

THE SENATE OF THE STATE OF TEXAS
COURT OF IMPEACHMENT

Satsy Daw

AUG 04 2023

CLERK OF THE COURT

IN THE MATTER OF
WARREN KENNETH PAXTON, JR.

ATTORNEY GENERAL WARREN KENNETH PAXTON JR.'S
MOTION TO DISMISS ARTICLE I

The House seeks to remove the Attorney General, one of the chief executives of one of the largest economies in the world, for his office’s lawful intervention in a lawsuit pursuant to his duty to protect the public’s interest in charitable organizations. Even worse, the House gets the Texas Constitution wrong—they confuse the Attorney General’s solemn duty to protect the public’s interest in charity, Tex. Const. art. IV, § 22; Tex. Gov’t Code § 123.002, with a non-existent role as a “public protector” or “fiduciary” of charitable organizations. This is exactly backwards; the Attorney General must protect the public *from* abuses in the system of charitable trusts, not deferentially protect the charitable trusts themselves. Article I therefore makes a mockery of the impeachment process, a proceeding that by its nature seeks to reverse the will of the Texas people.

This Court should reject the House’s attempt to remove the duly elected Attorney General over his lawful acts pursuant to his constitutional duties. Every person in the Office of the Attorney General (“OAG”) who was involved in the approval process for intervening in the Mitte Foundation litigation—even those who have falsely accused Attorney General Paxton of crimes—has stated that settlement would have been in the Mitte Foundation’s best interests and that nothing OAG filed was unethical. Accordingly, this Court should dismiss Article I because there was no legal violation, and therefore no possible impeachable offense, and because the nature of it does not rise to the seriousness required for an impeachable offense.

BACKGROUND

Article I arises from OAG’s 2020 decision to intervene in a lawsuit involving the Mitte Foundation, a charitable trust, and several private corporations (collectively, the “World Class Entities”). The Mitte Foundation was a limited partner in two real estate investment partnerships with World Class Entities. Exhibit A, EAM. The dispute between the World Class Entities and the Mitte Foundation began when some World Class Entities denied the Mitte Foundation access to

financial records relevant to the partnerships. *Id.* Prolonged arbitration and corresponding litigation ensued, and OAG was belatedly provided notice of the lawsuit involving a charitable trust in December 2019. Ex. A.

In January 2020, OAG initially declined to involve itself in the Mitte litigation. Exhibit B, Waiver of Intervention. But in June 2020, OAG was notified of the arbitration, ongoing disputes regarding the receiver, and potential issues with the Mitte Foundation’s leadership and expenditures. Ex. A. The Mitte Foundation’s troubled past included prior misuses of charitable funds, which prompted OAG to intervene previously, in 2008. Ex. A. Armed with this new information regarding potential mismanagement, OAG leadership—including First Assistant Jeff Mateer, Deputy Attorney General for Civil Litigation Darren McCarty, and Division Chief for the Financial Litigation and Charitable Trusts Division Joshua Godbey—determined it was worthwhile for OAG to get involved. Ex. A.

OAG intervened for and on behalf of the general public’s interest in charity under Texas Property Code section 123.002. Exhibit C, Petition in Intervention. The intervention was intended to mediate and facilitate a settlement, toward which the lead OAG attorney, Josh Godbey, consistently pushed the parties. Exhibit D, Emails between Godbey and Chester. After several months and a failed mediation, OAG withdrew from the Mitte litigation on September 30, 2020, Exhibit E, Nonsuit, and closed their Mitte Foundation case file, Exhibit F, Godbey Memo.

STANDARD

“While impeachable offenses are not defined in the Constitution, they are very clearly designated or pointed out by the term ‘impeachment,’ which . . . connotes the offenses to be considered.” *Ferguson v. Maddox*, 263 S.W. 888, 892 (Tex. 1924). Our “Constitution in this matter of impeachment created nothing new. By it, something existing and well understood was simply

adopted.” *Id.* An impeachable offense is a “grave official wrong[]” as historically understood in English and early American practice “by an examination of the Constitution, legal treatises, the common law[,] and parliamentary precedents.” *Id.* It is “emphatically” not an “arbitrary and unrestrained” power to remove an elected official. *Id.* Rather, “[i]mpeachment is used only in extreme cases,” *Ferguson v. Wilcox*, 28 S.W.2d 526, 533 (Tex. 1930), consistent with “such official delinquencies, wrongs, or malfeasances as justified impeachment according to” that historical practice. *Ferguson*, 263 S.W. at 892. This Court determines whether an allegation rises to the historical level of an impeachable offense as a matter of law. *Id.* at 893. And this Court has the power to dismiss an Article either for failing to rise to that level or for any other legal defect. *Id.*; *see also* S. Journal, 88th Cong., 1st Sess. at 40-52 (2023).

ARGUMENT

I. OAG Lawfully Intervened in the Mitte Litigation.

Lawful acts are not impeachable offenses. Impeachable offenses are a subset of public wrongs: namely, those “misdeeds . . . as peculiarly injure the commonwealth by the abuse of high offices of trust.” 1 J. Story, *Commentaries on the Constitution of the United States*, § 788, p. 563 (4th Ed. 1873). Justice Joseph Story of the United States Supreme Court made clear both the criminal nature of an impeachment and the implications of that nature—that “in trials by impeachment the law differs not in essentials from criminal prosecutions,” and “the same legal notions of crimes and punishments[] prevail.” *Id.* § 796 at 563. Story’s assessment aligns with the common law legal tradition as articulated by Blackstone, who observed that a “crime or misdemeanor is an act committed or omitted in violation of a public law,” a truism necessarily implying that a criminal act cannot be one that complies with the law. 4 Blackstone, *Commentaries*

*5. And even still, Story concluded that not all violations of a public law would give rise to an impeachable offense. *See* 1 J. Story, *Commentaries* § 794, p. 563.

By necessity that means that an act taken in compliance with relevant law cannot give rise to an impeachable offense. The alternative conclusion, that an act taken in compliance with the law may nonetheless be prosecuted in the highest criminal proceeding in the State, is absurd. After the impeachment of Governor Ferguson, this tradition was recognized by the Texas Supreme Court as applicable in Texas impeachments, which follow “the principles established by the common law and the practice of the English Parliament and the parliamentary bodies in America.” *Ferguson*, 263 S.W. at 892.

Article I nonetheless defies Texas’s adherence to this common-law tradition and targets Attorney General Paxton for a lawful action taken by his office to satisfy his constitutional and statutory duties to uphold the public interest in charities. *See* Tex. Prop. Code § 123.002. The language the House uses in Article I erroneously accuses Attorney General Paxton of using his office to coerce OAG employees to unlawfully intervene in a lawsuit involving the Mitte Foundation, a charitable trust. But this accusation misses its mark. According to the consistent statements of OAG’s lead attorney in the Mitte Foundation litigation, no OAG employee was forced to file anything. Indeed, OAG intervened in the Mitte litigation only after a thorough process that included First Assistant Jeff Mateer’s approval. The consistently stated purpose of the intervention was to expedite mediation and a settlement to avoid the charity incurring legal fees for excessive, protracted litigation—not to hurt the Mitte Foundation, or even to benefit Nate Paul. This was a reasonable and valid public purpose. When OAG was unable to facilitate a settlement, it ceased its involvement, and three years later the dispute remains unresolved.

Because OAG's intervention in the Mitte litigation was lawful and in the public interest, the intervention likewise fails to constitute an impeachable offense. Article I must be dismissed.

A. The Attorney General has a legal duty to protect the public and its interests from the misuse of charitable organizations.

The Attorney General has the constitutional right and obligation to “especially inquire into the charter rights of all private corporations,” to “prevent” them “from exercising any power” not allowed by law, and “whenever sufficient cause exist, seek a judicial forfeiture of such charters.” Tex. Const. art. IV, § 22. The Legislature has codified this in the charitable trust context by giving the Attorney General a statutory right to intervene in charitable trust litigation and bring it to settlement. *See* Tex. Prop. Code § 123.002. The Attorney General also has a statutory duty to intervene when he believes it is in the public interest. *Id.* This statute creates a “duty of the Attorney General to invoke the powers inherent in [Texas] courts to prevent an abuse of the trust.” *Boyd v. Frost Nat'l Bank*, 196 S.W.2d 497, 502 (Tex. 1946). To satisfy this duty, “[t]he attorney general may join and enter into a compromise [or] settlement agreement . . . relating to a proceeding involving a charitable trust.” Tex. Prop. Code § 123.002. As the State's chief legal officer, the Attorney General has broad discretionary power to fulfill such legal duties and responsibilities, including to pursue settlements. *Terrazas v. Ramirez*, 829 S.W.2d 712, 721 (Tex. 1991); *Lewright v. Bell*, 63 S.W. 623 (Tex. 1901); Tex. Const. art. IV, § 22.

Article I fails as a matter of law because it misstates the Attorney General's constitutional and statutory obligations. Article I charges the Attorney General with “failing to act as public protector of charitable organizations as required by Chapter 123, Property Code.” This gets the Attorney General's obligations under Chapter 123 precisely backwards. That chapter instructs the Attorney General to act “[f]or and on behalf of the interest of the general public of this state in charitable trusts,” Tex. Prop. Code § 123.002, consistent with the Constitution's direction that the

Attorney General must protect the public by preventing private corporations from acting unlawfully. Tex. Const. art. IV, § 22. The Attorney General had previously sued the Mitte Foundation to protect the public from the Foundation's misuse of charitable funds. Ex. A at 5. The 2020 intervention was of a piece with this prior action under Governor Greg Abbott's tenure as Attorney General. And both were squarely within the Attorney General's proper role, as articulated by the Constitution and Property Code: to protect the public. Article I fundamentally misstates the Attorney General's obligations to charitable organizations, and the remainder of that Article follows from that mistaken premise. Article I should be dismissed for that reason alone.

B. OAG's intervention was otherwise lawful and proper.

Even putting aside Article I's fatal misstatement of the Attorney General's responsibilities, Article I also fails because by any reasonable metric, intervention into the 2020 Mitte Foundation litigation was lawful and appropriate.

OAG's decision to intervene in the Mitte litigation was well vetted by Attorney General Paxton's senior staff and followed OAG's standard practices regarding charitable trust litigation. First Assistant Jeffrey Mateer specifically approved intervention into the Mitte Foundation litigation as necessary to protect the "public interest in charity" after information came to light regarding potential mismanagement of the Foundation and the misuse of charitable funds through excessive legal fees. Ex. A at 1. Deputy Attorney General for Civil Litigation Darren McCarty agreed that intervention with an eye towards bringing about a settlement was in the Mitte Foundation's best interests—a position he stood by even after he began reporting unrelated alleged wrongdoing to law enforcement. Exhibit G, McCarty Emails.

Once Mateer approved the intervention, OAG's efforts primarily involved pushing for mediation to bring the litigation to an end on mutually agreeable terms. Indeed, Josh Godbey,

OAG’s lead attorney in the case, worked continuously to bring the Mitte Foundation and the World Class Entities to the mediation table to reach a resolution. *See, e.g.*, Ex. D. Godbey’s drive to settle was precisely the sort of redress that the statute authorizes the Attorney General to seek. Tex. Prop. Code § 123.002; *Terrazas*, 829 S.W.2d at 721. That settlement would have ended the exorbitantly expensive legal fees that the Foundation paid—and perhaps has continued to pay, given that the litigation with World Class continues to this day.

Finally, Article I fails to specify how the Mitte Foundation was harmed by the Attorney General’s intervention into the 2020 litigation—because the Foundation was not. A failed attempt at mediation, entered into voluntarily, does not inflict cognizable harm on anyone. The Mitte Foundation was able to continue to press various motions throughout mediation and OAG’s brief involvement in the case. First Assistant Mateer’s decision to intervene in the Mitte Foundation litigation, while acting under the authority of Attorney General Paxton, was lawful, appropriate, and consistent with the Attorney General’s statutory duties under the Texas Property Code. Article I must be dismissed on this basis as well.

II. Article I Fails to State an Impeachable Offense.

The Texas Supreme Court has held that the Texas Constitution’s definition of an impeachable offense aligns with that “established by the common law and the practice of the English Parliament and the parliamentary bodies in America.” *Ferguson*, 263 S.W. at 892. Under the common law and historical practice, impeachment is reserved for removing officers for “grave official wrongs.” *Id.*

Blackstone described the gravity required for an act to become an impeachable offense. In his Commentaries, he described “public wrongs” to historically mean “crimes and misdemeanors.”
4 William Blackstone, *Commentaries* *1. These were “act[s] committed, or omitted, in violation

of a public law,” supplying the truism that a public wrong could not be an act that complied with the law. 4 William Blackstone, *Commentaries* *5. Impeachable offenses were a subset of public wrongs, reserved for unique transgressions against the State herself, such as “high treason.” See 4 William Blackstone, *Commentaries* *74–75. When committed by a public official, a “high crime” could constitute an impeachable offense. Indeed, Blackstone ranked the “high court” of impeachment in England first in “dignity” because it was “the most high and supreme court of criminal jurisdiction by the most solemn grand inquest,” addressing “enormous offenders” among “the representatives of the people.” 4 William Blackstone, *Commentaries* *255-56, 258.

The Founders also understood “high crimes and misdemeanors” to include only particularly grave wrongs. Alexander Hamilton, agreeing with Blackstone’s definition of “high crimes,” explained that impeachable offenses were those that “relate[d] chiefly to injuries done immediately to the society” of the State. Federalist No. 65. Even opponents of the federal Constitution’s impeachment power concurred that “[e]rrors in judgment, or want of capacity to discharge the duties of the office, can never be supposed to be included in these words, *high crimes and misdemeanors*.” *The Anti-Federalist*, Essays of Brutus XV, 185 (Herbert J. Storing, University of Chicago Press 1985) (emphasis original). Absent that restriction, where the legislature could expel any official from office for any reason it saw fit, the impeachment power would be “so incompatible with the genius of our institutions, that no lawyer or statesman would be inclined to countenance so absolute a despotism of opinion and practice, which might make that a crime at one time, or in one person, which would be deemed innocent at another time, or in another person.” 1 J. Story, *Commentaries* § 797, p. 563.

This Court has historically hewed to this approach. It has recognized that direct financial self-interest, fraud, perjury, or an attempt to nullify our Constitution could render an official act an

impeachable offense. But it has not gone farther to include any pedestrian exercise of an elected official's discretionary power. When the House preferred twenty-five articles of impeachment against Land Commissioner McGaughey, it charged that McGaughey's sale of certain properties violated the land laws—but not that McGaughey did so out of a personal financial interest. This Court concluded that was not enough: as McGaughey's counsel successfully argued, “the great State of Texas is pointing her heaviest artillery at something that does not even reach the magnitude of a snowbird.” State of Tex. Senate, Proc. of the High Ct. of Impeachment on the Trial of W.L. McGaughey, Land Comm'r, S. 23, Reg. Sess. at li-lii (1893). The Court conclusively rejected every charge, with at least nineteen of twenty-seven members acquitting McGaughey on every charge. State of Tex. Senate, Rec. of the High Ct. of Impeachment on the Trial of W.L. McGaughey, Land Comm'r, S. 23, Reg. Sess. at 169-78 (1893).

Likewise, the articles of impeachment against Judge J.B. Price did not allege self-enrichment. Judge Price was impeached on twelve articles. The articles accused him of “gross neglect of duties” when he approved payment reimbursements, like Sheriffs' mileage requests, that ultimately exceeded verifiable work-related expenses and costs. Judge Price was also accused of writing a literal blank check drawing on State funds for a witness fee. This Court recognized that these charges simply failed to qualify as “grave offenses” requiring the extraordinary remedy of impeachment. S. Journal, 42nd Cong., 2nd Sess. at 429-431 (1931). This Court dismissed six of the articles against Judge Price and acquitted him on the remaining six. *Id.* at 429-431, 684-691.

But this Court has drawn the line at more serious wrongs, such as embezzlement, fraud, perjury, or attempts to nullify the Constitution. Governor Ferguson was convicted of ten of the twenty-one articles preferred against him; the convictions included charges for embezzlement or self-enrichment, State of Tex. Senate, Rec. of Proc. of the High Ct. of Impeachment on the Trial

of Hon. James E. Ferguson, Governor, S. 35, 2nd & 3rd Sess. at 767-769, 776, 778, 781-82, 789-791 (1917), concealing these self-interested transactions, *id.* at 772-774. 778-779, perjury, *id.* at 769-772, or an attempt to unconstitutionally abolish the University of Texas, *id.* at 782-789. And this Court convicted Judge Carrillo for fraudulently charging and collecting money from the county for rental equipment that did not exist, and for renting county equipment for his personal use—namely, the commercial operation of a ranch property he owned in partnership with another public official. State of Tex. Senate, Rec. of Proc. of the High Ct. of Impeachment on the Trial of O.P. Carrillo, Judge, S. 64, Reg. Sess. at 1560 (1975).

Here, Article I does not assert that Attorney General Paxton committed grave offenses for his personal enrichment, perjured himself, or attempted to nullify the Texas Constitution. Article I involves a lawful intervention in litigation involving a charitable trust consistent with Chapter 123 of the Property Code. The Attorney General was well within his broad discretionary power to intervene on behalf of the public's interest in charitable organizations, even if his attempts to prevent more charitable funds from being expended on litigation were unsuccessful. *Terrazas*, 829 S.W.2d at 721. This Court should not second-guess the wisdom of this discretionary decision. *See Charles Scribner's Sons v. Marrs*, 262 S.W. 722, 727 (1924).

Nor was intervention into the Mitte Foundation's 2020 litigation the sort of extraordinary offense that requires immediate removal by impeachment, since the House knew about it—as would anyone else, as a matter of public record—but took no action for almost three years. The people of Texas knew too, and yet they elected Attorney General Paxton again. That should end the question of whether Article I is an impeachable offense. It is not, and it should be dismissed.

CONCLUSION

For the foregoing reasons, the Court should dismiss Article I.

Respectfully submitted.

/s/ Joseph N. Mazzara

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CERTIFICATE OF SERVICE

This motion was served via email on the House Board of Managers' counsel, to wit: Rusty Hardin, rhardin@rustyhardin.com, and Dick DeGuerin, ddeguerin@aol.com, on August 3, 2023.

/s/ Joseph N. Mazzara
Joseph N. Mazzara

EXHIBIT A: Executive Approval Memo

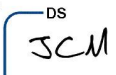


KEN PAXTON
ATTORNEY GENERAL OF TEXAS


This memorandum may be confidential and privileged pursuant to Texas Government Code sections 552.101, 552.103, 552.107 & 552.111, and should not be disclosed without the express authorization of the Attorney General.

EXECUTIVE APPROVAL CIVIL LITIGATION MEMORANDUM


To: Jeffrey C. Mateer
First Assistant Attorney General

Approved and Final: 
Date: 6/8/2020 | 3:00 PM CDT


Darren L. McCarty *Approved and submitted to First Assistant:*
Deputy Attorney General
for Civil Litigation

Approved and Final: 
Date: 6/8/2020 | 1:12 PM CDT

Through: Joshua R. Godbey Chief *Approved and submitted to Deputy A.G.:*
Lesli Ginn, Deputy Chief
Financial Litigation and Charitable Trusts

Approved and Final: 
Date: 6/8/2020 | 12:04 PM CDT

From: Mary T. Henderson, Senior Attorney
Cat Day, Assistant Attorney General

Approved:
Date: 
6/8/2020 | 11:59 AM CDT

Date: June 8, 2020

Re: *Expedited Request to Intervene on Behalf of the Public Interest in Charity*
Cause No. D-1-GN-18-007636; *The Roy F. & Joann Cole Mitte Foundation v. WC 1st and Trinity, LP, WC 1st and Trinity GP, LLC, WC 3rd and Congress, LP and World Class Capital Group, LLC*; In the 126th Judicial District Court of Travis County, Texas.

Synopsis:

Financial Litigation and Charitable Trusts (“CT”) requests approval to intervene on behalf of the public interest in charity in the above-referenced case, which is a proceeding involving a charitable trust. The Attorney General is the only party with standing to represent the public interest in charity.

Please note: Expedited approval is requested by June 8, 2020.

Background:

The Roy F. and Joann Cole Mitte Foundation (“Mitte Foundation”) was created in 1994. The Mitte Foundation has been operating and making distributions since its inception, primarily through

private grants to nonprofit organizations and scholarships for qualified students to Texas higher education institutions. Presently, the Mitte Foundation has approximately \$13,000,000 in assets.¹ In 2017, the Mitte Foundation distributed almost \$700,000 in charitable grants.

World Class Capital Group, LLC is a privately-owned investment firm in Austin, Texas that focuses on commercial real estate. The Mitte Foundation invested a portion of its assets with two subsidiaries of World Class Capital Group, LLC: (i) WC 1st and Trinity, LP; and (ii) WC 3rd and Congress LP (collectively “World Class”).

The Mitte Foundation filed suit against World Class in Travis County District Court to gain access to World Class’s books and records. The Mitte Foundation alleged, *inter alia*, that World Class had not provided its annual reports or quarterly reports regarding operations.

The matter was transferred to arbitration.² The parties came to an arbitrated settlement agreement in July 2019. In August 2019, the FBI raided World Class Capital Group, LLC and the home of its owner, Nate Paul. As a result, World Class breached the arbitrated settlement agreement; the Mitte Foundation gained a higher percentage of interest in the partnerships due to a break clause in the settlement agreement.

The arbitration is ongoing in this matter. However, the Travis County District Court suit is also ongoing. The Mitte Foundation has repeatedly returned to the District Court to enforce various orders from the Arbitrator which World Class has violated.³

Appointment of Receiver

The key dispute here regards the appointment of a receiver for World Class’s properties.

World Class maintains that a receiver was wrongfully appointed because there is no risk of imminent loss or harm due to forbearance agreements.

The Mitte Foundation argues that the FBI raid left the real estate owned by World Class at risk of imminent loss or harm. The Arbitrator appointed a receiver. The Travis County District Court confirmed the appointment of the receiver. The 3rd Court of Appeals removed a stay of the receiver and removed a stay on the alienation of World Class’s property.

Relevant procedural history includes:

- On October 31, 2019, the Arbitrator appointed Greg Milligan as receiver (“Receiver”) for World Class’s properties;
- On November 4, 2019, World Class filed an interlocutory appeal in the 3rd Court of Appeals;

¹ This amount excludes the \$3,000,000 invested with World Class.

² American Arbitration Association Cause No. 01-19-0000-5347.

³ Plaintiff’s Motion to Compel Sanctions; Plaintiff’s Motion to Confirm Arbitration Award; Plaintiff’s Emergency Application for Appointment of Receiver; Receiver’s Motion to Compel Turnover of Partnership Property; Plaintiff’s Application for Enforcement of Arbitrator’s Order Compelling Production; Receiver’s Motion to Supplement Receivership Order.

- On November 6, 2019, the Third Court of Appeals granted World Class's temporary stay of the appointment of a receiver and granted a stay of the alienation of real property;
- On November 13, 2019, the Mitte Foundation filed an Emergency Application for Appointment of Receiver in Travis County;
- On December 10, 2019, the Travis County filed an Order Appointing Receiver, which confirmed the Arbitrator's appoint of Greg Milligan as Receiver;
- On December 12, 2019, World Class filed another interlocutory appeal with the 3rd Court of Appeals;
- On December 19, 2019, the Third Court of Appeals granted World Class's appeal in part. The Court's order prohibited the receiver from filing bankruptcy and prohibited the alienation of real property;
- On February 3, 2020, the Third Court of Appeals stayed the Order Appointing Receiver until the supersedeas bond amount is determined. The Third Court of Appeals determined World Class's supersedeas bond should be at a minimum \$10,500,000 in order to protect rights of Mitte Foundation. The Court also noted that the Mitte Foundation posted a \$100,000 counter supersedeas bond;
- On February 7, 2020, the Mitte Foundation filed a Motion to Set Supersedeas Bond;
- On March 31, 2020, World Class filed a Motion for Extension of Time to File Supersedeas Bond.
- On May 29, 2020, as a result of World Class's failure to file supersedeas bond, even with a deadline extension, the Third Court of Appeals lifted a previous stay on the receiver and lifted a stay that prohibited the alienation of real property owned by World Class.

First Notice and Attorney General's Waiver of Intervention

On December 11, 2019, the Attorney General was given notice of the Travis County District Court matter and constructive notice of the arbitration, nearly a year after the case was originally filed in Travis County District Court.

On January 31, 2020, the Attorney General filed a Waiver of Intervention in the Travis County District Court. At that time, CT determined that there was little risk to the public interest in charity. First, the Mitte Foundation is zealously represented in this matter. The Mitte Foundation invested \$3 million in the World Class properties. Ray Chester, Mitte Foundation's counsel, negotiated for a \$10.5 million settlement on a \$3 million investment; while the settlement fell through due to World Class's breach, Mr. Chester still expected a high return on the Mitte Foundation's investment when the receiver eventually sold the properties. Mr. Chester also told CT that only 18% of the Mitte Foundation's assets were invested in World Class's properties; the other \$13 million is located in publicly traded securities. Mr. Chester further assured CT that the litigation will not impact the Mitte Foundation's ability to make charitable distributions. While our office was not timely noticed, CT determined there was little risk to the public interest in charity.

New Allegations and Reason for the Intervention:

In June 2020, Maryann Norwood, World Class Holdings, LLC's internal counsel, provided this office notice of the Travis County District Court matter and notice of the arbitration. Ms. Norwood

further provided this office with a memorandum that alleges misconduct of both the Mitte Foundation's counsel and leadership.

World Class's allegations include:

- Former Chairman of the Mitte Foundation, Dilum Chandrasoma, attempted to conjure sale of the investment properties in a self-dealing transaction;
- World Class has been willing to purchase the Mitte Foundation's interest at fair market value. The Mitte Foundation refused to engage in Fair Market Valuation of its interests;
- When Mr. Chandrasoma was removed as President of the Mitte Foundation last summer, Mitte Foundation's lack of leadership allowed its counsel to engage in "protracted litigation rather than equitable decoupling" to gain maximum amount of attorney's fees;
- The Mitte Foundation's 2017 IRS Form 990 details a negative cash flow of -\$440,794. Further, administration expenses were high at \$771,273;
- Mitte Foundation's counsel has not disclosed a fee agreement;
- Collusion between Mitte Foundation's counsel and the Receiver for excessive fees;
- The Mitte Foundation agreed to advance \$150,000 of public charitable funds to the Receiver; and
- The Receiver's counsel also refused to disclose its fee agreement.

If true, these allegations are concerning and show a lack of leadership from the Mitte Foundation's Board of Directors. Further, any excessive legal fees resulting in the use of charitable funds in excessive litigation is not in the best interest of the charity.

Legal Authority:

Intervention

Pursuant to §123.002, Tex. Property Code, the Attorney General is a proper party and may intervene in a proceeding involving a charitable trust. A "charitable trust" is defined as "a charitable entity, a trust the stated purpose of which, is to benefit a charitable entity, or an inter vivos or testamentary gift to a charitable entity." Tex. Prop. Code § 123.001. Pursuant to Texas Property Code § 123 a charitable entity is defined as "a corporation, trust, community chest, fund, foundation, or other entity organized for scientific, educational, philanthropic, or environmental purposes, social welfare, the arts and humanities, or another civic or public purpose described by Section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3))".

Attorneys' Fees

Pursuant to Section 123.006 of the Texas Property Code, the Attorney General may recover reasonable attorneys' fees and costs as a result of bringing this proceeding involving a charitable trust.

Budget:

No costs are anticipated other than the ordinary use of agency resources.

Other Relevant Information/Considerations:

CT also intends to request to open an investigation of the Mitte Foundation.

The appointed receiver, Greg Milligan, has worked with the Attorney General's Office, including with the Financial Litigation and Charitable Trust Division, as receiver in other matters.

One of the counsel for the Mitte Foundation, Michael Shaunessy, has worked with the Attorney General's Office as counsel to receivership instigated by the State and in other capacities.

The Attorney General filed suit against the Mitte Foundation in 2008. Among other things, Scott Mitte, son of the Mitte Foundation's settlors, improperly used the Mitte Foundation's credit cards for personal benefit, authorized excessive compensation for himself, and improperly used Mitte Foundation property. As a result of the suit, Scott Mitte resigned from his position as Chairman and CEO of the Mitte Foundation and has a lifetime prohibition from working with the Mitte Foundation.

Recommendation:

CT recommends immediately filing the attached Attorney General's Petition in Intervention for the reasons states above.

Due to the current pending litigation, expedited approval is requested by June 8, 2020.

CONTACT/ RETURN TO: Laura Edwards, (67866); Ellen Hoopes (54392)

EXHIBIT B: Attorney General's Waiver

CAUSE NO. D-1-GN-18-007636

THE ROY F & JOANN COLE MITTE	§	IN THE DISTRICT COURT OF
FOUNDATION,	§	
Plaintiff,	§	
	§	
V.	§	
	§	TRAVIS COUNTY, TEXAS
WC 1st AND TRINITY, LP, WC 1st AND	§	
TRINITY GP, LLC, WC 3rd AND	§	
CONGRESS, LP AND WORLD CLASS	§	
CAPITAL GROUP, LLC	§	126 TH JUDICIAL DISTRICT

ATTORNEY GENERAL’S WAIVER

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Ken Paxton, Attorney General for the State of Texas (referred to herein as the “Attorney General”), and files this Waiver in the above-referenced cause of action and respectfully shows the Court as follows:

I.

Pursuant to §123.002 of the Texas Property Code and the common law, the Attorney General is a proper party and may intervene in a proceeding involving a charitable trust on behalf of the interest of the general public.

II.

Based upon the pleadings that have been provided to him to date, the Attorney General has determined not to intervene and by this Waiver declines in writing to be a party to the proceeding in its current state, pursuant to §123.004(b)(1) of the Property Code. Accordingly, the Attorney General waives further notice of the proceedings in this case as it is currently constituted.

III.

If any pleading is filed herein that adds additional parties or causes of action, such pleading would constitute a new or additional proceeding involving a charitable trust, which will require additional notice to the Attorney General pursuant to §123.003 of the Property Code. This Waiver

is not intended to constitute a declination in writing to be a party to any such new proceeding.

Respectfully submitted,

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

DARREN L. McCARTY
Deputy Attorney General for Civil Litigation

JOSHUA R. GODBEY
Division Chief
Financial Litigation and Charitable Trusts Division

/s/ Cathleen M. Day
Cathleen M. Day
Assistant Attorney General
State Bar No. 24105783
Financial Litigation and Charitable Trusts Division
P.O. Box 12548
Austin, Texas 78711-2548
(512) 463-9507 - Direct Line
(512) 477-2348 - Fax
cathleen.day@oag.texas.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *Attorney General's Waiver* was served on January 31, 2020, via e-service to the following:

Ray C. Chester
Michael A. Shaunessy
MCGINNIS LOCHRIDGE, LLP
600 Congress Ave., Ste. 2100
Austin, TX 78701
rchester@mcginnislaw.com
mshaunessy@mcginnislaw.com

Edward F. Fernandes
Katherine Stein
KING & SPALDING, LLP
500 W. 2nd St., Ste. 1800
Austin, TX 78701
efernandes@kslaw.com
kstein@kslaw.com

/s/ Cathleen M. Day
Cathleen M. Day



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 31, 2020

Velva L. Price
Travis County District Clerk
P.O. Box 1748
Austin, TX 78767

Re: Cause No. D-1-GN-18-007636; *The Roy F. & Joann Cole Mitte Foundation v. WC 1st and Trinity, LP, WC 1st and Trinity GP, LLC, WC 3rd and Congress, LP and World Class Capital Group, LLC*; In the 126th Judicial District Court of Travis County, Texas; ***Attorney General's Waiver***

Dear Ms. Price:

The following pleadings have been received by this office relating to the above-referenced cause:

- *Plaintiff's Original Petition*;
- *Plaintiff's Third Amended Original Petition*;
- *Defendants' Memorandum on Remand for Determination of Adequacy of Supersedeas or Other Order under Tex. R. App. P.24*;
- *Order Appointing Receiver*;
- *Applicant's Notice of Filing of Applicant's Bond*;
- *Bond Securing Appointment of Receiver*;
- *Receiver's Interim Report*; and
- *Receiver's Quarterly Report for the Period December 10, 2019 to December 31, 2019*.

This *Waiver* is a waiver of the right to intervene in this case only as it is currently constituted. If any pleading is filed herein that adds additional parties or causes of action, such pleading will constitute a new or additional proceeding involving a charitable trust, which will require additional notice to the Attorney General pursuant to §123.003 of the Property Code. This Waiver is not intended to constitute a declination in writing to be a party to any such new proceeding.

Sincerely,

/s/ Cathleen M. Day

Cathleen M. Day
Assistant Attorney General
State Bar No. 24105783
Financial Litigation and Charitable Trusts Division
P.O. Box 12548

Velva L. Price
Cause No. D-1-GN-18-007636
January 31, 2020
Page 2 of 2

Austin, Texas 78711-2548
(512) 463-9507 - Direct Line
cathleen.day@oag.texas.gov

CMD/did
Enclosure

cc: Ray C. Chester
Michael A. Shaunessy
MCGINNIS LOCHRIDGE, LLP
600 Congress Ave., Ste. 2100
Austin, TX 78701
rchester@mcginnislaw.com
mshaunessy@mcginnislaw.com

Edward F. Fernandes
Katherine Stein
KING & SPALDING, LLP
500 W. 2nd St., Ste. 1800
Austin, TX 78701
efernandes@kslaw.com
kstein@kslaw.com

EXHIBIT C: Petition in Intervention

CAUSE NO. D-1-GN-18-007636

THE ROY F & JOANN COLE MITTE
FOUNDATION,
Plaintiff,

v.

WC 1st AND TRINITY, LP, WC 1st AND
TRINITY GP, LLC, WC 3rd AND
CONGRESS, LP AND WORLD CLASS
CAPITAL GROUP, LLC

Defendants.

§
§
§
§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

126TH JUDICIAL DISTRICT

ATTORNEY GENERAL'S PETITION IN INTERVENTION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES KEN PAXTON, Attorney General of Texas, on behalf of the public interest in charity, ("Attorney General") and files this Petition in Intervention in the above-referenced cause, and would respectfully show the Court the following:

I.

Pursuant to §123.002 of the Texas Property Code, the Attorney General is a proper party and may intervene in a "proceeding involving a charitable trust." On December 11, 2019, The Attorney General received notice of the above-captioned case pursuant to §123.003 of the Texas Property Code, and subsequently filed the Attorney General's Waiver of Intervention. The Attorney General recently received notice of a new cause of action filed in this matter. For and on behalf of the interest of the general public of this state in charitable trusts, the Attorney General hereby files this Petition in Intervention in this proceeding, pursuant to §123.002 of the Texas Property Code and Rule 60 of the Texas Rules of Civil Procedure.

II.

The Attorney General's presence in this matter is warranted to protect the interests of the public in the event that the public's interest and the parties' interests diverge. In addition, this litigation affects a substantial sum of charitable funds and involves the expenditure of these funds.

The Attorney General specifically asserts his right to amend this Petition in Intervention as necessary to assert additional affirmative relief following his review of the complete pleadings and the development of further information.

III.

The Attorney General has found it necessary to intervene in this proceeding to protect the public interest in charity. He requests that the Court award reasonable and necessary attorney's fees and costs as are equitable and just for services rendered by the Attorney General in accordance with §123.006(b) of the Texas Property Code.

PRAYER

WHEREFORE, the Attorney General prays for such relief to which he may be entitled on behalf of the public interest in charity.

Respectfully submitted,

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

RYAN L. BANGERT
Deputy First Assistant Attorney General

DARREN L. MCCARTY
Deputy Attorney General for Civil Litigation

/s/ Cathleen M. Day
Joshua R. Godbey, Division Chief
State Bar No. 24049996
Cathleen M. Day, Assistant Attorney General
State Bar No. 24105783
Financial Litigation and Charitable Trusts Division
P.O. Box 12548
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(512) 463-9507 Phone
(512) 477-2348 Fax
joshua.godbey@oag.texas.gov
cathleen.day@oag.texas.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *Attorney General's Petition in Intervention* was served by e-service on June 8, 2020, to the following:

Ray C. Chester
Michael A. Shaunessy
MCGINNIS LOCHRIDGE, LLP
600 Congress Ave., Ste. 2100
Austin, TX 78701
rchester@mcginnislaw.com
mshaunessy@mcginnislaw.com

Terry L. Scarborough
V. Blayre Peña
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tscarborough@hslawmail.com
bpena@hslawmail.com

Stephen W. Lemmon
Rhonda B. Mates
STREUSAND, LANDON, OZBURN &
LEMMON, LLP
1801 South Mopac, Ste. 320
Austin, Texas 78746
lemmon@slollp.com
mates@slollp.com

/s/ Cathleen M. Day _____
Cathleen M. Day

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Sharron Lee on behalf of Cathleen Day
Bar No. 24105783
sharron.lee@oag.texas.gov
Envelope ID: 43565120
Status as of 06/11/2020 16:50:18 PM -05:00

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jason Snell	24013540	firm@snellfirm.com	6/8/2020 4:35:03 PM	SENT
Katherine Stein	24083980	kstein@kslaw.com	6/8/2020 4:35:03 PM	SENT
Ray Chester	4189065	rchester@mcginnislaw.com	6/8/2020 4:35:03 PM	SENT
Michael A. Shaunessy	18134550	mshaunessy@mcginnislaw.com	6/8/2020 4:35:03 PM	SENT
Angela Mays		amays@munsch.com	6/8/2020 4:35:03 PM	SENT
Julie Doss		jdoss@mcginnislaw.com	6/8/2020 4:35:03 PM	SENT
Dennis Roossien		droossien@munsch.com	6/8/2020 4:35:03 PM	SENT
Maria Amelia Calaf		mac@wittliffcutter.com	6/8/2020 4:35:03 PM	SENT
James Ray		jray@munsch.com	6/8/2020 4:35:03 PM	SENT
Jack Simms		jack@wittliffcutter.com	6/8/2020 4:35:03 PM	SENT
Jason Augustine		jason@reeveaugustine.com	6/8/2020 4:35:03 PM	SENT
Annette Bittick		abittick@mcginnislaw.com	6/8/2020 4:35:03 PM	SENT
Kim McBride		kmcbride@mcginnislaw.com	6/8/2020 4:35:03 PM	SENT
Lisa Garrett		lgarrett@munsch.com	6/8/2020 4:35:03 PM	SENT
John Saba		john@wittliffcutter.com	6/8/2020 4:35:03 PM	SENT

Associated Case Party: Gregory S. Milligan

Name	BarNumber	Email	TimestampSubmitted	Status
Rhonda Bear Mates	24040491	Mates@slollp.com	6/8/2020 4:35:03 PM	SENT
Stephen W. Lemmon		lemmon@slollp.com	6/8/2020 4:35:03 PM	SENT

Associated Case Party: WC 1st and Trinity, LP

Name

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Sharron Lee on behalf of Cathleen Day
Bar No. 24105783
sharron.lee@oag.texas.gov
Envelope ID: 43565120
Status as of 06/11/2020 16:50:18 PM -05:00

Associated Case Party: WC 1st and Trinity, LP

Viola Pena	24050372	bpena@hslawmail.com	6/8/2020 4:35:03 PM	SENT
Nicholas Bacarisse	24073872	nbacarisse@adjtlaw.com	6/8/2020 4:35:03 PM	SENT
Adam Gray	24087616	agray@kslaw.com	6/8/2020 4:35:03 PM	SENT
Wallace Jefferson	19	wjefferson@adjtlaw.com	6/8/2020 4:35:03 PM	SENT
Terry Lane Scarborough	17716000	tscarborough@hslawmail.com	6/8/2020 4:35:03 PM	SENT
Edward FFernandes		efernandes@kslaw.com	6/8/2020 4:35:03 PM	SENT
Kate Stein		kstein@kslaw.com	6/8/2020 4:35:03 PM	SENT
Kevin Orellana		paralegal@hslawmail.com	6/8/2020 4:35:03 PM	SENT

Associated Case Party: Ken Paxton on Behalf of the Public Interest in Charity

Name	BarNumber	Email	TimestampSubmitted	Status
Cathleen Day	24105783	cathleen.day@oag.texas.gov	6/8/2020 4:35:03 PM	SENT

Associated Case Party: WC 1st and Trinity GP, LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Edward FFernandes		efernandes@kslaw.com	6/8/2020 4:35:03 PM	SENT
Kate Stein		kstein@kslaw.com	6/8/2020 4:35:03 PM	SENT

Associated Case Party: WC 3rd and Congress, LP

Name	BarNumber	Email	TimestampSubmitted	Status
Edward FFernandes		efernandes@kslaw.com	6/8/2020 4:35:03 PM	SENT
Kate Stein		kstein@kslaw.com	6/8/2020 4:35:03 PM	SENT

Associated Case Party: World Class Capital Group, LLC

Automated Certificate of eService

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Sharron Lee on behalf of Cathleen Day
Bar No. 24105783
sharron.lee@oag.texas.gov
Envelope ID: 43565120
Status as of 06/11/2020 16:50:18 PM -05:00

Associated Case Party: World Class Capital Group, LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Edward FFernandes		efernandes@kslaw.com	6/8/2020 4:35:03 PM	SENT
Kate Stein		kstein@kslaw.com	6/8/2020 4:35:03 PM	SENT

EXHIBIT D: Godbey Emails

Message

From: Godbey, Joshua [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B685CAEA779D4BE3BD3465BBC7AD9784-JRG5]
Sent: 7/6/2020 6:32:15 PM
To: Chester, Ray [rchester@mcginnislaw.com]
Subject: RE: mediation

Ray,

It looks like this week isn't going to work out.

On the issue of the two mediator idea, I have heard from the "tag team" about the idea and they have actually done this before on large cases with success. Messrs. Cunningham and Galton currently have the 15th and the 17th open to do this if it's something that your client can be ok with.

I have spoken to Terry about this idea as well and he has received World Class' ok to this structure.

Please let me know if this can satisfy your client's understandable desire to have Mr. Cunningham involved. They are currently holding the dates, but can only do so for a short time. I really appreciate all of your help.

Josh

From: Chester, Ray <rchester@mcginnislaw.com>
Sent: Monday, July 6, 2020 4:34 PM
To: Godbey, Joshua <Joshua.Godbey@oag.texas.gov>
Subject: mediation

Josh,

I wanted to get back to you promptly because I know you have been working hard to put this together. Most of the principals of Mitte work in Brownsville, and they want to come up for the mediation even if done by Zoom so that at least our side can all be together. And I realized today they have been making plans to come up this week for the 8th or 9th so they were perturbed to hear that is not happening. I explained that was mostly my fault because of the miscommunication between you and I, but the fact remains that WC is insisting on an immediate mediation but they are not willing to use the mediator who already knows the case. It's hard for me to sell that on my end.

We would still do the 9th with Cunningham, but for everyone's sake, we should probably agree on that today. I'm not saying absolutely no to a Cunningham/Galton tag team at some future date, but it's hard to picture how having two mediators is going to help anything, especially via Zoom.

Please let me know if the 9th with Cunningham is a viable option. If not, we can consider other alternatives.

Ray

Ray Chester
Board Certified Civil Trial Law and Personal Injury Trial Law
McGINNIS LOCHRIDGE
600 Congress Avenue, Suite 2100
Austin, TX 78701
o 512-495-6051 f 512-505-6351



MCGINNIS LOCHRIDGE



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EXHIBIT E: Notice of Nonsuit

Velva L. Price
District Clerk
Travis County
D-1-GN-18-007636
Alexus Rodriguez

CAUSE NO. D-1-GN-18-007636

THE ROY F. & JOANN COLE MITTE	§	IN THE DISTRICT COURT OF
FOUNDATION,	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
WC 1st AND TRINITY, LP, WC 1st AND	§	
TRINITY GP, LLC, WC 3rd AND	§	
CONGRESS, LP AND WORLD CLASS	§	
CAPITAL GROUP, LLC	§	
<i>Defendants.</i>	§	IN THE 126TH JUDICIAL DISTRICT

ATTORNEY GENERAL OF TEXAS’S NOTICE OF NONSUIT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES KEN PAXTON, Attorney General of Texas, and in accordance with Texas Rule of Civil Procedure 162, files this Notice of Nonsuit of his Petition in Intervention in the above-referenced cause.

The Attorney General hereby gives notice to this Court that he is taking a nonsuit without prejudice of his Petition in Intervention, which was brought for and on behalf of the interest of the general public of this state in charity, pursuant to Section 123.002 of the Texas Property Code. The Attorney General hereby notifies this Court and the parties that his nonsuit shall be effective immediately on its filing date.

Respectfully submitted,

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

RYAN L. BANGERT
Deputy First Assistant Attorney General

DARREN L. McCARTY
Deputy Attorney General for Civil Litigation

/s/ Joshua R. Godbey
Joshua R. Godbey, Division Chief
Assistant Attorney General
State Bar No. 24049996
Financial Litigation and Charitable Trusts Division
Office of the Attorney General
P.O. Box 12548/Mail Stop 017
Austin, Texas 78711-2548
Telephone: (512) 475-4209
Facsimile: (512) 477-2348
joshua.godbey@oag.texas.gov

On behalf of the Public Interest in Charity

CERTIFICATE OF SERVICE

I hereby certify that on September 20, 2020, the foregoing *Attorney General's Notice of Nonsuit* was filed with the Clerk of this Court and served on all parties of record via EFileTexas.gov efilings service:

Ray C. Chester/Michael A. Shaunessy
McGinnis Lochridge, LLP
rchester@mcginnislaw.com
mshaunessy@mcginnislaw.com

Counsel for Plaintiff Mitte Foundation

Stephen Lemmon/Rhonda B. Mates
Streusand, Landon, Ozburn & Lemmon, LLP
lemmon@slollp.com
mates@slollp.com

Counsel for Receiver

Terry L. Scarborough/V. Blayre Peña
Hance Scarborough, LLP
tscarborough@hslawmail.com
bpena@hslawmail.com

Wallace B. Jefferson/ Nicholas Bacarisse
Alexander Dubose & Jefferson LLP
wjefferson@adjtlaw.com
nbacarisse@adjtlaw.com

Counsel for Defendants

Michael J. Wynne/Heather Martinez
Gregor Wynne Arney, PLLC
mwynne@gcfirm.com
hmartinez@gcfirm.com

Counsel for Super Majority Parties

/s/ Joshua R. Godbey
Joshua R. Godbey, Division Chief
Assistant Attorney General

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Laura Edwards on behalf of Joshua Godbey
Bar No. 24049996
laura.edwards@oag.texas.gov
Envelope ID: 46708034
Status as of 10/1/2020 8:58 AM CST

Associated Case Party: WC 1st and Trinity, LP

Name	BarNumber	Email	TimestampSubmitted	Status
Viola Pena	24050372	bpena@hslawmail.com	9/30/2020 12:08:30 PM	SENT
Wallace Jefferson	19	wjefferson@adjtlaw.com	9/30/2020 12:08:30 PM	SENT
Nicholas Bacarisse	24073872	nbacarisse@adjtlaw.com	9/30/2020 12:08:30 PM	SENT
Terry Lane Scarborough	17716000	tscarborough@hslawmail.com	9/30/2020 12:08:30 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Michael A. Shaunessy	18134550	mshaunessy@mcginnislaw.com	9/30/2020 12:08:30 PM	SENT
Joshua Godbey	24049996	Joshua.Godbey@oag.texas.gov	9/30/2020 12:08:30 PM	SENT
Ray Chester	4189065	rchester@mcginnislaw.com	9/30/2020 12:08:30 PM	SENT
Heather Martinez		hmartinez@gcfirm.com	9/30/2020 12:08:30 PM	SENT

Associated Case Party: GregoryS.Milligan

Name	BarNumber	Email	TimestampSubmitted	Status
Rhonda Bear Mates	24040491	Mates@slollp.com	9/30/2020 12:08:30 PM	SENT
Stephen W. Lemmon		lemmon@slollp.com	9/30/2020 12:08:30 PM	SENT

Associated Case Party: World Class Interests, LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Michael JohnWynne		mwynne@gcfirm.com	9/30/2020 12:08:30 PM	SENT

Associated Case Party: Ken Paxton on Behalf of the Public Interest in Charity

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Laura Edwards on behalf of Joshua Godbey
Bar No. 24049996
laura.edwards@oag.texas.gov
Envelope ID: 46708034
Status as of 10/1/2020 8:58 AM CST

Associated Case Party: Ken Paxton on Behalf of the Public Interest in Charity

Name	BarNumber	Email	TimestampSubmitted	Status
Cathleen Day	24105783	cathleen.day@oag.texas.gov	9/30/2020 12:08:30 PM	SENT

EXHIBIT F: Memo Closing Mitte Foundation Case File



To: File
From: Joshua R. Godbey
Date: October 1, 2020
Subject Investigation of The Roy F. & Joann Cole Mitte Foundation – CLOSED

Note that as of September 30, 2020, that Office of the Attorney General has ceased all activities and CLOSED the investigation into The Roy F. & Joann Cole Mitte Foundation without further action.

EXHIBIT G: McCarty Emails

From: [Burgess, Sarah](#) on behalf of [McCarty, Darren](#)
To: [Shannon Najmabadi](#)
Subject: RE: Request for comment
Date: Wednesday, October 21, 2020 12:10:46 PM

I never said that there would be “trouble” for the foundation or place the foundation under any pressure. I merely recommended that a mediation and a settlement, fully and independently approved by the foundation and its board, could serve the Foundation’s interests. Ultimately, the foundation made the decision not to settle.

Darren McCarty

From: Shannon Najmabadi <snajmabadi@texastribune.org>
Sent: Wednesday, October 21, 2020 10:05 AM
To: McCarty, Darren <Darren.McCarty@oag.texas.gov>
Subject: Re: Request for comment

Hello, Mr. McCarty --

Sincere apologies to bother you. I just wanted to re-up this and see if you would like to comment or could provide any context. We're planning to run this story soon, with information that came back through a TPIA with the AG's office that AG Paxton personally spoke to Nate Paul and one of his attorneys about the proceedings.

Best,
Shannon
858-337-7412



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Shannon Najmabadi

Reporter

919 Congress Ave., Sixth Floor
Austin, TX 78701
www.texastribune.org

(512) 716-8627
[@shannonnajma](https://twitter.com/shannonnajma)

On Thu, Oct 8, 2020 at 11:32 AM Shannon Najmabadi <snajmabadi@texastribune.org> wrote:

|

Hello, Mr. McCarty --

I hope you're well. Apologies for the bother.

I wanted to get your response to a few points. On the Mitte Foundation-World Class legal proceedings, I understand you called the foundation's counsel, Ray Chester. He alleges you pressured him to go to mediation to settle the case for a lesser amount than they had previously tried to settle it for. He said the day before the mediation and the day of the mediation, members of the AG's office called him up to ten times a day.

He also alleged that you said there would be trouble if the foundation didn't settle and ended up with a lesser amount/nothing later. He alleged you said that on the phone with Mr. Chester with Nate Paul's lawyers on the line the day before the mediation, and said something similar to the foundation's board on a subsequent call.

Finally Mr. Chester said that both you and Mr. Godbey told him in phone calls that the pressure was coming from General Paxton and that it was General Paxton who wanted this or that.

Please let me know if any of the above is inaccurate, and if there is context I am missing.

Please let me know if it's usual for the Attorney General's office to intervene on behalf of the public interest in charity in this way; my understanding is it's not. Please also let me know if there are other cases in which the AG's office has intervened on behalf of the public interest in charity and requested tallies of attorney's fees spent; my understanding is the AG may have taken an interest in this.

Finally, these proceedings involved Michael Wynne, Mr. Paul's lawyer. If you can provide any context or comment about Mr. Wynne's presence at a separate meeting with General Paxton and Mr. Paul at the DA's office, or any role he would have in delivering subpoenas, that would be greatly appreciated.

Thank you.

Best,
Shannon
858-337-7412



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Shannon Najmabadi

Reporter

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Austin, TX 78701
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(512) 716-8627
@shannonajma