

1 there were mask mandate issues. And there were also --
2 you know, we were getting calls and concerns from major
3 cities about potentially releasing people from jail that
4 had been accused of violent felonies. I mean, you know,
5 there were times --

6 Q. Okay. Let me -- let me stop you there.

7 A. Yeah.

8 Q. So what you're saying is you had a lot of
9 other stuff on your plate?

10 A. Yes, particularly at that time.

11 Q. And you get a call at 7:30 in the morning from
12 General Paxton asking you to appear in Travis County
13 District Court on motions that might last all day?

14 A. My recollection is that they were -- it was to
15 be a lengthy hearing, yes.

16 Q. Were you prepared?

17 A. I was not prepared at all.

18 Q. And what did you say to him?

19 A. I said it didn't make any sense for me to do
20 it because I wasn't prepared and because of the time and
21 all of the other things I had scheduled that day.

22 Q. And what did he say to you?

23 A. He said, Well, then, I'll do it.

24 Q. He'll do it? General Paxton will himself go
25 to district court in Travis County to order -- to argue

1 a motion?

2 A. Yes, that's what he told me.

3 Q. What did you think about that?

4 A. Well, I talked him out of it.

5 Q. What?

6 A. I talked him out of it.

7 Q. Again --

8 A. What I thought about it was that it was a
9 terrible thing for him to do.

10 Q. And why?

11 A. Because he was the attorney general of Texas.
12 He never appeared in court, not once, not a single time,
13 and, you know, as a representative, right, as a lawyer,
14 I should say. Let's put it that way.

15 And for him to make an appearance in that
16 type of hearing sends a very odd message. And it didn't
17 seem appropriate for our office to have that sort of
18 level involvement in a case like this at all.

19 Q. Okay. I don't want to get too far in the
20 weeds of all of the stuff that happened in the Mitte
21 Foundation litigation, but was there an occasion where
22 General Paxton told you to go to a mediation -- a
23 virtual mediation, but told you to go to a mediation?

24 A. Yes.

25 Q. And did -- what did General Paxton tell you to

1 do as far as trying to get the Mitte Foundation to
2 accept less than they had accepted before?

3 A. Well, General Paxton asked me to attend the
4 mediation on behalf of the State and work to get a
5 settlement from the case for -- you know, to essentially
6 terminate the litigation.

7 Q. What do you mean by "terminate the
8 litigation"?

9 A. Well, via settlement. Terminate the
10 litigation via settlement. And so we worked -- we
11 worked hard. We actually filed a motion to stay the
12 proceedings in favor of mediation.

13 Q. Let me ask you that.

14 As I said, I don't want to get in the
15 weeds of what happened. The motion to -- the motion to
16 stay the proceedings, the mediation, pressure during the
17 mediation, in retrospect and knowing what you know now,
18 was that in the public interest of the Mitte Foundation
19 for the attorney general, Paxton, to take that position?
20 Yes or no?

21 A. Knowing what I know now, no.

22 Q. Why not?

23 A. Because it -- our involvement in the Mitte
24 Foundation litigation added complications for the Mitte
25 Foundation. And we stayed -- and briefly -- and I was

1 pretty adamant that we needed to do it quickly if we
2 were going to stay the proceedings. But, you know, it
3 stayed the proceedings for a period of time. I think
4 that the Mitte Foundation saw it as fairly heavy-handed.
5 And it just, you know --

6 Q. Let me ask you --

7 A. -- knowing now what I know, no, I don't think
8 that we were helping the Mitte Foundation in any way.

9 Q. Say that again. You were not helping?

10 A. We were not helping.

11 Q. Wasn't that what the attorney general's office
12 is supposed to do?

13 A. We are supposed to protect the interest, the
14 public interest in charitable trusts.

15 Q. And as it turned out, were you actually trying
16 to protect Nate Paul's interest, because that's what
17 Paxton told you to do?

18 MR. BUZBEE: Objection. Leading.

19 MR. DeGUERIN: That is leading. I'll
20 rephrase it.

21 Q. (BY MR. DeGUERIN) What did General Paxton
22 tell you to do, whose side to take in the mediation?

23 A. Well, he told me to contact Sheena Paul, who
24 is Nate's -- Nate Paul's sister and work with her to,
25 you know, sort of develop a strategy for the mediation.

1 Or not a strategy. I mean, I don't know if he said the
2 word "strategy," so I don't want to be -- I want to be
3 careful about what was actually said.

4 But he told me to call her, try to
5 understand their position. And, you know, I think he
6 said sort of dramatically, I just want all of this to
7 end.

8 Q. General Paxton said he wanted all of this to
9 end?

10 A. That's correct.

11 Q. Was that in the best interest of the Mitte
12 Foundation or the public interest in it?

13 A. Well, it --

14 Q. Yes or no.

15 A. Can I explain?

16 Q. You can, but I would like to get a yes or no
17 to that.

18 Was that in the best interest of the
19 Mitte Foundation or the public interest in it, or was it
20 in the best interest of Nate Paul?

21 A. Well, I -- every -- understanding everything
22 that was going on and the fact that the Mitte Foundation
23 thought that there was far more return on this
24 investment available than what -- that I think even the
25 10 and a half million dollar settlement that had

1 breached before, no, because it was clear that we were
2 not going to settle for 10 and a half million. We --
3 the Mitte Foundation was not going to settle for 10 and
4 a half million dollars.

5 I'm sorry. They were not going to get
6 10 and a half million dollars because the World Class
7 entities were not going to offer it. And they thought
8 that they could get more than 10 and a half through
9 litigation. And so no, no, we were not helping the
10 Mitte Foundation.

11 Q. Did the -- did the mediation fail?

12 A. It did.

13 Q. And so after that, and getting forward now to
14 the end of September, what did you learn about the
15 attorney general's office involvement in other matters
16 of -- that involved Nate Paul?

17 MR. BUZBEE: Objection. This answer
18 calls for information based on hearsay.

19 PRESIDING OFFICER: Sustained.

20 Q. (BY MR. DeGUERIN) On September the 29th, did
21 you get a call?

22 A. Well, on September 29th, I was called to a
23 meeting.

24 Q. Where?

25 A. In Jeff Mateer's office.

1 Q. Without going into what was said, the
2 previous -- one of the previous witnesses today was a
3 young lawyer named Brandon Cammack.

4 Did you learn anything about him, yes or
5 no, that day? I'm not asking you what you learned.

6 A. Yes.

7 Q. And did you learn or see subpoenas, grand jury
8 subpoenas, that had been issued to players in the Mitte
9 Foundation case?

10 A. I saw a grand -- a criminal grand jury
11 subpoena that had been issued to a bank.

12 Q. What was your reaction to that?

13 A. I was stunned.

14 Q. What do you mean? Explain it.

15 A. I saw a criminal grand jury subpoena directed
16 to a bank that was clearly seeking information that
17 would have aided World Class Nate Paul's efforts against
18 the Mitte Foundation.

19 Q. Why is that bad?

20 A. Well, it's lawyer -- one thing is it's Lawyer
21 Ethics 101. So that was the first thing that came to my
22 mind. We are weaponizing the criminal process to aid a
23 civil litigant, and that is a big no-no.

24 Q. So as far as the Mitte Foundation was
25 concerned, and now you learning about these grand jury

1 subpoenas issued to players in the Mitte Foundation
2 lawsuit, what was your opinion about what had happened
3 to the Mitte Foundation as a result of the Attorney
4 General Paxton's request or demand that you become
5 involved?

6 A. I believe that the attorney general's offices
7 involvement in the Mitte Foundation litigation was
8 unethical, against our statutes, and I suspected -- I
9 highly suspected corrupt.

10 Q. What did you do as a result -- by the way, did
11 you attend a meeting, a conference between a number of
12 the deputies of -- the top deputies of the attorney
13 general's office?

14 A. I did.

15 Q. And did you trade information?

16 A. Yes.

17 Q. Did you learn things that you had not known
18 about before?

19 A. Several.

20 Q. And did it concern you?

21 A. Deeply.

22 Q. What did you do with regard to the Mitte
23 Foundation litigation as a result of what you learned?

24 A. Within 24 hours, I don't remember exactly how
25 quickly, I ordered Mr. Godbey, the head of the

1 charitable trust financial litigation division, to
2 dismiss our intervention in the lawsuit.

3 MR. DeGUERIN: House Managers Exhibit 92
4 is in evidence by agreement.

5 Q. (BY MR. DeGUERIN) This is an e-mail from you
6 dated September the 30th, 2020. It's to Josh Godbey,
7 Rachel Obaldo -- I don't believe we've heard her name
8 before -- with copies to Mateer and to Bangert.

9 What did you order done?

10 A. Please immediately withdraw from and cease all
11 representation, investigation, or participation
12 concerning the Mitte Foundation that may in any way
13 whatsoever relate to World Class, its related entities,
14 or Nate Paul.

15 Q. You let your voice trail off.

16 A. I'm sorry. It may have been the microphone.
17 I can read it quickly.

18 Please immediately withdraw from and
19 cease all representation, investigation, or
20 participation concerning the Mitte Foundation that may
21 in any way whatsoever relate to World Class, its related
22 entities, or Nate Paul.

23 Q. And why did you do that?

24 A. I did it because I believed at that point that
25 the AG's office intervention into the Mitte Foundation

1 was unfounded, and as I said, I believed, unethical.
2 And I believed it was actually attacking a charitable
3 trust as opposed to defending the public interest of a
4 charitable trust.

5 I believed I had an ethical duty under
6 our rules because we had now used the criminal justice
7 system essentially against the Mitte Foundation. And,
8 you know, frankly, my name, my colleagues' names,
9 including Jeff Mateer and Josh Godbey, I think Ryan
10 Bangert, and now my recollection is refreshed, Rachel
11 Obaldo, importantly the attorney general's name, and
12 maybe most importantly the State of Texas' name, had
13 been used and invoked improperly, clearly improperly,
14 against the Mitte Foundation that was a public -- that
15 was a public charity.

16 Q. Were you one of the seven deputies that went
17 to the FBI?

18 A. Yes, I was.

19 Q. Why, briefly, did you go to the FBI? First,
20 did you want to?

21 A. Absolutely not.

22 Q. And did you decide to be one of the seven that
23 went to report to the FBI?

24 A. Yes.

25 Q. Why?

1 A. Because I believed that the attorney general's
2 office had been -- and its resources, and I'm sure those
3 in this room understand that the Texas attorney
4 general's office is one of the most powerful in the
5 nation and incredibly important for a number of reasons.

6 And I believe that it had been turned
7 over by Attorney General Paxton to a private citizen to
8 do his bidding, and it was acting against the interest
9 of the State of Texas. And in my own experience with
10 the Mitte Foundation, I believe acting against another
11 citizen, a charitable trust and all of its
12 beneficiaries, and the State of Texas, and that the
13 criminal process that had been initiated that I just
14 learned of was potentially immediately endangering the
15 public, the Mitte Foundation, and potentially others.

16 Q. Did you and the others ask General Paxton to
17 meet with you after that? Just yes or no.

18 A. Jeff Mateer -- Jeff Mateer I recall sent
19 General Paxton a text asking him to meet with us.

20 Q. And did he meet with you?

21 A. He did not.

22 Q. I want to talk very briefly about any
23 retaliation against you for being one of the persons
24 that went to the FBI.

25 Were you retaliated against?

1 A. Well, yes. Not -- frankly -- and I want to
2 make this clear. I don't believe I suffered the level
3 of retaliation that some of my colleagues did. However,
4 you know, I remember the first thing that I -- was sort
5 of stunning to me was that I saw a press release
6 released by our office, not by General Paxton or his
7 campaign, but by our comms office, a press release that
8 said officials in his office were being criminally
9 investigated for impeding, I guess -- you know, impeding
10 an investigation or something of that nature, which was
11 sort of shocking, and I suppose, supposed to be
12 intimidating.

13 Q. Was that true or not?

14 A. I am not aware of a criminal -- I was never
15 made aware of any sort of criminal investigation of any
16 of my colleagues, no.

17 Q. Were you called a rogue employee?

18 A. Absolutely.

19 Q. Do you believe you were a rogue employee?

20 A. No. I believe that I was doing what I had to
21 do, as unpleasant as it was. And it was quite
22 unpleasant.

23 MR. DeGUERIN: Pass the witness, Your
24 Honor.

25 PRESIDING OFFICER: Mr. Buzbee.

CROSS-EXAMINATION

1
2 BY MR. BUZBEE:

3 Q. Are you represented by a lawyer?

4 A. Yes, sir.

5 Q. Is it Johnny Sutton? Let me guess: It is
6 Johnny Sutton?

7 A. Yes.

8 Q. And how much have you paid him so far?

9 A. I have not paid Mr. Sutton anything.

10 Q. So just like all the other ones of you, Johnny
11 Sutton has been working on your behalf, spending his
12 days here with all of you guys for free?

13 A. I don't know.

14 Q. You don't even know what you owe him, do you?

15 A. No, I don't know what I owe Mr. Sutton.

16 Q. What's his hourly rate? Do you even know
17 that?

18 A. No. We have never entered into a fee
19 agreement.

20 Q. So what -- so just so we're clear, you don't
21 know what you owe him? You don't know what the
22 agreement is? And you don't even know what his hourly
23 rate is; is that right?

24 A. I'm not sure I owe him anything, but I don't
25 know.

1 Q. You -- you say under oath you don't owe him
2 anything?

3 A. I don't know that I do, no.

4 Q. Johnny Sutton, who is standing there to my
5 left, according to you under oath could very well
6 possibly work -- be working for free?

7 A. He could be working pro bono, correct.

8 Q. You don't know?

9 A. I have not asked him. Mr. Sutton did a
10 significant amount of work for us rather immediately. I
11 knew Mr. Sutton, and I called him at the last minute
12 before we went to the FBI.

13 Q. The question was you don't know, do you?

14 A. Rather --

15 Q. You don't know what you owe him or what his
16 rate is? That was the question. You don't know?

17 A. Yes, that's correct. I don't know.

18 Q. What you do know is that Jeff Mateer attempted
19 to have the attorney general's office set aside \$50,000
20 for that man right there, Johnny Sutton; isn't that
21 right?

22 A. I don't know that Mr. Mateer attempted to do
23 that.

24 Q. You didn't know about that?

25 A. I knew that there was a discussion about it,

1 but I don't know that Mr. Mateer attempted to do that,
2 no.

3 Q. He sent an e-mail to the controller. He sent
4 an e-mail to Lacey Mase. You didn't know any of that?

5 A. I did not.

6 Q. Hmm. Now, I just want to make sure we're
7 clear. You don't know -- you don't have any personal
8 knowledge about any house repairs of General Paxton, do
9 you?

10 A. I do not.

11 Q. You don't have any personal knowledge about a
12 job for Laura Olson, do you?

13 A. I do not.

14 Q. You don't have any personal knowledge about
15 whether Nate Paul donated \$25,000 two years before all
16 of these events that we're talking about, right?

17 A. I think I do know that, but I'm not --

18 Q. The thing about campaign donations, if anybody
19 wants to see who is giving money to what candidate, all
20 they have to do is get on the Texas Ethics Commission's
21 website and they can figure that out pretty quick,
22 right?

23 A. And I think I did that, yes.

24 Q. And it's not secret, is it?

25 A. No.

1 Q. Okay. You don't know anything about late
2 night legal advice at least -- or legal guidance. You
3 didn't have a role in that, did you not?

4 A. Well, I certainly didn't at the time, no.

5 Q. Okay. I'm just talking about what you knew.

6 A. Yeah.

7 Q. You didn't know anything about whether there
8 was any foreclosure stopped, right?

9 A. Not at the time, no.

10 Q. You don't know anything about some secret
11 meeting in an alleyway in the dark of night between
12 Nate Paul and young Drew Wicker, right?

13 A. No, I don't.

14 Q. That sounds ridiculous, does it not?

15 A. Not necessarily.

16 Q. Did you know this guy Maxwell, this Texas
17 Ranger, this guy that's in the Ranger Hall of Fame? Do
18 you know what I'm talking about?

19 A. Absolutely.

20 Q. Did you know that he told these people when he
21 was interviewed that there had been a secret meeting in
22 an alleyway in the dark of night where a folder was
23 handed over from Drew Wicker to Nate Paul? Did you know
24 he had said that?

25 A. No, I didn't.

1 MR. DeGUERIN: Objection.

2 Cross-examination by what someone else might have said
3 is not proper.

4 PRESIDING OFFICER: Sustained.

5 Q. (BY MR. BUZBEE) He said he heard that from
6 five or six people. Did you tell him that?

7 A. I did not tell him that, no.

8 Q. Okay. And you didn't have any role whatsoever
9 in the retention of outside counsel at the AG's office,
10 did you?

11 I'm talking about specifically
12 Mr. Cammack.

13 A. Oh, that retention of outside counsel, no.

14 Q. Okay. So that just kind of forecloses. It
15 sounds like what you were involved in was the Mitte
16 Foundation intervention as it relates to this
17 proceeding, true?

18 A. I think that's largely yes.

19 Q. Yes. So when we talk about personal
20 knowledge -- and you know what 602 personal knowledge is
21 under the rules, do you not?

22 A. Reasonably well.

23 Q. Yeah. You're not supposed to testify about
24 things unless you have personal knowledge. That's
25 Rule 602 of the Rules of Evidence, right?

1 A. I'll take you at your word it's 602. I don't
2 remember the number, but, yeah.

3 Q. I had a federal judge that made me learn the
4 numbers so they're burned in my brain.

5 So let's talk about what you actually
6 have personal knowledge of.

7 You know, Mr. DeGuerin has been telling
8 us -- using the words "ordered," "demanded." Remember
9 him using those words?

10 A. He may -- he may -- I'm not sure, but he may
11 have.

12 Q. I mean, we know General Paxton. We call him
13 General Paxton, but he's not in the military, is he?

14 A. No.

15 Q. Okay. He doesn't go around barking orders,
16 does he?

17 A. I would not say he barks orders.

18 Q. You know, this guy, if anybody has ever dealt
19 with him, knows that he's pretty low key, pretty laid
20 back, right?

21 A. That's a hard description for me to use.

22 Q. But he's not some right wing crazy
23 authoritarian walking around in locked step, is he?

24 A. Well, that's -- that's a hard -- that's a hard
25 way to say it.

1 Q. I can give you an easier way to say it.

2 A. Yeah.

3 Q. He's not the kind of guy that screams at
4 people and tells them, You go do this. You go do that.
5 He doesn't do that?

6 A. Well, I can't answer yes to that because I
7 have heard him do that before.

8 Q. Okay. Now, let's focus --

9 MR. BUZBEE: Erick, could you put up
10 Article I?

11 Q. (BY MR. BUZBEE) Since you're here to talk
12 about the Mitte Foundation intervention, it's titled
13 Protection of Charitable Organizations, right?

14 A. Am I -- I'm reading it, yes.

15 Q. Yeah. I mean, you've read this before, have
16 you not?

17 A. I have read this before, yes.

18 Q. Sure. And you knew you were here to testify
19 and that most of your testimony would probably relate to
20 this article, right?

21 A. Well, the Mitte Foundation, yes.

22 Q. Sure. The very first sentence, Protection --
23 I guess I should say the second sentence. Protection of
24 charitable organization there, that's not even correct,
25 is it? Because that's not what the role of the attorney

1 general's office is, is it?

2 A. Well, we're -- we're tasked with protecting
3 the public interest in charity.

4 Q. Protecting the public interest in charity;
5 isn't that right?

6 A. That's right.

7 Q. Not protecting charities, right?

8 A. There's some overlap there.

9 Q. Some overlap. But that's not what the AG's
10 role is, is it?

11 A. Well, that's right. I mean, we are not
12 obligated to protect charitable trusts generally as --
13 you know, if they are protecting themselves, for
14 instance.

15 Q. Now, we'll come back to that. But let's look
16 at -- are you -- how -- I know you were several levels
17 up the chain of command over Joshua Godbey, but it was
18 Godbey who was in charge of the charitable trust
19 area, true?

20 A. There was -- there was a division at that time
21 called financial litigation and charitable trust, and
22 that was under Josh Godbey.

23 Q. Okay. And you, of course, are familiar with
24 the role of the AG's office and charitable trusts?

25 A. I am generally familiar with that role, yes.

1 Q. You told me it's highly unusual -- I think you
2 told Mr. DeGuerin it's highly unusual for the AG's
3 office to get involved with charitable trusts, right?

4 A. It -- I mean, it's highly unusual. I don't
5 think I used that term. I think I used the term that it
6 was something that we did, but it was not -- I mean, it
7 was not a -- a huge volume of work that we did, but that
8 we did intervene in a -- some number of cases every
9 year.

10 Q. Okay. Because it sounded like -- and I
11 thought we all -- it sounded to me like you were making
12 the case that this was incredibly unusual for the AG's
13 office to get involved in any litigation involving
14 charities. That's not true at all, is it?

15 A. No.

16 Q. Okay.

17 A. The AG's office from time to time would be
18 involved in litigation involving a charity.

19 Q. Because the AG's office gets complaints every
20 year about charities, does it not?

21 A. Well, it gets complaints, and it also gets
22 notified of lawsuits.

23 Q. Sir, if you -- I'm on a time clock, and if you
24 could just answer my question, I would really appreciate
25 it. Can you do that for me? Just answer it, okay?

1 A. Okay.

2 Q. Is it true that the AG's office gets many
3 complaints every year about charities?

4 A. I'm -- I'm having trouble answering that.

5 Q. I'll help you.

6 MR. BUZBEE: Erick, pull up 429, AG 429.

7 Q. (BY MR. BUZBEE) Somebody prepared a
8 PowerPoint about the AG's role with regard to charities.
9 Do you see the first page?

10 A. Yeah, I was involved in preparing this.

11 Q. Right. It says, Protect the public interest
12 in charity. Do you see that?

13 A. I do.

14 MR. BUZBEE: Now, turn the next page,
15 Erick.

16 Q. (BY MR. BUZBEE) One of the questions
17 Mr. DeGuerin asked you was how many charities or
18 foundations that were in Texas. Do you remember that?

19 A. Yes.

20 Q. Now, we know what the numbers are, don't we?
21 The first bullet point.

22 A. Yes.

23 Q. It's right there in black and white. As of
24 December 2019 --

25 A. Yes.

1 Q. -- over 102,000 charities, and about 7,500
2 private foundations, right?

3 A. That's what it says, yes.

4 Q. All right. Okay. It even provides the gross
5 assets. Do you see that?

6 A. Yes.

7 MR. BUZBEE: Next page, Erick.

8 Erick, can you -- is this straight?
9 There we go.

10 Q. (BY MR. BUZBEE) And if we wondered -- if the
11 jurors wondered how active the AG's office was, in fact,
12 how active it was with regard to charities, it's right
13 there in black and white, right? These are the number
14 of complaints received in Fiscal Year '18, '19, and
15 2020, right?

16 A. Yes.

17 Q. So now we know --

18 A. As I see it here, yes.

19 Q. Yeah. Now we know, right? Right?

20 A. Now we know how many, yes.

21 Q. Okay. So let's go -- and you know, of course,
22 that the Mitte Foundation had a sordid history, true?

23 A. They had -- I know that they had -- we had
24 been involved with an investigation of some nature of
25 the Mitte Foundation, I believe, in the late double Os.

1 Q. Yeah. I mean, let's be -- let's all be clear.
2 Not only had the AG's office been involved with the
3 Mitte Foundation, the AG's office had, in fact, sued the
4 Mitte Foundation; isn't that right?

5 A. I'll take your word for it, but I don't --

6 Q. You don't need to take my word.

7 MR. BUZBEE: Exhibit 223, Erick.

8 Q. (BY MR. BUZBEE) Do you know what an original
9 petition is?

10 A. Yes.

11 Q. That's a lawsuit, right?

12 A. It is.

13 Q. That's a lawsuit where Greg Abbott was the
14 attorney general, right?

15 A. It appears to be, yes.

16 Q. And Greg Abbott sued the Mitte Foundation. Do
17 you see that?

18 A. I do.

19 Q. And have you ever looked at this lawsuit
20 before in all of the allegations made by the AG's office
21 against the Mitte Foundation?

22 A. I cannot recall whether I looked at the
23 specific petition or not.

24 MR. BUZBEE: Page 4, Erick.

25 Q. (BY MR. BUZBEE) In case any of our jurors

1 wanted to see the long and sordid history of the Mitte
2 Foundation, it's right there in black and white,
3 prepared by the Office of the Attorney General. Do you
4 see that?

5 A. Well, I see the allegations here, yes.

6 Q. Well, you wouldn't think that the AG's office
7 would just make allegations with no proof, would you?

8 A. I'm not suggesting that. I -- I just -- I had
9 no personal involvement in this. I have no personal
10 knowledge.

11 Q. Right. And you know, of course, that this
12 lawsuit that Greg Abbott's office filed when he was the
13 AG led to a settlement and a consent decree?

14 A. I believe -- all I know about it, if you want
15 to know, is that I believe one or more officers or board
16 members of the Mitte Foundation were removed for some
17 sort of violations.

18 MR. BUZBEE: Now, let's move forward in
19 time to June of 2020.

20 Erick, bring up AG 42.

21 Q. (BY MR. BUZBEE) What's supposed to happen is
22 that when a charity is involved in litigation, a notice
23 is to be sent to the AG's office so it can do its job;
24 is that right?

25 A. So that it can assess whether it should become

1 involved.

2 Q. Whether it's within the public's interest to
3 intervene or get involved, right?

4 A. I -- I don't know if there is a more specific
5 analysis, but that would certainly be a consideration,
6 yes.

7 Q. One thing you know is that on at least two
8 occasions, the Mitte Foundation failed to send timely
9 notice to the Office of Attorney General. You know
10 that, don't you?

11 A. I don't.

12 Q. You don't even know that?

13 A. No, I don't.

14 Q. Okay. What we have here, AG Exhibit 42, is a
15 notice letter sent from some of Nate Paul's entities
16 regarding some -- what they claim to be changes in the
17 litigation. Do you see that?

18 A. Is it possible to blow it up just a little
19 bit?

20 MR. BUZBEE: Erick, bring up the body of
21 the letter. Thank you.

22 THE WITNESS: Thank you.

23 Okay. I'm sorry, if you can reask.

24 Q. (BY MR. BUZBEE) The point is notice was sent
25 by Nate Paul's organizations informing the AG's office

1 of the litigation, and also that at least from their
2 point of view there had been some sort of change in the
3 circumstance.

4 A. Okay. I didn't see the letter, but I assume
5 this letter is from Nate Paul's organization.

6 Q. Yes, sir.

7 A. Okay.

8 Q. Okay.

9 A. I see that.

10 Q. All right. And you know, of course, that the
11 AG's office was provided with a very lengthy memo laying
12 out not only the past problems with Mitte Foundation,
13 but also current problems with the Mitte Foundation,
14 true?

15 A. I did see that memo, yes.

16 Q. This was a very lengthy and detailed memo, was
17 it not?

18 A. It was a lengthy and detailed memo.

19 Q. And if our jurors want to see what the
20 justification was for the AG deciding to intervene into
21 this Mitte Foundation litigation, they could look at
22 AG 33.

23 MR. BUZBEE: Would you put it on the
24 screen?

25 Q. (BY MR. BUZBEE) You've seen this memo before,

1 have you not?

2 A. Did you want me to answer? Was there a
3 question before this or --

4 Q. No. This is the question.

5 A. Okay.

6 Q. You've seen this memo before, have you not?

7 A. I have seen this memo before, yes.

8 Q. This memo is -- and it goes on and on, page
9 after page, does it not?

10 A. I don't know how many pages. It looks like
11 there's six pages.

12 Q. Well, it's got a lot of attachments too. Look
13 over here, sir.

14 A. Gotcha.

15 Q. Okay.

16 A. All right.

17 Q. And this is something that you looked at
18 before you signed off on intervention in the Mitte
19 Foundation case, right?

20 A. Likely.

21 Q. Okay. And let's get to that.

22 MR. BUZBEE: Erick, bring up AG
23 Exhibit 151.

24 Q. (BY MR. BUZBEE) You had told us about this
25 bureaucratic procedure where this person signs, and it

1 goes to the next person, and then the next person up the
2 chain of command, right?

3 A. Well, I wouldn't characterize it that way, but
4 there is a procedure by which several people approve an
5 intervention into a charitable lawsuit.

6 Q. And that's what we're looking at here, true?

7 A. That is correct. Related to the Mitte
8 Foundation, yes.

9 Q. Right. And we can see that Mary Henderson
10 signed off?

11 A. Yes.

12 Q. And that was the same Mary Henderson that
13 previously had -- had been part of a memo saying that
14 we're -- we maybe shouldn't get involved, six months
15 prior?

16 A. Yes.

17 Q. Okay. And then we see that one of your
18 subordinates, Joshua Godbey, signed off, right?

19 A. That is correct.

20 Q. And then we see that you signed off, right?

21 A. Indeed -- yes, I did.

22 Q. And then we see that your boss signed off,
23 right?

24 A. Mr. Mateer, yes.

25 Q. And each of you signed off on an official

1 government document because you felt at the time that it
2 was in the best interest to do so; isn't that right?

3 A. Based on what I have been told at the time, I
4 believe that we -- there was a colorable reason to
5 intervene, yes.

6 Q. Let's make sure we understand what you just
7 said to us all. You said "colorable reason"?

8 A. Yes.

9 Q. That's lawyer words, right?

10 A. Well, I -- I don't know. I think everybody
11 understands that.

12 Q. You felt like -- just you. Let's just focus
13 on you, because I've asked some of these other folks.

14 A. Yes.

15 Q. You felt like intervention was justified based
16 on what you knew; isn't that right?

17 A. Based on what I -- based on my conversations
18 with the attorney general, I believed that it was
19 important for us to intervene in the Mitte Foundation
20 litigation and that he had colorable reasons to do so
21 that I had no reason to question at the time.

22 Q. Let me make sure I get it so we can be clear.
23 If you didn't think it was justified, you wouldn't have
24 done it, right?

25 A. If I -- yes. If I had believed at this time

1 that the office would be acting against the Mitte
2 Foundation, I would never have signed off on the
3 intervention.

4 Q. Mr. McCarty, I don't mean to be short with
5 you, but I only have a short amount of time. And I know
6 you like to speak in paragraphs, but could you just
7 answer my question directly.

8 You believed that it was justified.
9 That's why you signed off, right?

10 A. No.

11 Q. You believed that the information you had
12 justified you signing off at that point in time, right?

13 A. All -- I would not have made that decision on
14 my own.

15 Q. Okay. And we see that there's one, two,
16 three -- four different people that made that decision,
17 don't we?

18 A. There were four people who signed off on this
19 matter.

20 Q. How long did it take you to decide to sign
21 off? Can you tell us?

22 A. It's hard for me to say how long it took for
23 me to sign off. In other words, from the -- from the
24 time I first learned of this until I ultimately signed
25 off, I don't remember how long it was.

1 MR. BUZBEE: Let's look. Exhibit 305,
2 Erick.

3 Q. (BY MR. BUZBEE) Do you see on here that on
4 June 6th at 4:52, do you see that e-mail that you were
5 sent from Josh Godbey?

6 A. Yes.

7 Q. And do you see at the top where you had signed
8 off by 5:26?

9 A. Well --

10 Q. Thirty-five minutes.

11 A. Well, the -- the difference between receiving
12 a document and making the decision to sign off, it
13 doesn't mean that I -- I mean, clearly there were
14 conversations prior to receiving it.

15 Q. Not only did you sign off on the Mitte
16 intervention, you also signed off on a memo authorizing
17 an investigation of the Mitte Foundation, didn't you?

18 A. That's correct.

19 MR. BUZBEE: Let's look at that, Erick.
20 AG Exhibit 155.

21 Q. (BY MR. BUZBEE) And I think it's important,
22 sir, as we're pulling that up to think about what --
23 what you were doing then versus what you decided to do
24 once you lawyered up, okay. That's why I'm looking at
25 this stuff back in time.

1 A. I --

2 Q. AG --

3 A. I don't -- I'm sorry. If that's a question, I
4 have a response, but it may not be a question.

5 Q. Okay. AG 155. This is -- this is where you,
6 along with four -- four other individuals, approved an
7 investigation of the Mitte Foundation; isn't that right?

8 A. Yes, we approved this.

9 Q. Okay. Now, let's focus on Nate Paul a little
10 bit. Nate Paul was a major pain in the rear end, was he
11 not?

12 MR. BUZBEE: Take the document down so
13 our witness is not distracted.

14 THE WITNESS: I'm sorry. I'm just trying
15 to -- I'm sorry. Could you repeat your question
16 quickly?

17 Q. (BY MR. BUZBEE) Yes, sir.

18 Nate Paul was a major pain in the rear
19 end, wasn't he?

20 A. I don't know if I would describe him that way.

21 Q. Did you ever meet him?

22 A. I have met him, yes.

23 Q. Was he aggressive?

24 A. I think he was somewhat aggressive at the
25 time.

1 Q. Condescending sometimes?

2 A. I think that's a fair characterization.

3 Q. Demanding?

4 A. Well, clearly demanding.

5 Q. Yeah. We -- we look at AG 219.

6 He -- he began to accuse the AG's office
7 literally within 30 to 40 days of wrongdoing with regard
8 to the Mitte Foundation, didn't he?

9 A. Yes. I -- I think that's a fair
10 characterization.

11 Q. And he -- he claimed that the AG's office had
12 a conflict of interest, right?

13 A. Josh Godbey, I believe.

14 Q. He claimed that the AG's office wasn't doing
15 its job, right?

16 A. In -- in so many words.

17 Q. He claimed that the AG's office was biased in
18 favor of the Mitte Foundation, right?

19 A. I -- I don't recall, but he could have.

20 MR. BUZBEE: Let's look, Erick. Go to --
21 go to the fourth page.

22 Pull it up, Erick. Fourth page,
23 paragraph -- second paragraph from the top.

24 Q. (BY MR. BUZBEE) Just so we're clear, I mean,
25 this is -- this is within 30 -- 35, 40 days of the -- of

1 the intervention, and he is saying that Josh Godbey is
2 grossly negligent and also that he has a lack of
3 openness and clear bias. Do you see that language?

4 It's the last sentence, second paragraph.

5 A. Ah. Yes, I see that.

6 Q. So this -- this Nate Paul, who supposedly was
7 given the keys to the AG's office, is accusing the AG's
8 office of being biased, grossly negligent, right?

9 A. Yes, he is.

10 Q. He also was raising this issue that there was
11 somebody who was married to the receiver in the Mitte
12 Foundation who worked at the AG's office, right?

13 A. There was some sort of familial relationship
14 that he was upset about. I don't remember the
15 specifics.

16 Q. He was very upset that no one had ever told
17 him that an individual who worked in the AG's office was
18 married to the receiver in the case, right? Did I get
19 that right?

20 A. That -- that sounds -- that sounds familiar.
21 I don't remember the details, but that sounds familiar.

22 Q. Did anybody ever disclose that to him, that,
23 you know what, just FYI, we're intervening. We're not
24 taking sides, but we do have somebody who is working in
25 our office for one of the parties in the case, or

1 married to somebody working for one of the parties in
2 the case?

3 A. The receiver?

4 Q. Yes, sir.

5 A. Well, that wouldn't have been one of the
6 parties, but to your question about whether Nate Paul
7 was informed of that relationship, I'm not aware that he
8 was.

9 Q. By the AG's office?

10 A. Well, I'm not aware that he was.

11 Q. Hmm. And he sent e-mail after e-mail after
12 e-mail to Josh Godbey that you saw where he made
13 allegation after allegation after allegation against the
14 AG's office; isn't that right?

15 A. He made allegations and he made demands and
16 he, you know, sort of demeaned our --

17 Q. Yeah. He --

18 A. -- professionalism.

19 Q. He was just aggressive and mean spirited and
20 accusing you guys of all kinds of things, wasn't he?

21 A. He was certainly aggressive. I don't know
22 about mean spirited, but he certainly made accusations
23 too.

24 Q. I mean, when somebody calls you grossly
25 negligent and clearly biased, that's not very nice, is

1 it?

2 A. Well, I'm a lawyer so I'm used to that.

3 Q. That happens to you a lot?

4 A. Well, not to me personally.

5 MR. BUZBEE: Okay. Let's look -- just so
6 we can close this loop, Erick, 165, please.

7 Q. (BY MR. BUZBEE) He claimed -- or his lawyer
8 claimed directly to you that the Office of the Attorney
9 General had a clear -- all right, let me make it
10 clear -- a significant conflict of interest.

11 A. Can I see where you're looking?

12 MR. BUZBEE: Yeah. Erick, bring up the
13 first and second paragraphs of Michael Wynne's letter --
14 or e-mail to Darren McCarty in September 2020.

15 Q. (BY MR. BUZBEE) He's accusing the AG's office
16 of a conflict of interest, isn't he?

17 A. He is. He is, yes. I mean -- yes.

18 Q. He's saying --

19 A. He's not accusing us. He's stating it, yes.

20 Q. He's saying that the OAG's office employs an
21 individual who's married to the receiver, right?

22 A. I see that.

23 Q. And he's raising all kinds of Cain about that,
24 too, isn't he?

25 A. Well, he's certainly stating it, yes.

1 Q. Did you know he ultimately threatened a
2 lawsuit against the office for this very reason?

3 A. I remember that we received a communication I
4 believe after I had reported to the FBI that was putting
5 us on notice of claims against the office, as I recall.

6 Q. You were telling us that you had conversations
7 with Sheena Paul?

8 A. I did.

9 Q. Sheena Paul was Nate Paul's sister?

10 A. And lawyer.

11 Q. And also his lawyer?

12 A. That's correct.

13 Q. But you also had conversations with the
14 lawyers from Mitte Foundation, too, didn't you?

15 A. I did.

16 Q. Yeah. So when you suggested -- you weren't
17 trying to suggest, I'm sure, that you were only talking
18 to Nate Paul's lawyers. You were talking to the lawyers
19 for the Mitte Foundation, too, weren't you?

20 A. I was.

21 Q. Okay. You never were told by Ken Paxton take
22 a side, were you?

23 A. I was told by Ken Paxton to expedite the
24 termination of the litigation, if possible.

25 Q. Listen to my question so we can all go home.

1 You were never told by Ken Paxton pick a
2 side or pick Nate Paul's side, were you?

3 A. He never used those words with me.

4 Q. Of course not.

5 And you -- do you remember that the --
6 when the news broke and the -- or the news was about to
7 break in the Texas Tribune being in a meeting, and you
8 were getting a call from the Tribune lawyer -- I'm
9 sorry, the Tribune reporter and they wanted you to make
10 a comment about the Mitte Foundation intervention?

11 A. I believe that I received an e-mail.

12 Q. Yeah. You received an e-mail. And the
13 allegation against you was that you had threatened the
14 Mitte Foundation?

15 A. I do recall that, yes.

16 Q. They -- they claimed that -- that you had told
17 them there would be trouble if the Mitte Foundation
18 didn't settle, right?

19 A. Yes.

20 Q. That's what they were going to say in the
21 newspaper, right?

22 A. Yes.

23 Q. And you knew that was absolutely false, didn't
24 you?

25 A. I believed that to be false, yes.

1 Q. I mean, the newspaper was getting ready to
2 report that you, Darren McCarty, had been making threats
3 against the Mitte Foundation on behalf of Nate Paul,
4 right?

5 A. No.

6 Q. You had been making threats against the Mitte
7 Foundation if they didn't settle the case?

8 A. I believe that was -- I believe that was what
9 they intended to report, something of that nature.

10 Q. Totally false, isn't it?

11 A. I never threatened the Mitte Foundation.

12 Q. That was totally false, right?

13 A. That I made a threat?

14 Q. Yeah.

15 A. Yeah, that was false.

16 Q. But they were going to run with that if you
17 didn't respond. They told you that, didn't they?

18 A. They did.

19 Q. Now let's make sure we're clear about this.
20 If you didn't respond, the Texas Tribune was going to
21 write a story where they claimed that you threatened the
22 Mitte Foundation with trouble if they did not settle the
23 case. That's what they were going to report, weren't
24 they?

25 A. Well, that's -- that's what they were telling

1 me at the time, as -- as I recall. I know there's an
2 e-mail that has the words in black and white, but it was
3 something of that nature.

4 Q. And they were -- they kept after you for you
5 to comment, didn't they?

6 A. Well, I don't think they kept after me. I
7 think they just sent it once.

8 Q. Yeah, but that upset you pretty good, didn't
9 it?

10 A. Yes, it bothered me.

11 Q. Yeah, you were animated about that, weren't
12 you?

13 A. I was -- I was bothered, without question.

14 Q. And you wanted to make it clear that you never
15 said that; never said that, right?

16 A. That I never threatened the Mitte Foundation.

17 Q. Because you never did, did you?

18 A. I did not threaten the Mitte Foundation.

19 Q. Let me ask you finally, were you --

20 MR. BUZBEE: Let's look at AG 1020. The
21 last bullet point.

22 I just want to know -- we've been trying
23 to figure out who was all involved in this. Bring that
24 up the last bullet point. AG 1020.

25 Q. (BY MR. BUZBEE) Were you part of the group

1 after y'all went to the FBI that were also planning on
2 cooking up bar complaints against your boss, Ken Paxton?
3 Were you part of that group?

4 A. I don't have any recollection of that.

5 Q. That would be really wrong to be cooking
6 things up because you felt like you had been somehow
7 mistreated, right?

8 A. I never considered retaliating against
9 Ken Paxton.

10 Q. Yeah. I mean cooking -- I mean, think about
11 that. "Cooking something up," that sounds like we're
12 just going to make this foolishness up so we can try to
13 protect ourselves, right?

14 A. I have -- I was not a participant in that
15 conversation, and I have no idea of the context.

16 Q. You would never --

17 A. I have no personal knowledge.

18 Q. You would never even say that, would you?

19 You would never say, Let's cook up an FBI
20 complaint. Let's cook up a bar complaint. Let's cook
21 up a lot of foolishness because I think we're about to
22 be fired.

23 You would never do that, would you?
24 Would you do that?

25 A. Would I make a false complaint? No.

1 Q. Okay.

2 MR. BUZBEE: Your Honor, thank you very
3 much. Pass the witness.

4 PRESIDING OFFICER: Redirect,
5 Mr. DeGuerin?

6 REDIRECT EXAMINATION

7 BY MR. DeGUERIN:

8 Q. Very briefly. Mr. Buzbee asked you -- I think
9 the answer was that there was a colorable reason to
10 intervene, a colorable reason to intervene.

11 What is the real reason you approved the
12 intervention?

13 A. Because Attorney General Paxton, who was the
14 elected official, thought it was very important to
15 intervene. And his reasons for that intervention were,
16 one, that the Mitte Foundation had had past problems
17 that the office had been involved with, and sort of, I
18 guess, colored the Mitte Foundation's trustworthiness or
19 something like that.

20 And, secondly, that the Mitte Foundation
21 was wasting money in a lawsuit that it shouldn't waste.

22 Q. And that's what Ken Paxton told you, right?

23 A. That is correct.

24 Q. But you found out that wasn't true, didn't
25 you?

1 A. Yes. I found -- I found no evidence that the
2 Mitte Foundation was being improperly managed or run.
3 And I -- and I saw no reason to believe that the Mitte
4 Foundation was somehow improvidently pursuing this
5 lawsuit.

6 Q. So in the end, do you believe Ken Paxton was
7 telling you to act in the best interest of the Mitte
8 Foundation or the public interest in the Mitte
9 Foundation?

10 A. No.

11 Q. Yes or no?

12 A. No.

13 Q. What?

14 A. No, I do not.

15 MR. DeGUERIN: Would you bring up
16 Article I, please?

17 Q. (BY MR. DeGUERIN) Specifically, Paxton caused
18 employees of his office to intervene in a lawsuit
19 brought by the Roy F. and JoAnn Cole Mitte Foundation
20 against several corporate entities controlled by
21 Nate Paul. Paxton harmed the Mitte Foundation in an
22 effort to benefit Paul; is that true?

23 A. I believe that to be true, yes.

24 Q. What?

25 A. I believe that to be true, yes.

1 MR. DeGUERIN: No further questions.

2 PRESIDING OFFICER: Recross.

3 RE CROSS-EXAMINATION

4 BY MR. BUZBEE:

5 Q. Tell us how the Mitte Foundation was harmed.

6 A. I believe the -- I believe the Mitte
7 Foundation was harmed in these ways: I believe, number
8 one, the Mitte Foundation was threatened with an
9 investigation by our office. I believe the Mitte
10 Foundation --

11 Q. Wait a minute. Let's take them one by one.

12 A. Sure.

13 Q. They were threatened. How does that harm
14 them? That doesn't harm them. You're the one that
15 signed off on the investigation, didn't you?

16 MR. DeGUERIN: I object to Mr. Buzbee
17 cutting off the witness when he was responding to the
18 question.

19 MR. BUZBEE: I would like to take them
20 one by one, Your Honor.

21 MR. DeGUERIN: I -- I don't care whether
22 he'd like to take it one by one. He was responding to
23 the question.

24 PRESIDING OFFICER: I'll sustain. You
25 can take it one by one, sir.

1 A. They were threatened with an investigation.
2 We intervened in a lawsuit that complicated the Mitte
3 Foundation's litigation. I have no doubt, incurred
4 fees. It delayed the Mitte Foundation's lawsuit by some
5 amount of time, and then potentially pressured them
6 improperly, related to their -- related to their
7 litigation with the Mitte Foundation.

8 And ultimately, and most importantly for
9 me, I guess or the straw that broke the camel's back,
10 was that we -- our office under the -- under the
11 color -- well, I shouldn't say the color of our office.
12 Under the authority of our office, we had used the
13 criminal justice system to prejudice the Mitte
14 Foundation's interest in the lawsuit.

15 Q. (BY MR. BUZBEE) Wait a minute, sir. We're
16 talking -- we're talking about Article I. We're not
17 talking about Cammack. We're not talking about a
18 subpoena to a bank. I'm just trying to figure out in
19 Article I --

20 A. Okay.

21 Q. -- how did an intervention -- you think they
22 may have spent it more on fees. That's what you say,
23 maybe, right?

24 A. Well, I believe that they undoubtedly did.
25 They had to respond to our motions, and we were involved

1 in the foundation lawsuit, and that was a complicating
2 factor.

3 Q. Maybe. You don't know that. Let's be
4 clear --

5 A. I think I do.

6 Q. Since we're in court, you don't know that, do
7 you?

8 A. Well, I think I do know that.

9 Q. All right. Tell me what their fees were, with
10 or without the intervention.

11 A. I didn't give a number and I don't have a
12 number.

13 Q. Okay. So you can't provide any testimony, any
14 evidence whatsoever, or how the fees were more because
15 of a three-month intervention; is that right?

16 A. I just said they were more. I didn't say how
17 much more.

18 Q. Yeah. They could have been less for all you
19 know.

20 A. I can't agree with that.

21 Q. You don't -- I mean, you don't know is the
22 point?

23 A. I think I do know.

24 Q. And so -- and what was the other thing you
25 said? They were threatened with an investigation?

1 A. They were threatened with an investigation.

2 Q. They weren't threatened, sir. You signed off
3 on a memo authorizing an investigation, remember?

4 A. I do.

5 MR. DeGUERIN: I object to Mr. Buzbee
6 arguing with the witness, Your Honor.

7 PRESIDING OFFICER: Overruled.

8 Q. (BY MR. BUZBEE) You personally signed off on
9 a memo authorizing an investigation, didn't you?

10 A. Well, yes.

11 MR. BUZBEE: Objection. Nonresponsive.

12 THE WITNESS: Okay.

13 PRESIDING OFFICER: Sustained.

14 Q. (BY MR. BUZBEE) You personally --

15 A. I said, Yes.

16 PRESIDING OFFICER: What did you just say
17 to the Court?

18 THE WITNESS: I said, yes, I signed off
19 on a memo. I thought that was responsive to your
20 question.

21 Q. (BY MR. BUZBEE) No, you started your answer
22 with "well." And you were going into another paragraph.

23 I'm just asking you very specific
24 questions. You personally signed off and authorized an
25 investigation of the Mitte Foundation, didn't you?

1 A. I did.

2 Q. Along with your boss, correct?

3 A. Yes.

4 Q. Along with your subordinate, correct?

5 A. Yes.

6 Q. Along with his subordinate's subordinate,
7 correct?

8 A. I don't think so.

9 Q. There was one other person below Josh Godbey
10 in the chain of command. She signed off as well, Mary
11 Henderson. Remember that name?

12 A. I do.

13 Q. Okay. Four different people from the AG's
14 office signed off on a memo to investigate the Mitte
15 Foundation; isn't that right?

16 A. That's correct.

17 Q. Okay. And we know that the problems with the
18 Mitte Foundation weren't just back in Greg Abbott's
19 tenure at the office. They were more recent, weren't
20 they?

21 A. I believe there was something in 2019.

22 Q. What was that in 2019? Do you remember?

23 A. I don't recall. I don't remember, no.

24 Q. Do you not remember the -- the CEO -- what was
25 the name, the CEO having to be replaced because of

1 misconduct?

2 MR. DeGUERIN: I believe this is outside
3 the scope of the redirect, Your Honor. And I object.

4 MR. BUZBEE: It's actually not, Your
5 Honor. We talked right about this in the cross.

6 PRESIDING OFFICER: Overruled.

7 MR. BUZBEE: Thank you.

8 Q. (BY MR. BUZBEE) Do you not remember that?

9 A. I remember that there was something in 2019
10 concerning a member of the board or the foundation, but
11 I don't remember --

12 MR. BUZBEE: Erick --

13 THE WITNESS: -- the specifics.

14 MR. BUZBEE: -- bring up AG 33. Go to
15 the second page real fast.

16 MR. DeGUERIN: Your Honor, objection.
17 Again, there -- this is clearly outside the scope of
18 what my redirect was. I covered two very brief areas.
19 Nothing about any 2019 investigation.

20 MR. BUZBEE: Again, Your Honor, he came
21 back up here and tried to get the -- despite the
22 documents in the case, elicited from this witness
23 something that's 180 degrees different than the
24 documents. And so I'm entitled to show that his
25 testimony doesn't match the historical record. And

1 that's what I'm trying to do, hopefully in five minutes.

2 PRESIDING OFFICER: Overruled.

3 MR. BUZBEE: All right, Erick. Bring up
4 the paragraph 1, financial status of Mitte Foundation.

5 Q. (BY MR. BUZBEE) What we see here is the
6 justification. After Greg Abbott had already had
7 intervention with the AG's office, this is more recent
8 information. Do you see that?

9 A. This is the memo that -- that Nate Paul's
10 organization sent to us. Is that what this is?

11 Q. That's what it is. That's what you reviewed
12 before you signed off on the intervention.

13 A. I -- I'm not trying to be argumentative. All
14 I'm trying to understand is what document I'm looking
15 at.

16 Q. This is something that you -- you would have
17 been -- of everybody in this courtroom, you would have
18 seen this document before anybody. You understand that,
19 right?

20 You saw this document back in June of
21 2020, right?

22 A. That sounds right, yes.

23 Q. Okay. And it lays out in detail all of the
24 financial issues with regard to the Mitte Foundation,
25 including its negative cash flow of \$440,000, right?

1 A. I see what it says here.

2 Q. It talks about forms not being filed in a
3 timely fashion. Do you see that?

4 A. I see that it says that.

5 Q. It talks about the assets of the Mitte
6 Foundation is about 15 million. Do you see that at the
7 bottom bullet point?

8 A. I see that it sees that.

9 Q. And one of the concerns could have been from
10 the AG's office, why is a foundation in the grand scheme
11 of things, not a very large foundation, why is it
12 engaged in investing into land deals? That could have
13 been one of the questions raised, right?

14 A. It wasn't.

15 Q. Hmm?

16 A. It was not one of the questions raised.

17 Q. We've heard the testimony.

18 And let's go to the next page.

19 And it continues with the legal fees that
20 have been incurred and questions about how much the
21 receiver is being paid and how much the lawyers are
22 being paid and what the fee arrangements are. Do you
23 remember all of that?

24 A. I certainly remember that Nate Paul's
25 organization made these statements and these

1 allegations, yes.

2 Q. And so if the jurors want to see -- despite
3 your testimony, despite what you say now, if they want
4 to see in the documents the reason and justification for
5 the intervention, they need only look right here; isn't
6 that right?

7 A. Utterly incorrect.

8 Q. Uh-huh. Did you make it a practice when -- as
9 a lawyer or at the AG's office to sign a document that
10 says one thing but actually you had hidden reasons?
11 Because that's what you're saying. I mean, let's be
12 clear what you're saying.

13 You're saying, Hey, ladies and gentlemen,
14 I signed something to authorize an intervention, but I
15 really didn't mean it. I had other reasons for it.

16 That's what you're telling us all, isn't
17 it?

18 A. Absolutely not.

19 MR. BUZBEE: I pass the witness, Your
20 Honor.

21 THE WITNESS: There's --

22 MR. DeGUERIN: No further questions.

23 We have a housekeeping matter that we
24 would like to approach about.

25 PRESIDING OFFICER: Can we excuse the

1 witness?

2 MR. DeGUERIN: Yes.

3 PRESIDING OFFICER: You may be excused.

4 Both parties come up. You said you had a
5 housekeeping matter.

6 (At the bench, off the record)

7 (Proceedings adjourned at 7:13 p.m.)

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C E R T I F I C A T E

STATE OF TEXAS)

COUNTY OF TRAVIS)

I, MARY ORALIA BERRY, Certified Shorthand Reporter in and for the State of Texas, Registered Diplomat Reporter, Certified Realtime Reporter, and Certified Realtime Captioner, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Certified to by me this 12th day of September, 2023.

/s/ *Mary Oralia Berry*

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