

# **RECORD OF PROCEEDINGS**

## **of the**

# **HIGH COURT OF IMPEACHMENT**

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On the Trial of  
Warren Kenneth Paxton Jr, Attorney General of Texas

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### **THE SENATE OF THE STATE OF TEXAS**

### **SITTING AS A HIGH COURT OF IMPEACHMENT**

#### **THIRD DAY**

(Thursday, September 7, 2023)

#### **APPEARANCES**

Mr. Rusty Hardin, Ms. Lara Hudgins Hollingsworth, Ms. Jennifer Brevorka, Ms. Megan Moore, Mr. Daniel Dutko, Ms. Leah M. Graham, Mr. Armstead Lewis, Ms. Aisha Dennis, Mr. Dick DeGuerin, Mr. Mark White III, Ms. Harriet O'Neill, Ms. Erin M. Epley, Mr. Mark E. Donnelly, Ms. Terese Buess, Ms. Donna Cameron, Mr. Brian Benken, Ms. Lisa Bowlin Hobbs, on behalf of the House Board of Managers.

Mr. Tony Buzbee, Mr. Anthony Dolcefino, Mr. Dan Cogdell, Mr. Anthony Osso, Mr. Christopher D. Hilton, Ms. Allison M. Collins, Ms. Amy S. Hilton, Ms. Kateland R. Jackson, Mr. Joseph N. Mazzara, Mr. J. Mitchell Little, Attorneys for Respondent.

#### **PROCEEDINGS**

(8:57 a.m.)

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

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

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

PRESIDING OFFICER: After the prayer.

MR. OSSO: Yes, Judge.

PRESIDING OFFICER: And after the jury comes in.

MR. OSSO: Yes, Judge.

(Jury enters the chambers.)

PRESIDING OFFICER: Good morning, Members of the Jury.

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

SENATOR HINOJOSA: Good morning.

THE JURY: Good morning.

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

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

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

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

In Jesus' name we pray. Amen.

PRESIDING OFFICER: Thank you, Senator. Please be seated.  
Counselor, you wanted to approach the bench?

MR. OSSO: Yes, Judge.

(At the bench, off the record.)

PRESIDING OFFICER: Quiet, please.

(At the bench, off the record.)

PRESIDING OFFICER: The court will come to order.

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

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

MR. HARDIN: No, Your Honor.

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

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

THE REPORTER: I'm sorry?

PRESIDING OFFICER: Be at – be at the microphone, please.

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

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

MR. HARDIN: That's absolutely right.

PRESIDING OFFICER: All right. Motion is denied.

MR. OSSO: Yes, Judge.

PRESIDING OFFICER: The bailiff will call the witness in.

(Witness enters the courtroom.)

THE WITNESS: Are you going to swear me again?

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

Counselor, you can continue.

MR. HARDIN: Good morning. Thank you.

RYAN LEE BANGERT,

having been first duly sworn, testified as follows:

**DIRECT EXAMINATION (CONTINUED)**

BY MR. HARDIN:

Q. Good morning.

A. Good morning.

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

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

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

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

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

Q. Can you give us a time?

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

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

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

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

A. Nate Paul.

Q. What did he say to you as to why he wanted you to go to lunch with Nate Paul?

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

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

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

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

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

Q. So where did you go to lunch?

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

Q. And who went to the lunch with you?

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

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

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

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

A. No.

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

A. No.

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

A. In connection with that case, no.

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

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

Q. As a lawyer, what was your reaction to being asked – did you consider it an ask or a directive? Let me ask you that first.

MR. OSSO: Objection. Relevance.

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

PRESIDING OFFICER: Overruled. You can ask the question.

MR. HARDIN: Thank you.

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

Q. (BY MR. HARDIN) Please.

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

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

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

PRESIDING OFFICER: Please. Sustain that, and reask.

MR. HARDIN: Thank you very much.

Q. (BY MR. HARDIN) All right. Let's go back now to apparently what happened on the initial request. Let's go back to when at the meeting he wanted you to go to lunch with Nate Paul. What was your initial reaction when he asked you that?

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

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

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

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

A. I explained to him that –

MR. OSSO: Objection. Hearsay.

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

MR. OSSO: It's hearsay.

PRESIDING OFFICER: Overruled.

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

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

A. Yes.

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

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

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

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

MR. HARDIN: I – the question was whether – how long it took –

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you. Excuse me. Thank you.

A. No more than 15 minutes.

Q. (BY MR. HARDIN) And what was the – what was the document he brought up back to you in 15 minutes?

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

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

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

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

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

Q. And when you went – I mean, actually – you guys actually went and got in his office and got in his car – and went in his car?

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

Q. Describe the lunch for us. Where – you know, did you sit in a – in a public area or a private area or what?

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

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

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

MR. OSSO: Objection. Nonresponsive.

MR. HARDIN: I'll – I'll go – I'll take care of it. Thank you, Judge. If it's okay, I'll take care it.

PRESIDING OFFICER: Sustained. And continue.

MR. HARDIN: Thank you very much.

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

A. Nate Paul did almost all of the talking.

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

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

Q. There were some things – he said – he said what?

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

Q. So then what did Mr. Paul do?

A. He proceeded to lay out his theory of the case on –

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

PRESIDING OFFICER: Sustained.

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

A. No.

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

A. No.

Q. So once again, this conversation with Mr. Paul that was held – had in the presence of the attorney general, what did Mr. Paul say?

MR. OSSO: Objection. Hearsay.

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

MR. OSSO: Judge, permission to respond?

PRESIDING OFFICER: Respond.

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

PRESIDING OFFICER: Overruled.

Continue.

MR. HARDIN: Thank you.

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

A. Mr. Paul laid out his theory of grievances against the Mitte Foundation. He described to me how unfair it was that a charity that was a limited investor would be able to assume control over assets that were owned by World Class. He was very vehemently opposed to the receivership.

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

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

A. Yes.

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

A. That's correct.

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

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

Q. All right. Fair enough.

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

A. The lunch lasted for a good 30, 35 minutes, if not 40 –

Q. Did you folks –

A. – in that range.

Q. Did you folks have food?

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

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

A. He did not, no.

Q. How did the luncheon end?

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

Q. Did you ask any questions?

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

MR. OSSO: Objection. Nonresponsive.



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

PRESIDING OFFICER: I'll sustain the objection.  
Rephrase.

MR. HARDIN: Thank you.

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

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

Q. So how did it – once it ended, what did y'all do?

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

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

A. Very little.

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

A. I – as I recall, it was a very quiet ride back, yes.

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

A. He was, yes.

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

A. I did.

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

A. Yes, I did.

Q. What did you say?

MR. OSSO: Objection. Hearsay.

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

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

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

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

Q. His response?

A. He –

MR. OSSO: Objection. Hearsay.

MR. HARDIN: Thank you.

PRESIDING OFFICER: Sustained.

MR. HARDIN: Thank you, Your Honor. Thank you, Your Honor. I'll move on.

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

A. How old was I?

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

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

Q. How long had you been a lawyer?

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

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

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

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

PRESIDING OFFICER: Overruled.

Continue.

Q. (BY MR. HARDIN) Go ahead.

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

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

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

Q. And is that Google lawsuit still pending?

A. As far as I know it is.

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

A. Yes.

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

A. In-house.

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

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

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

PRESIDING OFFICER: Sustained.

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

MR. OSSO: Objection. Hearsay.

Objection. Lack of personal knowledge.

MR. HARDIN: Hearsay is a –

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

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

Q. (BY MR. HARDIN) Pardon me?

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

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

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

A. Yes, there were.

Q. What?

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

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

A. We had a section called the Disaster Counsel Advice section under the general counsel. That was handling a flood of requests from local officials as to how to handle COVID.

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

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

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

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

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

MR. OSSO: Objection. The attorney is testifying –

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

MR. OSSO: Judge, my objection is to his –the call of his counsel –

MR. HARDIN: Please –

PRESIDING OFFICER: Counsel, let him finish –

MR. OSSO: Yes, Judge.

PRESIDING OFFICER: – and then you can object.

Mr. Hardin, you can finish the question.

MR. HARDIN: Thank you.

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

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

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

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

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

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

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

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

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

Q. And is there any distinction in the Government Code between an informal and a formal opinion?

A. No.

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

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

PRESIDING OFFICER: Yes, sir.

MR. HARDIN: Thank you.

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

Q. (BY MR. HARDIN) Well, first of all, do you recognize –

PRESIDING OFFICER: Counselor, has this already – on the list of admitted evidence?

MR. HARDIN: This has already been admitted.

PRESIDING OFFICER: It has been admitted. Okay.

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

Q. (BY MR. HARDIN) Do you recognize this exhibit?

A. I do.

Q. And what is it?

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

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

A. It is.

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

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

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

MR. HARDIN: What? I'm sorry.

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

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

A. Yes.

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

A. It had been.

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

A. Yes.

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

Explain to me what the significance of that – is that inconsistent with your previous testimony?

A. No, it is not.

Q. All right. Explain, please.

A. Well, I would analogize this to the practice in Texas courts of issuing published and unpublished opinions. We have an obligation under 402.045, which is part of the opinions authority, only to issue opinions to individuals if they are authorized requestors. They have – you cannot simply issue opinions as the attorney general's office to any individual who asks because we are not a private law firm –

Q. So if I walked–

A. –in the best interest of the State.

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

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

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

A. The chairman, yes.

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

A. Yes.

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

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

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

A. The – my recollection was that, yes, there was a time when we would post opinions on our website that were informal in nature.

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

A. That would not surprise me.

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

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

Q. Well, as far as the statute is concerned, is there a distinction by what you did – did on this opinion that might any different? Is that opinion and its consequences any different than a – in terms of its effect on the outside world?

MR. OSSO: Objection. It –

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

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

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

A. No. All of our opinions have persuasive –

MR. OSSO: Objection. Improper legal opinion.

PRESIDING OFFICER: Overruled.  
Continue.

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

A. This signaled to the reader that this opinion had not gone through the formal rigorous process of review by the opinion committee. It had not gone out for briefing. It had not gone through the normal process that can take up to 180 days of time. And it was also not going to be receiving a KP number. And I don't believe this is published on Westlaw. I haven't checked, but I would be surprised if it were.

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

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

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

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

Q. So if lawyers in court are contesting – having a controversial issue and their opposing side sought to introduce this, is that sort of a signal to anybody that knew about the process that they might have an argument to the judge, Wait a minute. This is – this is not – there's no such thing – may not be such a thing as an informal opinion, Judge, but this opinion did not go through the rigorous process a normal opinion did. Would that argument be available to them?

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

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

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

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

Q. (BY MR. HARDIN) Okay. Were you having these kind –

PRESIDING OFFICER: Sustained.

MR. HARDIN: Excuse me.

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

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

A. At this time, the specific moment we were dealing with an unusual influx of requests for advice.

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

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

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

A. I assume they are because that's why they are placed in Westlaw –

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

MR. HARDIN: I withdraw.

PRESIDING OFFICER: Overruled.



MR. HARDIN: Your Honor, I'm going to ask if the Court might – I say this nicely – instruct counsel, when he has an objection to wait until the answer is completed, and then he can object and ask for some – if the Court sustains it, he can ask for other things. But this constant interrupting the witness in the middle of the statement or the question in the middle of the statement is unduly time-consuming.

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

PRESIDING OFFICER: Yes.

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

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

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

MR. OSSO: Yes, Judge.

MR. HARDIN: Thank you, Your Honor. Excuse me.

Q. (BY MR. HARDIN) Now, real quickly, we're about through with this – this issue, but I want to know if there are other ways that y'all chose to inform people. For instance, if mayors – what was your experience during this period of time if mayors of cities or local government spokespersons or officers were contacting you for legal guidance, how did you approach those kind of issues in dealing with COVID?

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

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

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

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

Q. All right. Thank you.

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

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

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

A. There's no reason it would not.

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

A. Again, the reader would evaluate it for its persuasive value just like a formal opinion.

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

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

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

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

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

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

PRESIDING OFFICER: So am I. But go ahead.

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

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

MR. OSSO: Objection. Leading.

MR. HARDIN: I don't –

PRESIDING OFFICER: Overruled.

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

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

A. I was aware of that, yes.

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

A. With the attorney general –

Q. The microphone.

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

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

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

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) So – and the question was your position.

A. Improper.

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

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

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

A. Yes.

MR. OSSO: Objection. Hearsay.

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

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

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

So let's start over on that question.

MR. HARDIN: Sure. Thank you, Judge.

Q. (BY MR. HARDIN) Were your conversations, without going into what they were, about this subject with other people rather than the attorney general?

A. Yes.

MR. OSSO: Objection.

PRESIDING OFFICER: Overruled.

A. Yes.

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

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

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

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

MR. HARDIN: Yeah. That's – I think –

PRESIDING OFFICER: Speak up a little bit more.

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

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

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

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

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

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

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

Q. Yes.

A. My concerns had been growing exponentially over the 9- to 10-month period that we were dealing with matters related to Nate Paul. It began when the opinion – when we were asked – when I was asked to intervene and work with the open records requests. It was uncharacteristic. It continued and was heightened when I was asked to work on the Mitte Foundation project. I was exceptionally concerned after the opinion was issued because I felt there had been a break in trust at that point.

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

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

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

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

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

MR. OSSO: Judge, I would object to that. It's an improper opinion. It's speculation. And this witness doesn't have personal knowledge of Nate Paul's opinions or feelings at that time.

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

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

MR. OSSO: Yes, Judge.

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

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

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

A. Yes.

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

A. I do not recall. Although, it – I had certainly discussed it with others.

Q. Did you, in fact, take any position in these meetings, you yourself, of senior staff on the advisability of hiring Mr. Cammack to go investigate multiple public law enforcement persons? Did you?

A. Yes.

Q. And what did – what would you say? What was your position?

MR. OSSO: Objection. Hearsay.

MR. HARDIN: It is not hearsay. There's no hearsay for the witness –

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

MR. OSSO: Okay.

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

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

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

A. Jeff Mateer. I was aware of it. David Maxwell. Mark Penley. I am fairly – Ryan Vassar, obviously. Lacey Mase, because she was working with Mr. Vassar. And Blake Brickman as public would have been involved as well.

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

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

Q. All right. And was he one of those that was also concerned?

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

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

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

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

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

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

A. I was in Atlanta, Georgia, at a conference with Mr. Mateer. We were about to join a significant telephone call with our multistate partners to discuss the Google litigation that was planned. The call was set to begin. It was a very important call for coalition building purposes. Mr. Mateer received a telephone call. It was from the attorney general. And I was witness to Mr. Mateer's side of the call. The call had nothing to do with Google. It was all about Nate Paul.

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

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

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

A. Yes.

Q. What did you say?

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

Q. What was the attorney general's response?

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

MR. OSSO: Objection to speculation.

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

PRESIDING OFFICER: Sustained.

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

A. No.

MR. OSSO: Objection.

A. He continued for some time.

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

MR. HARDIN: I asked –

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

MR. HARDIN: Thank you.

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

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

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

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

A. Yes.

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

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

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

PRESIDING OFFICER: Hold on one second, Counselor.

MR. HARDIN: Sure.

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

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

PRESIDING OFFICER: What is your response?

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

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

MR. OSSO: The objection is hearsay, Judge.

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

PRESIDING OFFICER: All right.

MR. OSSO: What I said was that Mr. Bangert has already testified to you and the jury, Your Honor, that he could not hear what Ken Paxton was saying on the other side of that phone call. And so there is no evidence that he adopted anything that Mr. Mateer said. And so they're not his statements. And it's still unknown as to – whatever Jeff Mateer said is still hearsay.

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

PRESIDING OFFICER: Okay.

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

PRESIDING OFFICER: Well, overruled.

MR. HARDIN: Thank you.

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

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

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

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

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

PRESIDING OFFICER: I've already ruled.

Overruled.

Continue.

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

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

Q. Can you put a date on it?

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

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

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

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



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

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

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

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

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

MR. OSSO: My ruling – my objection was different, Your Honor.

PRESIDING OFFICER: Overruled.

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

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

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

A. I did not receive any instructions myself.

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

A. I did nothing new. Our concern – my concern was heightened substantially.

MR. OSSO: Objection. Nonresponsive.

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

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

MR. OSSO: Yes, Judge.

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

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

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

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

Q. All right.

A. – by law enforcement.

Q. All right. And – and the – did it include investigating federal magistrates – a federal magistrate?

A. Yes.

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

A. Yes.

Q. Did it include investigating DPS officers?

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

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

A. I believe Mr. Sabban.

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

A. Yes.

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

A. Yes.

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

A. I was in a meeting at the governor's office. I believe it was with Mr. Brickman. We had normal meetings scheduled during that time to respond to COVID.

Q. Can you give us a date?

A. I believe this was September 30th.

Q. All right.

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

Q. Why?

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

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

PRESIDING OFFICER: It's his opinion.

MR. HARDIN: Do we have a response –

PRESIDING OFFICER: Overruled.

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

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

MR. OSSO: Yes, Your Honor.

MR. HARDIN: Thank you.

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

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

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

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

MR. OSSO: Objection.

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

Q. (BY MR. HARDIN) All right.

MR. OSSO: Objection. Nonresponsive to the question.

PRESIDING OFFICER: Counselor, overruled.

Q. (BY MR. HARDIN) Now, when you were at the governor's office, was there somebody else with you from your – your staff? Was there another member of the attorney general's office with you?

A. My recollection was Blake Brickman.

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

A. Normal business.

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

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

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

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

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

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

Q. All right. And what was the atmosphere?

A. Disbelief, shock, extreme concern.

Q. What were you most concerned about? What did you learn that would – made you most concerned?

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

MR. OSSO: Objection. Nonresponsive.

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

PRESIDING OFFICER: Counselor – I'm sorry.

A. – I was asking –

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

MR. OSSO: I apologize, Judge, but I'm just intending to object because I believe that what Mr. Bangert is doing on the stand is not responsive to Mr. Hardin's question, and I have to lodge my objection so that he doesn't testify before the jury –

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

MR. OSSO: Sorry. I just –

MR. HARDIN: So we can hear you.

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

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

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

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

MR. OSSO: Okay.

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

I overrule the objection, however.

MR. OSSO: Thank you, Judge.

Q. (BY MR. HARDIN) And you were – the question was, I was asking you what your concerns were and why. I think you were in the process of setting that out.

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

A. No.

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

A. No.

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

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

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

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

Q. During – during all of that time, were you still a supporter of the attorney general?

A. Yes.

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

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

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

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

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

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

A. Yes.

Q. And you were over at the governor's office. And if the evidence is going to be un rebutted that you and your group went to the FBI on the 30th, when was this meeting – when this – what is your testimony as to when this meeting that you've been describing would have occurred?

A. It would have – it would have been the day before.

Q. Pardon me?

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

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

A. Yes.

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

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

Q. Did you become aware that these subpoenas were actually seeking information through the grand jury, a criminal state grand jury, of Mr. Paul's opponents in his civil litigation?

A. Yes.

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

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

PRESIDING OFFICER: Sustained.

Please rephrase.

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

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

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

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

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

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

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

MR. HARDIN: I asked why he was concerned.

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

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

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

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

A. I'll speak for myself here.

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

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

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

MR. OSSO: And, Judge, I would object to that answer. That answer is speculation about his opinion of what the intent was of other parties.

PRESIDING OFFICER: Overruled.

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

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

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

A. Yes.

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

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

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

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

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

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

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

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

A. We did.

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

A. Yes.

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

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

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

A. My concern –

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

MR. HARDIN: I asked what his concern was.

PRESIDING OFFICER: Overruled.

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

We – in my view, we had lost our ability to speak into the situation as senior staff. We had no ability to end the use of our office to advance private personal interests using – improperly using the criminal process. The only way we could deal with that situation was to make a report to the FBI. At least that was our judgment at the time.

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



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

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

A. Yes.

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

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

Q. All right. And how long do you think the interview –

A. Multiple hours.

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

A. I did not have the precise – I – I had a fairly good idea what was happening, based on the evidence I had collected, yes.

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

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

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

PRESIDING OFFICER: Sustained.

MR. HARDIN: Thank you, Your Honor.

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

A. Yes.

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

MR. HARDIN: Let me put it –

PRESIDING OFFICER: Sustained.

MR. HARDIN: Let me put it another way.

PRESIDING OFFICER: Counselor, try a little bit better.

MR. HARDIN: Thank you, Your Honor.

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

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

PRESIDING OFFICER: Overruled.

A. Yes.

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

MR. OSSO: Objection to improper opinion about – and relevance to what this witness thought.

PRESIDING OFFICER: Overruled.

A. I went to the FBI because I believed that the attorney general –

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

A. I went to the FBI because I believed, based on my experience over the previous nine months, that the attorney general had abandoned his obligation to work on behalf of the interests of the people of Texas to serve the interests of one person, Nate Paul. And that was based on a series of events that occurred over several months –

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

PRESIDING OFFICER: Sustained.

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

A. We did.

Q. What was the attorney general's response?

A. It was a very odd response.

Q. What was it?

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

Q. Well, then did he agree to?

A. No. We could not meet with him.

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

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

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

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

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

MR. HARDIN: Thank you.

Stacey, can you – I believe this is in evidence, is it not?

PRESIDING OFFICER: Before we put it up on the screen –

MR. HARDIN: It's in – I'm told it is in evidence.

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

PRESIDING OFFICER: Continue.

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

A. Yes. I see the document.

Q. All right. Do you recognize this document and this exchange of – of text messages?

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

Q. All right. What I'm going to ask you to do, each – each text message identifies the sender. I'm going to ask you to publish this to the jury and the public, but keeping your voice up. It's a – it's a trick because you've got to look in there.

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

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

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

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

And then he sends –

Q. Did you later discover – excuse me, sir. Did you later discover the person with him?

A. Michael Wynne.

Q. Was Michael Wynne Nate Paul's lawyer?

A. Yes. Michael Wynne.

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

A. That is correct.

Q. Who you know is under federal investigation as – as you're going along?

A. That is correct.

Q. Go ahead.

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

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

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

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

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

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

A. He was vacationing.

Q. Yeah. All right. Go ahead.

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

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

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

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

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

Q. All right. Go ahead.

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

I'm assuming that's Mr. Brickman.

Q. All right. So now read what – so go ahead.

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

Q. Go ahead.

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

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

A. I do.

Q. Go ahead.

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

Q. Keep on going.

A. Would you please scroll?

Q. Yeah.

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

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

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

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

A. I did.

Q. And what was it?

A. Yes. The attorney general could use the lawful powers and authorities of our office for a patently improper purpose, such as using the power of our office to benefit the interests of one individual citizen at the expense of the public interest. That is improper.

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

MR. OSSO: Objection. Improper opinion.

MR. HARDIN: All right.

PRESIDING OFFICER: I'm sorry. Overruled. He has the opportunity to offer his opinion.

MR. OSSO: Yes, Judge.

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

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

A. It was not a mutiny.

Q. How would you characterize it?

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

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

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

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

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

PRESIDING OFFICER: Sustained.

Rephrase.

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

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

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

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

PRESIDING OFFICER: Counselor, we're – you said about 10 minutes. We're –

MR. HARDIN: I see.

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

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

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

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

PRESIDING OFFICER: All right.

MR. HARDIN: Thank you.

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

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

**AFTER RECESS**

PRESIDING OFFICER: Court will come to order.

Mr. Hardin, you can continue.

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

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

PRESIDING OFFICER: Is this already in evidence?

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

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

A. Yes.

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

A. This is a text message that was sent –

Q. The microphone, I'm sorry.

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

Q. All right. And does it also contain the attorney general's response?

A. Yes.

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

A. I –

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

A. I'm aware of that, yes.

Q. All right.

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

PRESIDING OFFICER: Any objection?

MR. OSSO: No objection, Judge.

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

(HBOM Exhibit 571 admitted)

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

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

A. The – beginning at the top of the page –

Q. Yes. Yes.

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

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

A. Yes.

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

A. The date is not listed, but this would have been –

Q. The screenshot is dated, is it not?

A. The screenshot –

Q. Can you see it?

Yeah, the first page.

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

Q. All right. Right. The e-mail has sent – has been sent around. But if you look at the second page of this exhibit, does it contain correspondence with – where each of you – give me – let me back up. Strike that.

And I apologize, Mary, ma'am.

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

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

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

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

A. That's right.

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

A. The text message?



Q. Yes.

A. Yes. Jeff Mateer at 12:49 p.m. General Paxton, yesterday, each of the individuals on this text chain made a good-faith report of violations of law.

Q. Nice – nice and slow.

A. I'll begin again.

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

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

A. The group of us did.

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

A. The following day, the 1st.

Q. October the 1st.

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

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

Q. Late the evening of the 30th?

A. Yes, that's my recollection.

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

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

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

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

Q. And if you did not, would you – why would you not have?

A. He was well aware.

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

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

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

A. No, not to me.

Q. And – and as a former deputy first assistant, you remained still with the office available to talk to him for how long?

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

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

A. One time.

Q. When was that?

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

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

Q. What else did he say?

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

Q. He said what?

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

Q. Okay.

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

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

MR. OSSO: Objection to relevance.

PRESIDING OFFICER: Sustained.

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

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

And ultimately, I had to – I resigned. It was incredibly heartbreaking because I had believed in Ken Paxton and what he has – had been doing for years. I had moved my family here to Austin specifically to go to work for him.

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

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

MR. OSSO: Objection. Relevance.

MR. HARDIN: That's very relevant. I want the record to reflect –

MR. OSSO: Objection. Relevance.

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

PRESIDING OFFICER: Sustained.

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

MR. OSSO: Objection.

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

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

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

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

I sustained his objection.

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

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

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

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

PRESIDING OFFICER: Yes.

MR. OSSO: May I proceed, Judge?

PRESIDING OFFICER: You may proceed.

### CROSS-EXAMINATION

BY MR. OSSO:

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

A. My resume is what it is.

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

A. Understand.

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

A. I am.

Q. Okay. That attorney is Johnny Sutton?

A. Yes.

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

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

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

A. We do.

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

A. Yes.

Q. He's probably watching your testimony?

A. I assume so.

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

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

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

A. That is a yes.

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

A. We have.

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

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

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

A. I do not recall testifying to that effect.

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

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

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

A. Are you talking about under oath?

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

MR. HARDIN: Objection.

PRESIDING OFFICER: Don't answer the question.  
What's your objection?

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

PRESIDING OFFICER: Overruled.

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

PRESIDING OFFICER: Overruled.  
Answer the question.

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

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

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

A. Yes, I was.

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

A. Prior to my testimony today?

Q. Yes.

A. I was, yes.

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

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

Q. Well, hearsay –

A. – under oath.

Q. Well, hearsay –

A. Those are not under oath. Yes.

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

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

A. I have given – I have given interviews, yes.

Q. Okay. Two of them?

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

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

A. No.

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

A. No.

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

A. Not to my recollection, no.

Q. So you don't know why they were recorded – why they were not recorded?

A. I do not.

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

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

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

A. I can speak for myself. I would – I would have no problem with that.

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

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

Q. Okay. And additionally, prior to that interview when you met with the House Board of Managers, it's safe to say you wouldn't have had an objection to them recording you either, correct?

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

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

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

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

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

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

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

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

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

Q. During his direct examination of you, he did not ask you about text messages that you produced yesterday during this trial. Yes or no?

A. No, he did not.

Q. Okay.

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

PRESIDING OFFICER: Yes.

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

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

Q. (BY MR. OSSO) I'm handing you –

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

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

A. It is marked AG 1003, yes.

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

A. I do.

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

A. Yes.

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

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

Q. Okay. And you would agree that these are a fair and accurate –

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

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

PRESIDING OFFICER: Thank you.

Continue.

MR. OSSO: Yes, Judge.

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

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

MR. COGDELL: I've got a copy.

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

MR. COGDELL: Give it to them then.

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

PRESIDING OFFICER: Let the record reflect.

Q. (BY MR. OSSO) Now, Mr. Bangert, you would agree that these are a fair and accurate reflection of the text messages between you and Ken Paxton in July and August of 2020, correct?

A. Give me a moment.

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

Q. Okay. Well, you produced – your attorney produced these. So presumably, he got them from you, right?

A. Yes.

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

A. Yes, they appear to be.

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

PRESIDING OFFICER: Any objection?

MR. HARDIN: No objection, Your Honor.

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

MR. OSSO: Okay.

PRESIDING OFFICER: Admitted into evidence, excuse me.

(AG Exhibit 1003 admitted)

MR. HARDIN: Thank you, Judge.

Q. (BY MR. OSSO) Mr. Bangert, you talked about two very, very, very specific conversations that you had with Mr. Paxton that I think stood out during your testimony. The first one of those was a conversation at Polvo's, correct?

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

Q. Right.

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

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

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

Q. Okay. Two separate conversations?

A. Yes.

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

A. I do not believe I did.

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

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

Q. You've worked at executive – executive-level positions in two attorney general's offices?

A. Yes.



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

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

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

A. Not always.

Q. Not always. Okay.

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

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

Q. Yes, the foreclosure letter.

A. Well, let me – I was shown the foreclosure letter today, yes.

Q. Okay.

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

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

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

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

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

PRESIDING OFFICER: Okay. Admitted into evidence.

(HBOM Exhibit 119 admitted)

MR. OSSO: Thank you, Judge.

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

A. Yes.

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

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

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

A. We did on that day.

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

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

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

A. No.

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

A. No.

Q. Not odd at all?

A. No.

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

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

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

A. Yes.

Q. You were involved in Mitte?

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

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

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

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

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

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

A. I did have a boiling concern about this.

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

A. I can't recall.

Q. You can't recall.

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

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

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

A. I produced everything I had.

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

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

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

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

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

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

Would you agree with that, Mr. Bangert?

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

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

A. I – I defer to the document.

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

Now, at no point after you reported to law enforcement were you terminated from your position? It's a yes or no question, Mr. Bangert. Were you fired or were you not fired?

A. I was constructively discharged.

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

PRESIDING OFFICER: Answer the question.

A. I was constructively discharged.

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

A. He did not say that.

Q. Okay. Thank you.

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

A. I did resign.

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

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

Q. Okay. So you were not demoted from your position as First Assistant Attorney General?

A. I did not lose my title.

Q. Okay. And as a matter of fact, you were never suspended after you reported to the FBI, were you?

A. I was not.

Q. Okay. You talked about Mr. – I think maybe Webster, but certainly Ken Paxton stripping you of some of your responsibilities, right?

A. Yes.

Q. One of those responsibilities was the fact that you were in charge of the special litigation division, true?

A. I was.

Q. Now, that role was actually moved out from underneath you, correct?

A. That is correct.

Q. And they put it in charge of the division chief that was running that division at the time, right?

A. My understanding was that Patrick Sweeten was put in charge of that division, yes.

Q. So essentially Brent Webster promoted an under-level assistant attorney general? Yes or no?

A. I do not know if he promoted Patrick or not.

Q. He certainly added some responsibility for Patrick, correct?

A. That was my impression, yes.

Q. And that bothered you? Yes or no?

A. It came without explanation or warning, so, yes, it was troubling to me.

Q. It's possible that Mr. Webster just was promoting somebody that had been, I don't know, doing an exceptional performance at their job?

A. That was the excuse that he attempted to give me.

Q. That's not what I asked you. I asked you if it was possible.

A. I don't think so.

Q. Okay. Certainly they wouldn't take a job from Ryan Bangert, right?

A. That's not exactly what I said.

Q. Okay. It sounded like it.

You said that the environment – did you describe it as being hostile after you reported to the FBI?

A. Yes, it was.

Q. Toxic, right?

A. It was.

Q. Affecting the ability for people to get their work done?

A. It was.

Q. Okay. Now, you left and you went to work for the Alliance Defending Freedom, didn't you?

A. I did.

Q. And in your time – well, that would have been 2020, true?

A. Say again?

Q. When you left the Office of Attorney General and you went to Alliance Defending Freedom –

PRESIDING OFFICER: Counselor, can you make – raise that microphone a little bit closer to you?

MR. OSSO: Okay. Is that better, Judge?

PRESIDING OFFICER: That's much better for the jurors.

Q. (BY MR. OSSO) Okay. When you – when you left the Office of Attorney General and went to Alliance Defending Freedom, that was in October or November of 2020?

A. November of 2020.

Q. November of 2020.

And since your time in November 2020, all the way up until I believe 2023, isn't it true that you have brought cases from the Alliance Defending Freedom to be co-handled with the Office of Attorney General?

A. We have.

Q. Okay. And some of those cases you have worked directly with Brent Webster, have you not?

A. There have been some, yes.

Q. Specifically State of Texas v. Xavier Becerra?

A. I believe that's the title of the case in Lubbock, Texas.

Q. Okay. And that was one of a few cases, true?

A. Yes.

Q. And all the while that you were bringing cases from Alliance Defending Freedom back to the Office of Attorney General, Brent Webster was acting as first assistant, true?

A. That is my understanding, yes.

Q. And Ken Paxton was acting as attorney general?

A. Yes.

Q. All right. I want to talk to you about the open records request. Okay. You kind of gave us an explanation of how the process works, so I just want to rehash that out.

My understanding is that if an individual makes a request to a State agency, that State agency has a certain time period to go to the Office of Attorney General and make a request for a ruling, right?

A. There is a statutory time period to request a ruling, yes.

Q. Right. So in this case, the statutory time period – well, for example, when Nate Paul went to the Department of Public Services in March of 2020, if that was March 3rd, they had until March 13th essentially to request your office give an opinion, true?

A. I do not recall the specific dates, nor do I recall whether it was Nate Paul or one of his attorneys who made that request.

Q. Okay. I just want to clarify. You do not recall the specific dates in which the DPS request by Nate Paul's attorney was made?

A. It was in the spring of 2020, but I don't recall the precise dates. I would have to see some documents for that.

Q. Okay.

MR. OSSO: Erick, would you mind pulling up Article III.

Q. (BY MR. OSSO) While we're doing that, just for a little background, Mr. Bangert, the request by Nate Paul's attorneys for the records involved in the investigation, all – it was for the – initially the Texas State Securities Board, right?

A. Yes, the initial request went to SSB.

Q. That was in 2019?

A. Is that a question?

Q. Yeah. That was in 2019?

A. Yes, yes. Yes, it was.

Q. Then you've got DPS. That request was made in the spring of 2020?

A. That is correct.

Q. And sometime later, arguably the end of May, there was a request made for FBI's comment or brief on the DPS request that was originally filed in the spring, right?

A. I believe it was part of the second request.

Q. Okay. So we're talking about three different records requests, correct?

A. I would classify it as two, with a secondary request attached to the second.

Q. Okay. And then you also have to throw in the request for reconsideration, right, on the Texas State Securities Board?

A. That was part of the first file.

Q. So essentially the Office of Attorney General makes four separate decisions about records relating to Nate Paul?

A. We made at least three. I don't know if it was four.

Q. Okay. Well, let's go back to the fall of 2019. Texas State Securities Board, at that time was Ken Paxton the office – was the – he was the AG of the attorney general's office, right?

A. Yes, he was.

Q. Now, when Nate Paul made that request through Aaron Borden, his attorney, in the fall of 2019, that – that initial request was denied by the Office of Attorney General, was it not?

A. Yes, the ORD did – well, when you say denied, it sustained the request for exemptions and exceptions by the board, true.

Q. Meaning that the Texas State Securities Board while Ken Paxton was AG was not required to turn over records to Nate Paul?

A. That's right. The November request did not require a turnover of records.

Q. Let's move forward to 2020. You had a conversation with Justin Gordon about a request for reconsideration of the Texas State Securities Board records, true?

A. I did.

Q. And ultimately you ended up having conversations with Ken Paxton about that request for reconsideration?

A. I did.

Q. And ultimately the Office of Attorney General again did not rule that the Texas State Board – the Texas State Securities Board was going to have to turn their records over to Nate Paul, did they?

A. We did not require them to turn their records over.

Q. Okay. So up until – that puts us in February or March of 2020. Would you agree?

A. We're ballpark in that area, yes.

Q. Ballparking it because yesterday you stated it was right around the time COVID started.

A. Yes.

Q. That's a whole other convo we'll get into in a little bit.

Okay. So the Texas State Securities Board records are not given to Nate Paul. Let's move on to DPS.

Now, to be clear, the ultimate ruling in – the ultimate decision by the Office of Attorney General with regard to the DPS records was that they refused to rule in that situation?

A. It was a no decision.

Q. Okay. Now, I want to talk to you about what that means. If the Office of Attorney General refuses to rule on a records request, that means that the State agency that was requested does not have to turn their records over to the individual, right?

A. We did not require disclosure based on that ruling.

Q. Okay. And so as a result of that ruling, the Department of Public Safety did not turn their records over to Nate Paul or his attorneys, true?

A. That ruling did not require disclosure.

Q. Okay. Well, you're aware that there was a writ of mandamus filed by Nate Paul's attorney for those records they were trying to get from you, correct?

A. You're going to have to – the writ of mandamus, I believe, occurred with respect to the initial request. I don't recall one on the second request, but it may have happened.

Q. You would agree there was a writ of mandamus filed?

A. At some point it was my understanding that a writ had been filed.

Q. Okay. And you're not going to tell this jury when that suit was resolved, are you?

A. No.

Q. As a matter of fact, it could have been pending into the winter of the next year, true?

A. As far as I know. And for clarity, when you say "writ of mandamus," I'm assuming you're talking about federal practice –

Q. No. I'm talking about –

A. – from the Fifth Circuit.

Q. No. A writ of mandamus in the district court for the Department of Public Safety records.

A. You're talking about the second issue then.

Q. Okay.

A. Yeah. No. Yeah, there was a – there was a pending action in the district court.

Q. Okay. So they weren't just going to the Office of Attorney General to try and get these records that they were after, right?

A. Could you repeat one more time?

Q. They weren't just going to the Office of Attorney General, Nate Paul and his lawyers. They were also going to district court to try and get the records they were after, correct?

A. That was my understanding.

Q. Okay. Now, DPS was not required to disclose records after this refusal to rule, right?

A. Our refusal to rule did not require them to disclose.

Q. Okay. You stated that that was contrary to precedent at the attorney general's office, true?

A. I did.



Q. But you would have to admit that this specific request made by Nate Paul and his attorney, Gerald Larson, had some unique circumstances, true?

A. I don't recall any unique circumstances.

Q. Well, you worked with Justin Gordon pretty closely on this case, didn't you?

A. I worked with him very closely on the first file for SSB, and somewhat but less closely on the second file.

Q. Okay. Could you kind of – I mean, so you really delegated it to Justin Gordon to handle, right?

A. No.

Q. He was the man in charge of this decision, was he not?

A. He was the head of open records answering to Ryan Vassar, the deputy for legal counsel at the time.

Q. And he drafted opinions – and he drafted the opinion to refuse to rule that you edited, true?

A. I did edit the opinion.

Q. Okay.

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

PRESIDING OFFICER: Yes, you may.

Just don't talk on your way up or back.

MR. OSSO: Yes, Judge.

Q. (BY MR. OSSO) I guess the point I'm getting at, Mr. Bangert, is that not every – like you said yesterday, you said that pretty much all of these requests are kind of the same. They're easy to rule on when it comes to law enforcement material, true?

A. They're not all easy, but we get a lot of them.

Q. Right. You referenced the – you referenced the opinion – the law enforcement exception, true?

A. Yes, I believe that's correct.

Q. That doesn't –

A. When you say "the opinion," which one are you referring to, though? I want to make sure I'm answering accurately.

Q. Well, the DPS opinion.

A. I believe that's correct. I need to see it again.

Q. And the FBI comment.

A. Again, I – I need to see the document.

Q. To be clear, there was an initial request for DPS records in March of – or spring of 2020, true?

A. That is my understanding, yes.

Q. Okay. There was a later – you – you're aware that DPS did not notify the FBI about the records, true?

A. I don't recall that. You would have to refresh my memory on it.

Q. So it sounds like you don't know every little detail about the records request, do you?

A. No. And that's perfectly normal for a senior executive not to know every detail.

Q. Okay. So yesterday when you said that the decision was not consistent with precedent, you didn't know every little fact about what was going on within this request, did you?

A. I knew enough to make that determination.

Q. Well, you didn't know everything, did you, Mr. Bangert?

A. I am not omniscient so, no, I do not know everything, but I knew enough to make that determination.

Q. And it's fair that maybe Mr. Gordon had a different opinion about what went on with regard to those records requests?

A. Mr. Opinion – Mr. Gordon was working on that. I do not recall what his opinion was.

Q. Okay. Are you aware that ultimately the Office of Attorney General did disclose the FBI comment?

A. I do not recall that.

Q. Okay. Are you familiar with June Hadden (sic)k?

A. June Hadden, the name is familiar. I believe she worked in the open records division.

Q. Okay. Would it surprise you to find out that she ruled that the FBI's brief on the DPS records should be disclosed to Nate Paul and his attorneys?

A. I'm not aware of that, but I would have to see the ruling.

Q. Okay. You hadn't heard her name with regard to this litigation or case today, have you?

A. No, not until today.

Q. Okay. And you have no opinion as to whether Ken Paxton brought in June Hadden to turn those records over to Nate Paul, do you?

A. I have – you'll have to ask the question again. It was coming fast.

Q. There's no evidence – you don't know of any evidence – or you have no opinion that Ken Paxton told June Hadden to turn the FBI comment over?

A. I'm not aware of any conversation to that effect.

Q. Okay. Is it safe to say that in conclusion every single request for records from Nate Paul's lawyers, none of those resulted in him getting the records with regard to DPS and Texas State Securities Boards, right?

A. I'm not aware of any –

Q. Okay.

A. – disclosures that were made.

Q. Okay.

A. Not at least by our office formally.

Q. So essentially every ruling that was made with regard to those records was the same – had the same effect as if you refused to require DPS or Texas State Securities Boards to turn those records over?

A. The net result was they did not have to disclose the documents.

Q. Okay. You were involved with Mitte as well, right?

A. Yes.

Q. Now, you talked about the fact that Ken Paxton directly ordered you to intervene into the lawsuit, true?

A. Yes.

Q. Now, you would agree that if you thought something was illegal, you wouldn't want to delegate it to a lower-level attorney, true?

A. That, I – I don't even know how – no, I – that does not –

Q. Yes or no, would you delegate illegal activity to a lower-ranking attorney?

A. The question doesn't make sense because I wouldn't carry out illegal activity.

MR. OSSO: Judge, I've asked – nonresponsive. I've asked him a question.

PRESIDING OFFICER: Answer the question.

Q. (BY MR. OSSO) Yes or no?

A. I would not instruct anyone to carry out illegal activity.

Q. Right. That's why you didn't have Ryan Vassar sign that opinion in July of 2020?

A. I did not have him sign that opinion because I had a very bad feeling of where that was headed.

Q. Okay. Well, let's talk about what you did in the Mitte case. You had no problem instructing – well, let me rephrase that.

You did instruct Justin – excuse me, Josh Godbey to intervene into the Mitte case, did you not?

A. I did.

Q. And when Ken Paxton asked you to file a motion to say – stay, you told the jury that you were opposed to filing that motion to stay, did you not?

A. I did.

Q. But you turned around and you asked Joshua Godbey to file a motion to stay in that case, did you not?

A. I don't recall that.

Q. Okay. He filed the motion to stay, didn't he?

A. That is my understanding. Eventually a motion to stay was filed.

Q. Okay. You didn't walk up to Ken Paxton and say, Ken, I don't agree with what you're doing and so I'm not going to do it?

A. I did not have that conversation with him, no.

Q. And at no point did Ken Paxton say to you that if you do not intervene into the Mitte case, that you're going to be fired?

A. No, we never had that conversation.

Q. You are aware that Mitte has been previously of interest to the Office of Attorney General, true?

A. You'll have to refresh my recollection.

Q. Okay. Well, when Greg Abbott was the attorney general, you're aware that the Office of Attorney General filed suit against Mitte?

A. Yes, that did happen.

Q. Okay. So you are aware that their background isn't necessarily squeaky clean?

A. I wouldn't put it that way.

Q. Okay. You wouldn't – you would not tell – you've got no knowledge that Ken Paxton was entering into the Mitte litigation for the purposes of benefiting Nate Paul – Nate Paul, would you?

A. Oh, I disagree with that.

Q. Okay. Do you have personal knowledge; yes or no?

A. I do.

Q. You do?

A. Yes.

Q. Well, Jeff Mateer made you aware of the fact that the Mitte – I mean, excuse me. Jeff Mateer made you aware that World Class was disgruntled and not happy with Joshua Godbey's performance in the intervention in Mitte, true?

A. That was some time later, but I received an e-mail. I was copied on an e-mail in which Jeff responded to counsel for World Class complaining about Joshua Godbey.

Q. Okay. So World Class was complaining about Joshua Godbey, true?

A. They were.

Q. Okay. Now, at some point you stopped talking to Joshua Godbey. I want to say that that was – excuse me. Let me – let me back up.

You stopped talking to Justin Gordon about the open records request, true?

A. At some point the issue came to a rest.

Q. Right.

A. So I would have no occasion to talk to him after.

Q. Probably when you made the final ruling not to disclose the records in the Department of Public Safety request?

A. When the no decision was issued, yes, that's when it would have terminated.

Q. Now, about one or two days after that, it might have been June 2nd, you started talking to Joshua Godbey about the Mitte Foundation case, true?

A. That sounds about right, yes.

Q. And Ryan Vassar has his hands in the open records request at that time too, true?

A. He was overseeing the open records division.

Q. Because he took your position, right?

A. He did, when I was promoted.

Q. Okay. So Ryan Vassar is also probably aware of these different interactions with Nate Paul between the Office of Attorney General and Nate Paul, correct?

A. You'll have to ask him that question.

Q. Okay. Well, safe to say that he worked on the open records request with you, right?

A. He worked on it, yes.

Q. And he worked on the foreclosure opinion with you, true?

A. He did.

Q. Okay. So those are two different scenarios where you and him both worked on Nate Paul issues, true?

A. At least those two.

Q. Okay. And it's fair to say that you and Mr. Vassar were discussing the fact that you both had been involved with Nate Paul?

A. At what time?

Q. At some point when you were working on these cases.

A. We had discussion around those two instances. We discussed the – the work that we were doing.

Q. Okay. So you would not tell our jury, the senators, that the executive level attorney generals did not know that different divisions or facets of the office were involved with or working on cases regarding Nate Paul, would you?

A. We began to piece together the linkages between these matters over time.

Q. Okay. But you didn't do anything about it until September, I want to say, 30th of 2020, true?

A. That's false.

Q. Well, you didn't go to the FBI until September 30th of 2020?

A. We didn't go to the FBI.

Q. Okay. Let's talk about that foreclosure guidance.

MR. OSSO: Erick, would you mind pulling up Article II.

Q. (BY MR. OSSO) And to be clear, Ken Paxton is allowed to intervene into a lawsuit if he thinks it's appropriate, true?

A. Our office has authority to intervene.

Q. Okay. And he's in charge of the office, is he not?

A. He is the elected attorney general.

Q. Okay. So if he wants to intervene in a lawsuit, he is allowed to do so?

A. He has authority to do so.

Q. Okay. Looking at Article II, it alleges that Mr. Paxton misused his power to issue written legal opinions under Subchapter C, Chapter 402 of the Texas Government Code. You are aware of this, right?

A. Yes. I – I see the article on my screen, yes.

Q. Okay. Now, we actually looked at a copy of that exhibit.

MR. OSSO: Erick, would you mind posting – entering Exhibit 192, AG 192.

And, Judge, for the record, I believe it is an exact copy of the House Board of Manager exhibit that they have already published.

Would you scroll to the second page, Erick.

Q. (BY MR. OSSO) And just to be clear, Mr. Bangert, when we talk about that very last paragraph, you actually signed this opinion, right?

A. Yes.

Q. Okay. And by signing it, you would agree that you have adopted the statements within it, true?

A. Not necessarily.

Q. Okay. So you just signed things at will?

A. No.

Q. No? Okay. And you signed this document, right?

A. I did sign this document.

Q. And the very last sentence or paragraph in that document says it is not a formal opinion under Subchapter C of Chapter 402 of the Texas Government Code, true?

A. Could you scroll down to the last paragraph?

Q. Well, you – you wrote the opinion, and you read it a minute ago.

A. I would like to see the – I would like to see the document.

Q. I've got a copy.

A. Ah, there it is.

Q. You wrote, We trust this letter provides you with the advice you were seeking. Please note this letter is not a formal attorney general opinion under Section 402.042 of the Texas Government Code. Rather, it is intended only to convey informal legal guidance.

A. Yes.

Q. You – you wrote that, right?

A. I did.

Q. That was on this letter when you issued it in 2020, right?

A. It was.

Q. Okay. So the very face of the document that you signed specifically states that it is not an opinion under 402, true?

A. No. That's not correct.

Q. Specifically, it's not a formal attorney general opinion under Section 402.042 of the Texas Government Code?

A. It is not a formal attorney general opinion –

Q. Okay.

A. – under Section 402.

It's very different.

Q. Okay. Let's talk about formal opinions. There's a specific place on the attorney general website for a formal opinion, is there not?

A. Opinions that are issued are listed on our website, yes. They're assigned KP numbers, and they're accessible by the public.

Q. They're assigned KP numbers.

MR. OSSO: At this time, Judge, I would move to offer AG Exhibit 6 after I provide a copy to opposing counsel.

Judge, I believe I have one more copy.

PRESIDING OFFICER: If you have one more copy for us, we would appreciate it.

MR. OSSO: I've got one more copy for the Court.

MR. HARDIN: I have no objection, Your Honor.

PRESIDING OFFICER: I still would like to see it.

MR. OSSO: Yes, Judge.

PRESIDING OFFICER: Just so we can follow along. Thank you, sir. I admit this exhibit into evidence.

(AG Exhibit 6 admitted)

MR. HARDIN: No objection.

MR. OSSO: And, Erick, if you would publish, and just stay on the first page.

Q. (BY MR. OSSO) So up here in the top left corner, we've got Opinion Number KP-0322, true?

A. Yes, it says, Opinion Number KP-0322.

Q. Okay. And that is an opinion number that is associated with a formal opinion?

A. I have not seen the rest of this document, but I'm assuming that this has the form and shape of a formal opinion.

Q. Okay. Did you state yesterday during direct examination that Ken Paxton doesn't have a hand in signing or dealing with formal opinions?

A. I don't believe I said that, no.

Q. Okay. So you would agree that he does pay attention to what he signs and what he issues on his office letterhead, correct?

A. He is required – well, I should say he has a practice of signing formal opinions himself.

Q. Okay. And that opinion has his name on it, true?

A. I cannot see it, but I – I would be welcome to look at the signature block.

MR. OSSO: Erick, would you flip back to the signature line.

Q. (BY MR. OSSO) You see Ken Paxton's signature on that opinion, right?

A. Yes.

Q. Okay. He has to sign these formal opinions, does he not?

A. I believe that is the practice of the office.

Q. Unless he's been recused in which event Jeff Mateer would sign the formal opinions, true?

A. That was the practice of the office.

Q. Now, I want to talk to you about the opinions in this case. Originally Ryan Vassar drafted the formal – or not formal, excuse me – the informal guidance letter with regard to foreclosure sales, correct?

A. The document – yes, the – the informal opinion that was issued on October – August 1st. He did draft the initial draft, yes.

Q. Now, the way that that record ruled – or, excuse me, that that letter ruled was essentially that you didn't attack the 10-person restriction from the executive order, right? You just said that judicial foreclosure sales were excepted from the rule and could go on without restriction?



A. I would need to see the document to refresh my recollection on the precise contours of the opinion.

MR. OSSO: Erick, would you pull up Exhibit 192.

Q. (BY MR. OSSO) Mr. Bangert, you drafted this opinion, did you not?

A. No. Mr. Vassar drafted it, and I provided edits and corrections to it.

Q. Okay. So you're familiar with the content?

A. I was – I was three years ago.

Q. Okay. Well, if you take a look at it, you would agree that it ruled that foreclosure sales could still go on despite the fact that there was an executive order restricting public gatherings outside to 10 people, true?

A. Would you please go to the next page?

There were very limited circumstances under which foreclosure sales could proceed, but we were subjecting those to the hard 10-person cap.

Q. But you testified with regard to the subject matter of this yesterday, didn't you?

A. I did.

Q. So you would agree that you said that despite the fact that 10 people at max can gather in public, foreclosure sales can still occur, true?

A. That misrepresents the opinion.

Q. Well, if there are – you said that foreclosure sales could still go on, did you not? Is that not what that opinion says?

A. No.

Q. It doesn't seek to invalidate the 10-person rule, does it?

A. You need to go to the next page of the opinion.

MR. OSSO: Go to the next page, Erick. Thank you.

A. The second full paragraph on page 3 shows operative language.

Q. (BY MR. OSSO) Elaborate on that.

A. Pardon me?

Q. Tell us about that.

A. If a foreclosure sale is subject to and not exempted from the 10-person attendance limit imposed in Executive Order GA28, it should not proceed if one or more willing bidders are unable to participate because of the attendance limit.

Q. So how are you saying that when Ken Paxton asked you to change the opinion, that it's – it is contrary to precedent and the position of the Office of Attorney General at that time?

A. It made the ability to proceed with those types of sales more restrictive under the COVID limitations than our previous draft would have.

Q. It made it more restrictive?

A. Yes.

Q. Right. Which means that, in a sense, it benefited people that maybe didn't have their jobs at the time and didn't have money to pay their mortgages off, true?

A. I do not know who this was benefiting. At least at the time I was writing it, I didn't know who it was benefiting.

Q. Well, did you lose your job during COVID, Mr. Bangert?

A. Say again?

Q. Did you lose your job during COVID?

A. I did not.

Q. Did you struggle with the ability to pay a mortgage during COVID?

A. I did not.

Q. You would have to agree with me that many people did lose their jobs during COVID, true?

A. I understand that that did happen.

Q. Okay. And as a result of losing their jobs, many people probably couldn't afford rent, and they couldn't afford their mortgage, right?

A. I also understand the finance – the financial institutions were suffering because of restrictions on their ability to foreclose on their loans.

Q. That's not what I asked

MR. OSSO: Objection. Nonresponsive.

MR. HARDIN: Excuse me. May he please answer the question, Your Honor? May he be allowed to answer?

PRESIDING OFFICER: Is that an objection, or are you just making a comment?

MR. HARDIN: It is. It is an objection.

PRESIDING OFFICER: Overruled. But let him clearly answer the question. Please answer the question directed.

Q. (BY MR. OSSO) Yes or no – my question was: Yes or no, could that affect people and their ability to pay their mortgages and their rent?

A. Could what affect them?

Q. A ruling that foreclosure sales – or excuse me – that COVID was in existence?

A. COVID was in existence at that time.

Q. And it caused people not to have money and not to be able to afford rent and not to be able to pay their mortgages, true?

A. I believe the economic disruption caused by COVID had some of those effects.

Q. Okay. And the job of the Office of Attorney General is, in part, to protect the public, true?

A. The attorney general's office is a sacred trust, and it's always to be used for the public benefit.

Q. Right. Now –

A. All of the public.

MR. OSSO: Erick, could you publish 119 again.

Q. (BY MR. OSSO) This is your memorandum of what happened with regard to the foreclosure opinion. And you stated in Exhibit 119 that you are not certain why Ken Paxton wanted this foreclosure opinion issued, true?

A. There is no exhibit on my screen.

MR. OSSO: 119. 119, Erick.

MR. HARDIN: May we see it, please?

MR. OSSO: I think it's been entered, Rusty.

MR. HARDIN: I said we don't have it.

MR. OSSO: Oh, I understand. Erick is pulling it up.

MR. HARDIN: We don't have a copy.

MR. OSSO: It's – it's y'all's exhibit.

MR. HARDIN: Is it in evidence? I don't think it's in evidence.

MR. OSSO: It's in evidence, Judge. I've already referenced it during this examination.

PRESIDING OFFICER: He submitted it earlier. You didn't object, I believe. I believe that's the case.

MR. OSSO: No. This –

MR. HARDIN: If that's the case, we're in error, but I – I don't think we had it marked it's in evidence. Thank you very much.

PRESIDING OFFICER: Yes.

Q. (BY MR. OSSO) You stated that you were uncertain why Ken wanted the foreclosure opinion issued, true?

A. He had provided me a rationale –

Q. It's a yes or no. You said in this memorandum right here you were uncertain?

A. I was uncertain.

Q. Okay. Now, you did not include the fact that Ken Paxton was texting you all the while you were editing and drafting that report, did you?

A. I don't believe I mentioned text messages in this document, no.

Q. And yesterday you told all of the senators that it was contentious between you two on the phone at some points, did you not?

A. Oh, I don't recall saying that.

Q. Okay. So it was calm and collected the entire time?

A. It was not calm and collected the entire time.

Q. Okay. Well, you stated to them that you were objecting vehemently over the phone with Ken Paxton, true?

A. I did not say that.

Q. You were objecting to Ken Paxton, were you not?

A. I was having conversations with him in which he was frantically telling me to make edits, corrections, and changes.

Q. It's a yes or no question. It's a yes or no question, Mr. Bangert. You disagreed with Ken Paxton over the phone, true?

A. I had conversations with him about the contours of the opinion.

Q. Okay. So you're not saying you disagreed with him then, are you?

A. I was trying to understand what he wanted as his subordinate.

Q. Okay. You didn't mention text messages yesterday, did you?

A. I did not.

Q. All right.

MR. OSSO: Erick, if you would flip to AG 1003 for me.

Q. (BY MR. OSSO) Now, Mr. Bangert, you stated on direct examination yesterday that, quote, unquote, Ken Paxton was acting like a man with a gun to his head, did you not?

A. I did say that.

Q. Okay. Now, looking at the last set of text messages here –

MR. OSSO: If you would flip to the last page, Erick.

Q. (BY MR. OSSO) – I'm just going to read from the exhibit.

Thank you again. I can't express in words how much I appreciate your work especially over the weekend. I am grateful because I feel like hundreds of people will be protected from harm and maybe devastation. You and Ryan deserve all the credit. Thank you. I hope that your Sunday is relaxing and enjoyable with your family.

He texted that to you that day, didn't he?

A. 12:19 on Sunday, yes.

Q. Okay. Now, did you mention that to the House Board of Managers when you were interviewed about this case?

A. I don't recall if I mentioned this text message.

Q. Did you mention these text messages in your interviews with Mr. Hardin or Mr. DeGuerin when you were preparing for testimony in trial?

A. I don't see why I would have.

Q. Okay. And did you include it in your memorandum to Ryan Vassar that was produced?

A. There's no reason why I would have.

Q. No reason to include a text message of him showing gratitude and why he wanted to have this foreclosure opinion worded the way he did?

A. I don't believe this was what he actually – I don't believe that he was telling the truth, no.

Q. Well, there's certainly not a text message from you in these texts objecting or saying that you disagreed with Mr. Paxton, is there?

A. I do not agree – I do not disagree with him here.

Q. You don't disagree with him here?

A. I do not state it in writing here.

Q. Okay. And you signed the opinion that was ultimately issued in this case, true?

A. I did sign it.

Q. And that opinion has no binding effect?

A. It is a persuasive opinion.

Q. Persuasive at best?

A. Persuasive opinion.

Q. Okay. Did you tell the FBI about these documents?

A. I believe they were provided to the FBI.

Q. Okay. We just didn't get a copy of them until today?

A. I did not have them in my possession.

Q. Oh, okay.

A. They were in the possession of my counsel who found them –

Q. Did you delete your texts?

A. No.

Q. So you would have had them on your phone, true?

A. No. I did not intentionally delete my texts.

Q. Okay.

A. My texts were no longer –

Q. Your texts were deleted, yes or no?

(Simultaneous crosstalk)

PRESIDING OFFICER: Gentlemen, don't talk over each other.

Q. (BY MR. OSSO) Your texts were deleted, yes or no?

A. I no longer have access to texts –

Q. It's a yes or no question.

A. I no longer have access to texts past one year.

Q. Okay. So in the year, you didn't think to take screenshots of these?

A. Excuse me?

Q. You didn't think to screenshot these messages?

A. These were screenshotted back in 2020.

Q. Okay. Just – you just didn't keep a copy?

A. I did not.

Q. And you're not going to sit here and tell us that you know that the foreclosure opinion ultimately affected or benefited Nate Paul, are you?

A. Oh, I believe it did affect and benefit him.

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

A. I have – I have since learned that it did benefit him.

Q. You wrote in that memorandum that you learned through the *Austin Statesman*, did you not?

A. May I see the memorandum again?

MR. OSSO: Erick, would you please pull up the memorandum.

Q. (BY MR. OSSO) That's a newspaper, correct?

A. The *Austin American Statesman*?

Q. Yes.

A. Yes.

Q. Okay. So you got your information from a newspaper, did you not, if we're believing your memorandum?

A. If I could see my memorandum, I can tell you.

MR. OSSO: Erick, would you – 119, Erick. Thank you.

Q. (BY MR. OSSO) I think it says on the following week on August 4th, the *Austin Business Journal* – excuse me. I stand corrected.

The *Austin Business Journal* reported that World Class had placed several properties into bankruptcy.

Are you aware of when the foreclosure was supposed to take place?

A. I was not aware of any foreclosures of the Nate Paul properties when I was writing the opinion.

Q. No. I'm talking about after. I'm talking about August 3rd and August 4th. Were you aware?

A. I subsequently learned that that was taking place.

Q. That the foreclosure was supposed to take place on August 4th?

A. That, I don't know for sure, but it would have been the statutorily appointed date, whenever that was in 2020.

And, yes, now that I'm looking at my document, I do say August 4th, so that would have been the date.

Q. Okay.

MR. OSSO: May I approach the witness, Judge, just to hand him a document?

PRESIDING OFFICER: Yes, you may.

MR. OSSO: And, Judge, at this time, I would offer AG Exhibit 295.

PRESIDING OFFICER: Any objection?

MR. HARDIN: May I have just a second? I'm sorry, Judge. Thank you.

PRESIDING OFFICER: Sure.

MR. HARDIN: No objection.

PRESIDING OFFICER: We'll enter – what was the number on that? I don't have the number on it.

MR. OSSO: 295, Judge.

PRESIDING OFFICER: Enter 295 into evidence.

(AG Exhibit 295 admitted)

MR. OSSO: Erick, would you mind publishing AG 295.

Q. (BY MR. OSSO) That is a letter from Sheena Paul to the judge regarding the bankruptcy proceeding – excuse me – the foreclosure proceeding occurring the next day dated April – excuse me – August 3rd of 2020, correct?

A. This is executed by Brian Elliott.

Q. Attorney for World Class, right?

A. I assume so because it has World Class' – one of their property names at the top of the letterhead.

Q. Okay. You would agree that this document has the letterhead of August 3rd, right?

A. It is dated August 3rd.

Q. Now, you were not present in the district court when this document was filed, were you?

A. No.

Q. So you have no idea what impact it had on the district court judge in that proceeding, do you?

A. I have not talked or spoken with Judge Campbell about this, no.

Q. Now, the very next day, the day that the foreclosures are supposed to occur, you find out that a bunch of Nate Paul properties are put – excuse me – World Class properties are put into bankruptcy, right?

A. That's what the business journal reported.

Q. Okay. You have been in civil practice for quite a long time, true?

A. Over a decade at that point.

Q. You are very, very aware of what happens to properties when you file bankruptcy, are you not?

A. I was not a bankruptcy practitioner.

Q. Well, you're – surely you're aware that when you put a document – or, excuse me, you file bankruptcy on something, it causes a motion to stay, does it not?

A. There's an automatic stay that's applied based on my recollection.

Q. There you go. Which would prevent any type of foreclosure sale, would it not?

A. Again, I am not a certified bankruptcy practitioner. I know that there are exceptions to that. I can't even begin to speak to the legalities of these properties or how those would have applied in these cases.

Q. Well, you knew a lot of law, I mean, under direct examination from Mr. Hardin, and now you don't know about bankruptcy proceedings?

A. Mr. Hardin did not ask me about bankruptcy proceedings.

Q. You had no problem putting in your memorandum that the – that the properties went into bankruptcy?

A. The properties were going into bankruptcy, that's correct.

Q. Okay. Is it possible –

A. I'm sorry. They were going into foreclosure. Foreclosure.

Q. It's possible – it's possible that the bankruptcies – it's possible that the bankruptcy filings did not – or those are what prevented the foreclosures, true?

A. I don't know.

Q. Okay. Well –

A. But I do – I think it's interesting that World Class submitted a copy of our –  
MR. OSSO: Objection to nonresponsive.

A. – opinion.

MR. OSSO: Objection to nonresponsive.

PRESIDING OFFICER: Sustained.

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

PRESIDING OFFICER: Yes, you may.



MR. OSSO: Well, really just for the Court, I would like to offer AG Exhibits that I've handed to both opposing counsel as well as Your Honor. I believe it's 262, 265, 275, and 283.

PRESIDING OFFICER: Hold on, slow down. 283, 275, 265, 262?

MR. OSSO: Yes.

PRESIDING OFFICER: Okay.

MR. HARDIN: I can shorten this a little bit if he represents that these are their exhibit numbers that were originally agreed to. We said we would not object to any of your exhibits.

MR. OSSO: Okay.

MR. HARDIN: If they're covered by that objection – I mean, if they're covered by that agreement, then we have no objection.

PRESIDING OFFICER: Are they covered?

MR. OSSO: They are covered, Judge. Well, I take that back. No, they're not. That's why I – that's why I intend to offer right now. We have not previously agreed to these.

MR. HARDIN: I understand. Just give me a couple more minutes.  
No objection, Your Honor.

PRESIDING OFFICER: Can you just clarify for the record? We have one with a number and what the other numbers are.

MR. OSSO: Judge, if I may have the copies that I handed you.

PRESIDING OFFICER: You may have the copies back.

MR. OSSO: So for purposes of the record, we're offering 262, 283, 275 – I only gave you – and then also 269.

PRESIDING OFFICER: No objection?  
269 was a new number from the one you repeated back to me.

MR. OSSO: Yeah. 269, 275, 283, and 262.

PRESIDING OFFICER: I think I said 265. You repeated what I said. I was incorrect. It's 269.

MR. OSSO: Okay.

PRESIDING OFFICER: There's been no objection? I believe they said no objection.

Mr. Hardin, you said no objection?

MR. HARDIN: Correct. I'm sorry, Judge.

PRESIDING OFFICER: Please enter those documents into the record.

MR. OSSO: Okay. Thank you.

PRESIDING OFFICER: Into evidence. Excuse me.

(AG Exhibits 262, 269, 275, 283 admitted)

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

PRESIDING OFFICER: Yes, you may.

Q. (BY MR. OSSO) These are all bankruptcy filings by Nate Paul and his attorneys made on August 4th and August 5th, okay?

A. If you say so.

Q. All right. Now, if these bankruptcy filings were filed on August 4th, the day that the foreclosures were supposed to occur, that would stay the foreclosure sale, would it not?

A. I don't – I – I would have – I don't know.

Q. You don't know?

A. Perhaps.

Q. So it's possible that Ken's issuance of the informal guidance letter didn't cause the foreclosure sales to go away? It's possible?

A. I do not know what effect that letter had –

Q. Okay.

A. – on the foreclosure sales.

Q. Are you a Trump fan?

A. I'm sorry?

Q. Are you a fan of Donald Trump?

A. I voted for President Trump.

Q. Okay. You're a staunch conservative, are you not?

A. I am.

Q. Are you aware that only a week after you guys issued this opinion, he issued an executive order that basically mimicked the attitude towards foreclosure sales?

A. I'm – I'm not familiar with that executive order.

Q. Okay. And so that brings us into the fall of 2020, right? August, September?

A. September is the beginning of fall.

Q. Okay. And you didn't really have any contact with issues regarding Nate Paul from August of 2020 up until September 28th, right?

A. Oh, I disagree with that.

Q. Well, you weren't working on the foreclosure sales –

PRESIDING OFFICER: witness, please speak up.

A. Yes, I disagree with that.

Q. (BY MR. OSSO) You were not working on the foreclosure opinion?

A. That was completed on August 1st.

Q. Okay. You weren't working on Mitte?

A. Mr. McCarty had assumed responsibility for that.

Q. You were not working on Mitte?

A. I was not working on Mitte at that time in August.

Q. And you were not working on the open records request, true?

A. Those were finished.

Q. Okay. So you were not personally working on any matters that involved Nate Paul at that time?

A. I was actively speaking with other members of the executive team about what was happening at that time which was the desire to hire outside counsel.

Q. So everybody, I assume, is on the eighth floor at this time, right?

A. We had – COVID orders were still in place. I don't recall who was there every day. I was there every day the office was open.

Q. And let's talk about that, because the OAG's position at that time was that everything should open up, was it not?

A. We wanted everything to be as open as possible consistent with public safety and the Governor's order.

Q. Even after you left the Office of Attorney General, your employees at the Office of Attorney General weren't even present?

A. There were some who were not present.

Q. There were some? There were most of them that were not present?

A. My recollection was there were periods of time where a large majority of them – large majorities of them were not working from the office.

Q. Periods of time that postdated your employment at the Office of Attorney General?

A. I cannot speak to that.

Q. Okay, because you weren't there?

A. Because I was not there.

Q. Okay. So that's not really inconsistent with the situation that was going on at the Office of Attorney General, was it? Yes or no?

A. That the – that the attorneys were not present?

Q. Yes or no?

A. Oh, that had nothing to do with our policy.

Q. Okay.

A. Nothing.

Q. All right. So you were not personally a part of the hiring of Cammack, were you?

A. No.

Q. You found this out on September 29th of 2020?

A. That he had been retained by the attorney general directly?

Q. No. That he was filing subpoenas with Michael Wynne.

A. Yes. I learned about that on the 29th.

Q. And you were saying that that is the very point that it kind of stood out to you—all what was going on, right? That was the test point?

A. That crystalized a number of things.

Q. Okay. Now, when you say it crystalized a number of things, you did not have all the facts with regard to that investigation, did you?

A. I personally did not.

Q. Okay. You didn't investigate that case, did you?

A. Was I – what do you mean by I wasn't investigating that case?

Q. You didn't investigate the referral that was given by the Travis County District Attorney's Office, did you?

A. I was not the primary responsibility for that.

Q. Everything that you took with regard to that investigation came from Mr. Penley or Mr. Maxwell?

A. No.

Q. Those were the people responsible for investigating it, were they not?

A. They were responsible.

Q. Okay. You were not responsible?

A. That was not part of my responsibility at that time.

Q. Okay. So you weren't responsible. Now, despite that fact, you went to the FBI on September 30th, correct?

A. I did go to the FBI on – on September 30th, yes.

Q. You went to the FBI without talking to Ken Paxton first, true?

A. Oh, I talked to him many times prior to that.

Q. You didn't talk to him about the fact that you were going to go to the FBI, did you?

A. We did not talk to him. We did not tell him we were going to the FBI immediately prior to going, right.

Q. So when you and Mr. Hardin were talking about the conversations you had with Ken Paxton about the fact that you wanted to talk to him, that was all after you had already gone and reported your boss to law enforcement, true?

A. The text messages that we reviewed today were sent after we made our good faith report.

Q. Okay. So you did not take the time to hear his side of things out before you went to law enforcement?

A. I disagree.

Q. And at that point, you took it upon yourself to send a letter to Brandon Cammack as well, did you not?

A. I – if I can recall correctly, I was the one who did send the e-mail containing Jeff's letter.

Q. Okay.

A. I mean, I'm stretching my memory, but I think I was the one who sent it.

Q. Okay. Now, prior to doing that, you talked earlier about a set of text messages.

MR. OSSO: I would ask to admit – to publish House Board of Managers 225. Erick, would you – it's been admitted, Judge.

PRESIDING OFFICER: And, Counselor, we're going to be going to lunch, but I've gone a little longer, a few more minutes. Do you want to break now, or do you want to continue for a few more minutes?

MR. OSSO: I'm fine to break now, Judge.

PRESIDING OFFICER: It's good for you now?

MR. OSSO: Yes.

PRESIDING OFFICER: Okay. We'll break for lunch now.

MR. HILTON: Your Honor, I apologize. Can I raise one issue? I apologize, Your Honor. Can I raise one issue before we break for lunch –

PRESIDING OFFICER: Yes.

MR. HILTON: – that may just help speed things along with this witness?

You admonished Mr. Hardin at the beginning of the day that if there were any statements that Mr. Bangert had provided that we haven't seen, that he was to turn them over to us. The witness has testified that there were actually two interviews that he gave to the House. We still don't have any information related to those.

To the extent that there's work product mixed with that, I think they can redact that and provide us the – the statements. But I just request that we get those over the lunch break, and that may allow us to not have to recall the witness later.

PRESIDING OFFICER: Just continue to look during the lunch break for those documents, if you have those.

MR. HARDIN: Thank you very much.

PRESIDING OFFICER: And if you do, turn those over by the end of lunch.

MR. HARDIN: Sir, we do not have, but I'll continue to be sure. Thank you.

PRESIDING OFFICER: We will return at 1:00 – 1:10.

(Recess at 12:26 p.m.)

**AFTER RECESS**

(1:13 p.m.)

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

So we are ready to resume?

MR. OSSO: Ready, Judge.

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

(Bench conference off the record)

PRESIDING OFFICER: Bailiff will bring in the witness.

(Witness enters the courtroom.)

PRESIDING OFFICER: You may begin.

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

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

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

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

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

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

MR. OSSO: I have a copy in case he –

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

MR. OSSO: Sure.

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

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

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

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

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

PRESIDING OFFICER: Okay. So –

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

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

**CROSS-EXAMINATION (Continued)**

BY MR. OSSO:

Q. Mr. Bangert –

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

MR. OSSO: No, I –

MR. HARDIN: You're not offering it?

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

MR. HARDIN: Thank you.

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

MR. HARDIN: All right. Fair enough.

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

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

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

A. It's been a while.

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

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

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

A. Not necessarily.

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

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

Q. Okay.

A. But that's my recollection.

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

A. I would have no reason to disagree.

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

A. Yes, that could have been a reason.

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

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

Q. Okay. Potential homeowners, correct?

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

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

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

Q. Okay. After that informal guidance was issued – and to be clear –

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

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

A. Are you referring to –

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

A. It did not go through the formal process.

Q. It was –

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

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

A. The – which document are you referring to?

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

A. No.

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

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

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

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

A. Yes, I wrote those words.

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



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

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

A. We are in August.

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

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

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

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

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

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

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

A. I – I have seen documents that include testimony from individuals who have described –

Q. It's a yes-or-no question –

A. I have seen documents –

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

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

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

A. It would have been sometime in October.

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

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

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

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

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

A. I was constructively terminated.

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

A. I did.

Q. And then you went to work for a company or a firm that you had already applied for, true?

A. I did.

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

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

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

A. Mr. Paxton has authority to issue – make the final signature on the document.

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

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

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

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

A. Nothing specific.

Q. Nothing specific. Is there any record of that, of what you actually said?

A. No.

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

A. No.

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

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

MR. HARDIN: We have no objection.

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

(AG Exhibit 1004 admitted)

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

PRESIDING OFFICER: Yes, you may.

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

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

A. The highlighted portion?

PRESIDING OFFICER: One moment. Does Erick have it?

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

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

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

Thank you.

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

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

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

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

Q. It was irrelevant?

A. Yes.

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

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

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

A. Completely irrelevant.

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

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

(Pause)

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

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

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

MR. HARDIN: Pardon me?

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

MR. HARDIN: Thank you.

MR. OSSO: Okay.

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

A. I began working with him prior.

Q. You began working for him prior?

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

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

A. He was recommended to me.

Q. Okay.

A. I – I can't recall searching for him on September 22nd.

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

PRESIDING OFFICER: Any objection?

MR. HARDIN: No objection.

PRESIDING OFFICER: It is admitted into evidence.

(AG Exhibit 312 admitted)

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

Oh, you can see it.

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

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

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

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

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

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

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

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

A. Oh, oh, no, I don't believe this had anything to do with looking for Mr. Sutton to retain him.

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

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

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

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

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

A. Never heard of it.

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

A. We did.

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

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

Q. I mean, you seem to have a great recollection of the order of events when Mr. Hardin had you on direct examination. Are you saying that you're forgetting now?

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

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

A. That is entirely possible, yes.

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

A. We reached out to him the next day.

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

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

Q. You were pretty –

PRESIDING OFFICER: To the witness – once again, Witness, when you can answer yes or no, if you can, answer yes or no.

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

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

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

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

A. We did.

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

A. Yes.

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

A. Yes.

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

A. Yes.

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

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

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

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

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

Q. Okay.

A. To memorialize our complaints.

Q. Right. And the first version of that complaint – well, from what we look at in House 225, Jeff Mateer says, from Maxwell, read the letter. Not sufficient. A request letter must allege specific allegations that are in violation of State law to include documentation of criminal act. The only thing you have is what happened today and that is documented.

Is that true?

A. You added the word "and."

Q. Okay.

A. Apart from that, you read it correctly.

Q. Excuse me. But that's what the – that's what the text says, right?

A. That is what the text says, yes.

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

A. I – I don't recall specifically, but that's what this was.

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

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

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

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

A. Sir, we did not –

Q. Yes or no.

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

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

PRESIDING OFFICER: Witness shall answer the question.

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

A. Provided him with ample opportunity –

Q. That's not what I asked you.

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

A. We gave him ample opportunity –

Q. That's not what I asked.

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

PRESIDING OFFICER: The witness is ordered to answer the question yes or no.

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

A. On September 30th –

Q. It's a –

A. – we did not.

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

A. It is not a yes-or-no –

Q. It is a yes or no.

A. – question, Counsel.

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

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

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

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

Q. (BY MR. OSSO) Mr. Bangert, it is a yes-or-no question, and I want a yes-or-no answer. Did you tell Ken Paxton that you were going to the FBI?

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

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

A. Yes, that's what I wrote.

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

A. No.

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

A. You said the word "filler." That's an inaccurate characterization –

Q. You had to –

A. – of what we were doing.

Q. Well, let's look down there.

MR. OSSO: Erick, if you could hop off of the – zoom in.

Q. (BY MR. OSSO) To sound like we need to beef up the specific allegations. You needed to beef them up, right? You needed to make them sound stronger; true or no?

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

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

A. I wouldn't put it that way.

Q. You wouldn't put it that way.

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

A. That was in part, but not entirely.

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

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

Q. So you didn't know that?

A. No.

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

Q. (BY MR. OSSO) The allegation in Article V is that Paxton misused his official powers by violating the laws governing the appointment of prosecuting attorney pro tem. You would agree with that, right, that that's the allegation?

A. Yes, that is the allegation.

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

A. It's difficult to –

Q. True or –

A. – classify what he was.

Q. – not true?



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

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

A. I'm not aware of any recusal.

Q. Okay.

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

PRESIDING OFFICER: Yes.

Q. (BY MR. OSSO) I want to go back to your last answer, and I'm going to re-ask you this. Brandon Cammack was not – he wasn't just not improperly appointed as an attorney pro tem. Brandon Cammack was not appointed as an attorney pro tem at all.

A. Not to my knowledge.

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

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

MR. HARDIN: It is. No objection.

MR. OSSO: Okay.

PRESIDING OFFICER: It's already admitted.

MR. OSSO: Thank you, Judge.

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

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

A. I was.

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

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

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

A. We were in agreement to do this.

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

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

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

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

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

Q. Third line, notice of termination effective immediately.

A. Yes.

Q. Yeah.

A. We do say that, yes.

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

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

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

A. We – we terminated him in this letter and told him to cease and desist.

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

A. I would not put it that way.

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

A. No, we did not.

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

A. I do my best.

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

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

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

A. His name is not here, no.

Q. Yeah. You went ahead and sent it without his name, didn't you?

A. I'm trying to recall. I think there was a version –

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

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

PRESIDING OFFICER: Overruled.

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

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

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

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

PRESIDING OFFICER: Sustained.

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

### **REDIRECT EXAMINATION**

BY MR. HARDIN:

Q. Mr. Bangert, I want to start to try to ask you a few questions again to go back to this opinion that sometimes it's been referred to as "the midnight opinion."

Originally –

MR. HARDIN: If I can, I would like to bring up, please, Stacey, Exhibit 112.

Q. (BY MR. HARDIN) Can you look at this and determine – and help me out and tell me whether or not this is the original draft that you-all did on – and presented to the attorney general on that Saturday afternoon. And do you need a moment to look at it, or can – or would it help you to have a hard copy?

A. A hard copy would be helpful, yes, sir.

MR. HARDIN: Can we – Stacey, do we perhaps have a hard copy for the Court?

A. But I can tell you without looking at it that this is not the original version that we sent.

Q. (BY MR. HARDIN) Let me follow up on what your observation is. What – what order would this draft have been?

A. I'm assuming this is the final draft. It would have been the very last thing that was produced.

Q. Would you look at the first page, please, and the last page, if that helps you.

A. Ah, no. This is not the final draft. I cannot – I can now see there's no signature on it.

Q. Right. Would you look at the opening paragraph and see what that seems to be saying in terms of the original position you took?

A. Yes. This refreshes my recollection.

Q. Pardon me?

A. Yes, this does refresh my recollection.

Q. All right. And now that you look at the language in the first paragraph of Exhibit 112, what does that tell you in terms of which draft order it was?

A. This was one of the early –

Q. Now, let me tell you a problem for you to keep in mind. When you look to the left for the – there you go. Perfect. There you go.

A. There we go.

Q. All right.

A. Yes. This was – this was one of the early drafts.

Q. And in the first paragraph, would you look at the sentence that begins with, We conclude.

MR. HARDIN: Would you highlight for me, Stacey? Would you highlight for me, Stacey?

Q. (BY MR. HARDIN) Read this paragraph out loud to the jury, please.

A. Yes. We conclude that a foreclosure sale of residential or commercial real property constitutes a service to which no occupancy limit applies under Executive Order GA-28 and local governmental bodies therefore lack authority to restrict in-person attendance at these sales.

Q. All right. Now, at that time, what was the legal basis for you concluding that there wasn't a restriction and that it could be conducted?

A. It was GA-28, the governor's order.

Q. All right. And what was it about GA-28, the governor's order? And I may have a copy there. I couldn't locate it on my desk. If somebody finds it, they can bring it up to me.

But what was it about the governor's order, and when was that order, that you concluded would allow essentially the foreclosure sales to go forward particularly outside?

A. Yes. There was an – there were a number of exceptions in the governor's order to in-person gathering restrictions.

MR. HARDIN: With the Court's – with the Court's permission, I'm going to mark this as an exhibit, Number 631. Thank you so much.

631 or 633? 631. Thank you. I'm going to tender it to counsel, Your Honor, because I don't have an extra copy right now.

MR. OSSO: No objection, Judge.

PRESIDING OFFICER: 631 shall be admitted into evidence.

(HBOM Exhibit 631 admitted)

MR. HARDIN: Thank you, Your Honor.

Do we have a copy by chance for the Court to have up there?

PRESIDING OFFICER: Always nice for the Court to have a copy.

MR. HARDIN: This only came up during the lunch hour. I apologize.

PRESIDING OFFICER: Thank you, sir.

MR. HARDIN: And one for him. Thank you very – thank you very much.

Now, I don't know whether or not – and I'm going to ask as we go along – whether Ms. Manela can figure out a way to balance these.

First of all, if there's a way to do a split screen here, Stacey, 112 and 115. And I believe I will represent 115 is the final order. And I believe 115 is in evidence.

Q. (BY MR. HARDIN) Now, if you could, if you could look at these two orders, is the one on the left the draft we talked about, Exhibit 112, what your first finding was?

A. Yeah. So our first finding is summarized in the first paragraph. We conclude that a foreclosure sale – yeah, there we go. Thank you.

We conclude that a foreclosure sale of residential or commercial real property constitutes a service to which no occupancy limit applies under Executive Order GA-28 and local governmental bodies therefore lack authority to restrict in-person attendance at these sales.

Q. All right. Now, I'm going to ask you –

MR. HARDIN: If you could leave that up, please, Stacey, first.

Q. (BY MR. HARDIN) And then I want you, if you would, I want you to look over to the government's executive order on Page 3.

A. Okay. And I don't have a copy of the order.

MR. HARDIN: Do we have one more, Mark?  
Thank you.

And I believe that 112, which was never discussed as one of those that you did not object to, I'm going to tender it to you again to look at. I just looked – make sure. I'm told that 112 is not in evidence. And I apologize.

MR. OSSO: No objection, Judge.

PRESIDING OFFICER: No objection, 112 will be submitted to evidence.

(HBOM Exhibit 112 admitted)

MR. HARDIN: And I apologize for having published that before I realized that. That's my fault, not anybody else's.

Q. (BY MR. HARDIN) Now, I want to ask you, you referred in your testimony just a moment ago that in your first draft in which you basically had a ruling that said these foreclosures, particularly outside, would be allowed. And then you said that was partly based on the governor's executive order that he had previously issued. And you talked about it as General Order 28. Correct?

A. Yes. No occupancy limit applies.

Q. I'm sorry?

A. Yes. No occupancy limit applies –

Q. All right.

A. – under GA-28.

Q. And what role – can you point us in the governor's General Order 28 to the section that you relied on in that initial opinion that said they could be open to the public – they could – foreclosure proceedings could be open?

A. Yes. May I see the second page of –

Q. Pardon me?

A. May I see the second page of Exhibit 112?

Q. All right.

MR. HARDIN: Move to the second page. Thank you, Stacey.

A. Yes. Yes. We reference it here. We address your question.

MR. HARDIN: No, I'm sorry, Stacey. What I want to do now is go to – if you have – I don't know if you have 631 loaded. Do you?

If you do have 631 loaded, could you go to the second page of that?

And just you can sacrifice the one on the right, and take down 115 and put in the governor's general order.

And by the way, the executive order – before you move, Stacey, that is dated.

Q. (BY MR. HARDIN) Can you see on there what date it is? Is it June – can you see June 20th –

A. I can. It's June 26th, 2020.

Q. All right. Now, so that executive order, did it not, existed at the time that you were drafting your opinions at the request of the attorney general?

A. They did.

Q. All right. Now, what is it on Page 2 of the governor's executive order that led y'all to conclude and say in your first draft the foreclosure sales could be conducted?

A. Yes. If you will go to Page 2 of Exhibit 112.

MR. HARDIN: All right. Stacey, if you go to Page 2 of the general order.

A. The first full paragraph.

Q. (BY MR. HARDIN) Pardon me?

A. The first full paragraph. We point out that Executive Order 28 has a baseline limitation that does not apply to –

MR. HARDIN: Well, no – I don't – I'm confused here. This is probably my fault, Stacey.

May I approach, please?

Q. (BY MR. HARDIN) As usually Ms. Manela is more on top of it than I. You directed me – it's my fault. You directed me to Page 2 of –

A. Exhibit 112.

Q. – 112, your initial draft opinion.

A. The initial opinion.

Q. And I was trying to go over to the governor's order.

A. Ah.

Q. But let's stay with 112 first.

A. Okay.

MR. HARDIN: So now, Stacey, let's put up 112 and the governor's order. Those are going to be the two on the screens. Go ahead.

Q. (BY MR. HARDIN) All right. Tell me what it is about 112 that – that you think is relevant to what we're saying.

A. Yes. This paragraph that is highlighted – second paragraph –

Q. Moving away from that microphone. You got to move into it.

A. Yes, sir.

Q. There you go.

A. The paragraph calls out the executive order baseline limitations on gatherings. In this – it says this limitation does not apply to any services listed of the U.S. Department of Homeland Security's cybersecurity and infrastructure workforce Version 3.1 or subsequent version. CISA guidance is how we referred to that.

Among the services listed in Version 3.1 of CISA are residential and commercial real estate services including settlement services –

(Simultaneous crosstalk)

Q. (BY MR. HARDIN) Go down to –

A. Yeah.

Q. You go down to – about a sentence or two down there, you say you're not – And there is no better indication of that intent than the words that are chosen. Correct?

A. That is correct.

Q. All right. Now let's stop there. And let's go over to the second page of the – and, by the way, could you just explain to us laypeople what CISA is, C-I-S-A, what does that stand for?

A. It's the cybersecurity infrastructure – CISA is a – I'm trying to recall exactly what that acronym stood for. But there was a guidance document issued by an agency within the federal government that called out essential services and infrastructure that should be exempt from COVID limitations.

Q. Okay. So for – for us laypeople, essentially are you saying that you are going from your draft that you did to show why the government's proclamation or executive order would have exempted it, as far as you were concerned when you draft the original draft; is that right?

A. That's exactly right. We were trying to demonstrate, and we did demonstrate here, that a straight application of the governor's executive order excluded these types of foreclosure sales from limitations.

Q. All right. Stay with me. I – I don't want to tell everybody how to build a Swiss village when we are trying to just do what time it is. But if we go to Page 2 of the governor's order, where in there does it point people to the legal basis you made for your original order?

A. Paragraph 1A.

MR. HARDIN: Stacey, can you – yeah, on the left? Can you do 1A? Thank you. Can you highlight 1A for me? There you go.

Q. (BY MR. HARDIN) Mr. Donnelly wants to make sure that I let you know that we can't give you a copy of the CISA document because it's a government confidential document. Okay? But having said that, would you explain in this highlighted language how this tells you–

MR. OSSO: Objection to that sidebar about the CISA document. I don't believe it's confidential.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Can you explain in the highlighted portion here?

A. Say again?

Q. Yes. Explain in the highlighted portion how that impacted your original opinion you recommended in a draft to the attorney general?

A. Yes. This was part of the exemptions from occupancy limits. And the CISA guidance called out a number of essential services infrastructure, among which, as we point out in our original draft guidance, are residential and commercial real estate services, including settlement services.

Q. So explain to the Court what that meant as far as the conclusion that you ultimately reached and recommended to the attorney general?

A. Based on a plain-text interpretation of the governor's order, foreclosure sales would not be subject to occupancy limitations.

Q. If, in fact, any real estate?

A. Yes. And that was a straightforward textual interpretation.

Q. So your original one, did you actually base it upon an exception to the governor's executive order had given to say that it was – should be open to the public?

A. Yes. It was a straightforward application of the governor's executive order.

Q. Now, how did you get around that, then, when you were ordered to come up with a different answer?

MR. HARDIN: And if we can, Stacey, let's now put – take down the governor's executive order and put up Exhibit 115, please.

Q. (BY MR. HARDIN) Now, tell us what it is about one – how did you – what did you do that – since you had based it on a specific reading of the governor's statute and now you're being asked to give an opposite view, how did you do that?

A. Could you go to Page 2 of Exhibit 115?

Q. Yes. Where do you want to be?

A. If you'll look at the third paragraph, we simply jumped straight to the general occupancy limits.

Q. Pardon me?

A. We jumped right to the general occupancy limits –

Q. All right.

A. – excluding conversation about CISA.

Q. Direct us and Ms. Manela where to highlight that you're talking about.

A. The language, This general limitation, however, is subject to several exceptions.



Q. Are you –

A. One such exception is found in Paragraph 5 of the order, which limits outdoor gatherings to ten persons or fewer without approval by the mayor or the unincorporated territory.

So we switched out the applicable exceptions in the order to eliminate any reference to the CISA guidance.

Q. So what you did is you just wrote out a paragraph, did you not, of the governor's order?

A. We – we determined, based on the attorney general's instructions to us, that we would no longer apply the exception that had been granted by the governor's order.

Q. When you say "based on his instruction," did he actually talk about that language?

A. No. He told us to reach a different conclusion, and that was the only way to do it.

Q. All right. Now, finally, I want to make sure – I don't – I don't know that I need to introduce this, but had you read –

MR. HARDIN: May I approach the witness very briefly?

PRESIDING OFFICER: Yes.

MR. HARDIN: I'm going to approach you and show you what we have just marked as a new exhibit, House Board of Managers Exhibit 632 is a new listing. I'll tender to the Court and to counsel, with the admonition that I don't intend to read all this.

Q. (BY MR. HARDIN) So my question to you, though, without having introduced it yet –

MR. HARDIN: I will actually make it for ease move to introduce it. We move to introduce House Board of Managers Exhibit 632.

MR. OSSO: Judge, I would object to this witness testifying to this document. And additionally this document has not been produced. There's no Bates stamps on this document.

MR. HARDIN: No. That's certainly right. It has not been produced. We never foresaw this issue. So we've just gathered this during the lunch hour and printed it out here and we've tendered it to him. Whatever his position is is fine. But he's certainly right, it's never been produced. We did not foresee this issue.

MR. OSSO: It's a 40-page document riddled with hearsay, Judge.

MR. HARDIN: It's a government record. I think probably stands on its own. It's a public government record.

PRESIDING OFFICER: Mr. Osso, do you need time to review this 40-page document?

MR. OSSO: Judge, if I could have one or two minutes.

MR. HARDIN: If I may, I think that's a reasonable question. So if I could speed it along, what I'll do is I'll hold, withdraw, or wait on the motion to admit it. See if I can elicit testimony that gets the same, but it may not become an issue ultimately. But if I do want to, I'll give him notice so he has time to read it.

PRESIDING OFFICER: Hold one second.

MR. OSSO: Judge, we're ready to go.

MR. HARDIN: Thank you.

Now –

PRESIDING OFFICER: You withdraw the objection then?

MR. OSSO: No, Judge. Judge, may we have five minutes to just look through this document real quick?

MR. HARDIN: Fine.

PRESIDING OFFICER: We will stand at ease for five minutes.

(Brief recess)

PRESIDING OFFICER: Mr. Osso.

MR. OSSO: Your Honor, I have no – Your Honor, I have no objection to this exhibit. Just for clarification, it was House Exhibit – what's the number, Rusty?

No objection to House Exhibit 652 – excuse me, 632.

PRESIDING OFFICER: No objection to 632. Do you want to admit it into evidence?

MR. HARDIN: Yes, please.

PRESIDING OFFICER: Okay. House Exhibit 632 is admitted.

(HBOM Exhibit 632 admitted)

Q. (BY MR. HARDIN) I want, if I can, I'm going to walk up to you and I'm going to show you a page. I have – by the way, I mistakenly called this a confidential document. I've looked at it. It is not. It's a public document. There's nothing confidential about it. It's one of 230 mistakes I'll make during this trial.

MR. OSSO: Objection. Sidebar, Judge. Object to that sidebar.

PRESIDING OFFICER: What is the objection?

MR. OSSO: Sidebar. And I just move to strike Mr. Hardin's comments.

PRESIDING OFFICER: Sustained.

You know – you know better than that. There you go.

MR. HARDIN: That makes – that makes it 237. Thank you.

Q. (BY MR. HARDIN) I want to walk up. I'm going to show you with a tab. I'll show counsel where I'm pointing you to. I'll go by him, show him what I'm about to address you to, because I can't send you to a page number. Just a second.

Now, on Exhibit 632, can you – is there a provision of it – and I showed you a tab so there is no secret about this. Is there a provision in this document that you relied on in coming to your conclusions that you presented in your first draft to the attorney general –

A. Yes.

Q. – and shown in Exhibit – can you explain and –

MR. HARDIN: I don't know that – Stacey, you don't have this loaded, do you?

Do you really? All right. Let me show you where I'm going, Stacey, because, again, I don't have a page number.

May I approach her?

Q. (BY MR. HARDIN) Now, if you would, on the screen that she's already anticipated, is there somewhere on this screen that you can direct the viewers to that has any language that used – you used as a basis for your original opinion that you delivered to the attorney general on that Saturday afternoon?

A. Yes. The very last bullet point, Residential and Commercial Real Estate Services, Including Settlement Services.

Q. And what did that mean to you?

A. We interpret that in the original opinion.

Q. And, again, you read the portion of Exhibit 112 –

MR. HARDIN: Stacey, can you split it for me?

Q. (BY MR. HARDIN) 112, in your opinion that was really based on this segment – this one little excerpt out of 632?

A. Yes. Second paragraph, second page, A court's main objective in construing the law is to give effect to the intent of its provisions.

And then we footnote, And there is no better indication of that intent than the words that are chosen.

Then we footnote, Where text is clear, text is determinative of that intent.

Q. Microphone. Microphone.

All right.

A. Oh.

Q. Keep going.

A. One dictionary defines a service as work that is done for others as an occupation or business. Real estate is defined as land and the buildings and permanent fixtures attached to it. Thus, real estate services include services performed for others as an occupation or business that pertain to land or the buildings and permanent fixtures attached to the land, insofar as the performance of auction or foreclosure of sale services related to commercial or residential real property, such services are one specific iteration of residential and commercial real estate services.

Q. All right. So to reduce it down to its basics, and recommending or in your drafting to the attorney general, saying that there should be no restriction on the foreclosure sales, did you rely on a government document as guidance as to why it would be considered an essential service or activity that was exempted based on the governor's executive order?

A. Yes. The specific government document referenced and incorporated into the governor's order.

Q. All right. So in effect in y'all's opinion at that time, was your recommendation that it would be open and they could have foreclosures based on a combination of the governor's order? And if you go to the basic item that they're referring to in the governor's order, that would have said essential services that would have included foreclosure sales for either commercial or real estate property?

A. Yes.

Q. Residential property, excuse me.

A. Yes. We conclude that it is not – there's no occupancy limit applicable pursuant to Executive Order GA-28.

Q. Now, when you then were directed to come to the opposite conclusion in the drafting, that is the final product, and the exhibit that we've been using I think is 515 – 115, you had a challenge to write around the basis for your first – your first opinion. So what did you do?

MR. OSSO: Objection to leading and assuming the answer in the question.

PRESIDING OFFICER: Sustained.

Rephrase.

Q. (BY MR. HARDIN) What did you do to come up with the opposite conclusion you had originally arrived at?

A. Couple of things. If you go to Page 2 of Exhibit 115, we first point to the general occupancy limitations in the third paragraph. Next, we do point ultimately to CISA at the bottom paragraph.

And if you would go to the next page, at the very bottom of the first full paragraph – this is really the kicker – the Court's main objective in construing the law is to give effect to the intent of its provisions –

Q. Slow down, please, on behalf of the court reporter –

A. Yes. My apologies.

Q. – and the volume on behalf of the people on the floor. Could you speak a little louder, please?

A. Yes.

We repeat our commitment to textualism, which was a guiding star of our office at all times. We then point out that based on our analysis of the words, we believe that outdoor foreclosure sales, last sentence, are not exempted from the ten-person attendance limitation.

Q. And –

A. And completely reversed it.

Q. Excuse me, I'm sorry.

What was the only thing that changed since you had the original opinion?

A. The direction from the attorney general.

Q. All right. Now, you had questions about whether or not it would have happened anyway because of other subsequent events. At the time that you drafted these two opinions, did you have any idea that Nate Paul had bankruptcy hearings scheduled?

MR. OSSO: Objection. Asked and answered. And this witness said he didn't have specific knowledge, so speculation.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) In this particular matter, did you yourself know about any bankruptcy hearings that was set in the – excuse me, any foreclosure hearings that were set in the foreseeable future? Just you yourself, were you aware?

MR. OSSO: Objection. Asked and answered.

MR. HARDIN: Not by me.

MR. OSSO: And lacks specific knowledge.

PRESIDING OFFICER: Overruled. I ruled for – I sustained your first objection, which forced him to ask the question a second time.

MR. HARDIN: Thank you, Your Honor.

Q. (BY MR. HARDIN) Did you yourself?

A. No, I had no specific knowledge of any specific foreclosure sales.

Q. All right. You – you were there when he introduced a certain document.

MR. HARDIN: And if I can, can I have Exhibit – AG Exhibit 295, please, Stacey.

Q. (BY MR. HARDIN) You heard earlier questions on direct as to whether or not, have you not, sir, these opinions would be of help to somebody who was either – that somebody that was opposing a foreclosure hearing, right?

A. I recall those.

Q. All right. Now, if you could, if we – can you identify, had you seen before we showed you this – this attorney general exhibit – had you seen it before this exhibit that he's entered into evidence?

A. No. This is the first time I've seen this document.

Q. All right.

A. With the cross-examination.

Q. All right. Now, I want you – if you – if you – I'm going to read this to you and ask you what the import of this when you look at the exhibit is. Judge Campbell, August 3, 2020, as it is relevant to these proceedings, please see the attached guidance just released by the attorney general's office.

Had been just released, hadn't it? What date was it released?

A. The 1st.

Q. 1st of August. That was a Sunday, was it, right?

A. I believe midnight the 1st, I think that's right, yes.

Q. So this is just Tuesday after you released the opinion on – or after you've provided the attorney general opinion on Sunday the 1st, correct?

A. It's two days later, yes.

Q. Keep your voice up. Away from the microphone.

A. Two days later, yes.

Q. All right. Regarding the foreclosures may not proceed unless specifically authorized by the mayor and the City of the foreclosure, given the standing ten-person restriction would violate Texas Property Code, Chapter 51.

Does the attachment include the opinion that we have just been so laboriously going over?

A. Yes.

Q. Would you look to the last page of that opinion and see if that's the final one that we identified as Exhibit 115?

A. It is.

Q. With your signature?

A. It is.

Q. Does the cover page identify on behalf of whom –

A. It does.

Q. – this particular email – excuse me – this particular pleading was filed in a court here in Travis County?

A. Yes.

Q. And who was the person that represented whom?

A. This is –

Q. Was presenting – was presenting this particular pleading and urging that your opinion was relevant to their case?

A. This is one of Nate Paul's companies.

Q. Do you even yourself personally know how the judge ruled one way or the other on this motion?

A. Not in this case, no.

Q. All right. And, in fact, are you familiar with any other cases Nate Paul cited this opinion in seeking to foreclose – foreclosures in that year of 2020 after you rendered your final opinion?

A. Only through news reports that came out after.

Q. All right. Was it multiple places?

A. Yes.

MR. OSSO: Objection to hearsay, Judge.

MR. HARDIN: I'm through.

PRESIDING OFFICER: You withdraw that question?

MR. HARDIN: Yeah. I think actually he meant to say leading. It was leading. It wasn't hearsay.

MR. OSSO: I meant to say hearsay, but I'll retract the objection, Mr. Hardin.

MR. HARDIN: That's all I have.

PRESIDING OFFICER: Recross –

MR. OSSO: Yes, Judge.

PRESIDING OFFICER: – Mr. Osso?

#### **RECROSS-EXAMINATION**

BY MR. OSSO:

Q. You just cited the Cybersecurity and Infrastructure Security Act pretty precisely to Mr. Hardin on direct examination, did you not?

A. I had it in front of me.

Q. Okay. You also cited the day of the week that you issued that opinion, did you not?

A. The day of the week was August 1st when we issued the opinion.

Q. I'm just surprised because you showed an uncanny ability to remember things when Mr. Hardin was asking you questions, as opposed to when I asked you about the same documents during my cross-examination. Can you explain that?

A. I disagree with your characterization.

Q. Okay. We'll agree to disagree.

I don't have an e-copy of this CISA document that the House has just produced, but I think Mr. Hardin had you reference Page 16 of that document, did he not?

A. He did.

Q. He had you reference the very bottom part that I have highlighted in orange. And I'm going to show the jury. And it says settlement services, correct?

A. One of the things it says is settlement services.

Q. Now, behind the term settlement services in this document, there is no definition as to what settlement services are?

A. I do not see a definition.

Q. I don't see the word foreclosure sale or nonjudicial foreclosure sale behind it, do you?

A. The word "foreclosure sale" does not appear.

Q. Okay. Do you have a real estate license?

A. No.

Q. Okay. Would it surprise you to know that people that have real estate licenses oftentimes engage in settlement services to close on homes?

A. I would not know.

Q. It deals with title work and things of that nature?

A. I would not know.

Q. Okay. You won't find the word "foreclosure sale" in that definition, sir.

A. This definition? It is not in – the word "foreclosure" does not appear there, but that's why you engage in legal analysis and construction.

Q. Legal analysis and construction, which means that somebody else, another attorney, perhaps the attorney general, could have a different viewpoint as to what a settlement service is, correct?

A. He could have any number of viewpoints about that.

Q. That's why they call it the practice of law.

Zone of reasonable disagreement, that happens a lot in law, does it not?

A. Not in this case.

Q. Okay. Well, that's your opinion, but let's talk about facts.

Did – are you aware of – are you aware of whether or not the opinion that you wrote that you said was unconscionable and opposite of attorney general policy, did anybody challenge that in a court of law?

A. Did anyone challenge the opinion?

Q. Yeah, the opinion in a court of law.

A. I'm not aware of it being challenged. I don't know how you would do that under standing doctrine.

Q. Okay.

MR. OSSO: Pass the witness, Judge.

PRESIDING OFFICER: The witness may step down.

MR. OSSO: Judge, I have one more question, if the Court would entertain it.

PRESIDING OFFICER: Will the witness come back. One more question.

Q. (BY MR. OSSO) Prior to your term as a politician, did you or did you not practice real estate law? Paxton practiced real estate law, did he not?

A. I believe he had some real estate experience back in his past.



Q. Okay. So when you guys are going back and forth regarding the definition of things, it's possible he had some background knowledge of what "settlement services" meant?

A. In this case that was not the best interpretation.

Q. Okay. That's your opinion, sir, correct?

A. No. That's the law.

Q. That's your opinion?

A. I disagree.

Q. Okay.

MR. OSSO: Pass the witness.

PRESIDING OFFICER: You may step down. House call their next witness.

MR. HARDIN: We call Mr. Ryan Vassar.

PRESIDING OFFICER: Mr. Vassar, were you sworn in the other day in the group?

MR. VASSAR: No, Your Honor.

PRESIDING OFFICER: Okay. I need to swear you in. Please raise your right hand.

(The following oath was given to the witness.)

PRESIDING OFFICER: I do solemnly swear or affirm that the evidence I give upon this hearing by the Senate of Texas of Impeachment charges against Warren Kenneth Paxton, Jr. shall be the truth, the whole truth, nothing but the truth, so help you God.

You may be seated.

RYAN VASSAR,

having been first duly sworn, testified as follows:

**DIRECT EXAMINATION**

BY MR. HARDIN:

Q. Good afternoon.

A. Good afternoon.

Q. Mr. Vassar, you and I have met at least once – once or twice, correct?

A. Yes, sir.

Q. But I don't think we've talked about this subject. And that is we have some microphone issues that you and I have to – to worry about. If you will try to make sure that you're speaking into that microphone, we'll – to where everybody in the back of the room would hear, and I'll try to make sure that I don't talk on top of you, and we go from there. Okay?

A. Yes, sir.

Q. Your full name?

A. Ryan Vassar.

Q. That's going to work, if you'll just stay with that.  
How old a man are you?

A. I'm 39.

Q. And are you married?

A. I'm married.

Q. How many children?

A. Four kids.

Q. How old? What ages?

A. Ages between 3 and 7.

Q. Wow. In 2020 how old were they?

A. I had a six-month-old, a two-year-old, a three-year-old, and a four- – four-year-old, I believe.

Q. How are you employed now?

A. I'm general counsel for a local nonprofit organization in Austin.

Q. When you left the attorney general's office, and we'll get to that, how long were you unemployed before you found a place to land?

A. Six months.

Q. What was your source of income?

A. Savings, but I was not employed as a lawyer for that six-month period.

Q. Does your wife work outside the home?

A. No, sir.

Q. Let's go back now a little bit of an autobiographical sketch review for about a minute and a half, if we can. I'm not going to time you, but just roughly, like where you grew up, your parents, what your background was.

A. I grew up in Big Spring, Texas, a small town in West Texas. I'm the oldest of three siblings. I attended Texas Tech University and majored in accounting. My dad – my father and grandfather are both certified public accountants. They both attended Texas Tech. They've had a CPA practice in Big Spring for the past 40 years where they serve three generations of farmers and ranchers and salt-of-the-earth people.

Q. So how – how many years has your family been living in Big Spring?

A. My whole life.

Q. All right. Now, when you finished as an accountant at Texas Tech, what did you do?

A. I moved to Dallas and worked in finance for about a year and decided I wanted to go to law school. And so I started to work at Jones Day as a litigation assistant and – during my application periods.

Q. Does litigation assistant mean a runner?

A. Essentially, yes, sir.

Q. All right.

A. I was in charge of the documents.

Q. And did you clerk or get to know anybody else in the legal profession while you were there, other than the lawyers at Jones Day?

A. No, sir.

Q. All right. Now – and then after you graduated – what year did you graduate from law school?

A. Law school was December of 2012 – I'm sorry, December of 2011.

Q. 2011. And, Mr. Vassar, were you involved in any outside either political or social activities in addition to going to college and law school?

A. I was a member of the Federalist Society for law and public policy studies while in law school. And then I interned for two federal judges, one on the Southern District and one on the Fifth Circuit.

Q. Which judges did you intern for?

A. Judge Lynn Hughes on the Southern District. And then Judge Jennifer Elrod on the Fifth Circuit.

Q. Those were both law school internships, correct?

A. Yes, sir.

Q. Did you get – were you involved in Republican politics at that time?

A. Not at the time, no, sir, other than just typical voting.

Q. All right. And then after you finished law school, what'd you do?

A. I served in Governor Perry's office of general counsel as an attorney fellow.

Q. How long did you do that?

A. It was – I think six weeks. It was a summer.

Q. And then what?

A. And then I was invited to clerk for Justice Don Willett of the Texas Supreme Court.

Q. So Justice Willett was on the Supreme Court. How long, to your knowledge?

A. How long had Justice Willett been on the Court?

Q. Yes.

A. He might have been appointed by Governor Perry at the time, maybe around 2010.

Q. I haven't sought to – to introduce it, but is it a fair statement that Justice Willett had an extremely complimentary letter for you to have you go off and seek employment elsewhere when your service was over?

MR. OSSO: Objection. Relevance.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Now, at the end of the day, how long did you work for Justice Willett?

A. Three years.

Q. And was that always exclusively on the Supreme Court, or did you work for him after he went to the Fifth Circuit?

A. Just the Supreme Court.

Q. Now, at the end of those three years, what was your – what was your internship supposed to be? How long was it supposed to last?

A. Well –

Q. Or your clerkship, excuse me.

A. Right. Justice Willett had asked that I commit to two years. Two years came and went, and he said I could stay as long as I wanted to. But just with the circumstances that had changed, I joined – when I joined the court to work for Justice Willett, I was single. My wife and I got married while I was working there. And then about a year and a half later, we were pregnant with our first kid. So I think it was just a necessary transition from the court to other opportunities.

Q. All right. So where did you go to work after clerking for Justice Willett?

A. I joined the office of the attorney general.

Q. And who did – who interviewed you? Who hired you?

A. Amanda Crawford at the time was the division chief of general counsel division.

Q. And what year was it that you joined the Texas Attorney General's Office?

A. It was July of 2015.

Q. Do you recall what your first assignment was in the office?

A. No, sir, I don't.

Q. Okay. And then as time went on, by the time we reach the period of 2019, what was your position?

A. 2019, I was chief of the general counsel division.

Q. What does that mean? What would your responsibilities be?

A. So I advised the agency as the general counsel, whether it was employment matters or contracting matters, state procurement law, just the typical day-to-day business, legal advice.

Q. And then as you went along there, did you continue to move up within the organization?

A. Yes.

Q. When was your next promotion?

A. It was April of 2020.

Q. Now, was Attorney General Paxton already the attorney general when you joined the office?

A. Yes, sir.

Q. So your entire career at the – at the attorney general's office was under the guidance and – and service of General Paxton?

A. Yes, sir.

Q. How well did you get to know him?

A. I might have met him for the first time at an office Christmas holiday party where he and Senator Paxton were taking photographs with employees. That might have been two years into my – my employment, so maybe around 2017. From then until I was promoted to deputy for legal counsel, I might have seen him once or twice at a division chief's meeting, but nothing –

Q. And then what about by the time we approached, let's say, January of 2020, how much contact by that time in your different positions that you had with General Paxton?

A. He might have contacted me once about a matter, but other than just the typical monthly division chief's meeting or holiday party, it was – it was nothing substantive.

Q. All right. So we, the jury, and the Court assume that you yourself did not personally know Mr. Paxton that well at the time?

A. That's correct.

Q. All right. Were you around him socially other than a periodic office gathering?

A. No, sir.

Q. All right. Now, when we enter the year of 2020, whom did you have under your supervision in the – in the office?

A. April – April of 2020, I was promoted to be the deputy attorney general for legal counsel.

Q. Does that mean that you were one of the top eight deputies, or 12 deputies rather, up on the eighth floor?

A. Yes, sir.

Q. Would you describe – I'm not sure we've broken it down – to people. When we talk about the eighth floor, what does that mean in common vernacular for you?

A. So the eighth floor refers to the eighth floor of the Price Daniel building where the majority of the executive staff at the Office of Attorney General have offices.

Q. All right. So when we talk – if the jury is to hear about people where General Paxton dropped into this person's office, this deputy's office, that deputy's office, were all of these offices along the same area or how – what was the physical layout?

A. So if you can imagine, there's two elevator banks in the middle of the building, the middle of the floor. And the offices are spaced out around the perimeter of the inside of the building. So each deputy would have an office. There were roughly three or four offices on one span or one length of the building. So each deputy would have an office.

Q. So my reason for asking, and I'm asking you the answer to this, is that were the offices readily accessible to each other and to the attorney general where any of those folks were within a very short distance on the same floor of dropping in or out on each other?

A. Yes, sir.

Q. All right. Now, when did you first hear, if you ever did, of a person named Nate Paul?

A. I think it was May of 2020.

Q. And what was the occasion for you to first – well, let's back up. What was your position in May of 2020?

A. I was deputy attorney general for legal counsel.

Q. Now, how much contact did you have with Mr. Mateer?

A. We had weekly meetings, one-on-one meetings with Mr. Mateer, Mr. Bangert, and myself.

Q. Now, you're dropping off. I want you to remember that microphone. Maybe you need to move up just a little bit or . . .

All right. You had these weekly meetings, staff meetings. Were they scheduled with the deputies and Mr. Paxton?

A. So there are – there are deputy – deputies meetings that occur weekly. And then there are also one-on-one deputy meetings with Mr. Mateer. So I would meet in all of the deputy meetings, but then I would also meet individually with Mr. Mateer and Mr. Bangert.

Q. And at that time how old were you?

A. I would have been 37 –

Q. All right.

A. – or 36 at the time.

Q. And you would have been there at the attorney general's office since you were about 32 or so?

A. Yes, sir.

Q. Would you agree that you had moved pretty fast in the organization?

MR. LITTLE: Objection. Leading.

PRESIDING OFFICER: Sustained.

MR. HARDIN: Sure.

PRESIDING OFFICER: Ask differently.

MR. HARDIN: Yeah.

Q. (BY MR. HARDIN) Now, at the end of the day, when you entered into, say, your new position as deputy for general counsel, what type of matters would that have put you primarily over?

A. So the deputy attorney general for legal counsel oversees the opinion writing process, the open records division, the public finance division, the general counsel division, and I believe that's it.

Q. All right. So in May – or April or May of 2020, what was the occasion with you becoming familiar with the name of Nate Paul?

A. There was a pending open records matter involving the Department of Public Safety that had been connected to Nate Paul's name.

Q. Now, at this time how well did you know Mr. Mateer?

A. I believe Mr. Mateer joined the office in 2016, if I'm not mistaken, so I had become familiar with him just in my experience over the past five years working at the agency.

Q. What was he like as an administrator and first assistant?

A. He was great. I mean he was – he was a people person. He wanted to know how staff were doing. He wanted to connect with each – each person. He was invested in what they were doing, what they were interested in. He would host book clubs where we would – we would – he would select a book, whether it was a managerial book or leadership book, and we'd meet over a brown-bag lunch and just talk about a chapter of the book and how it – how we could implement it in our work and at home. So he was – he was a role model.

Q. Was he religious?

A. Yes, sir.

Q. How about you?

A. I am.

Q. In what way?

MR. LITTLE: Objection. Relevance, Your Honor.

MR. HARDIN: It's very relevant to who these people are, and in light of –

PRESIDING OFFICER: Overruled.

MR. HARDIN: – what he's being accused of. Thank you.

A. My wife and I attend an independent Baptist church here in Austin. We've been members at different churches here in Austin. And I've been a member throughout my life.

Q. (BY MR. HARDIN) What did you view your duty as an assistant AG to be?

A. Assistant AG or – as far as deputy attorney general for legal counsel, I was responsible for providing legal advice to the agency through the various functions of the divisions, whether that was the open records division, the opinions division, the public finance division, or the general counsel division.

Q. You've heard, have you not – or have you heard you're being referred to by the attorney general, all of you, as rogue employees?

A. Yes, sir.

Q. What was your reaction when you heard that allegation?

A. It was hurtful.

Q. Why? Tell me.

A. I – I've – sorry. I worked for the State for eight years as a public servant, as one who values –

MR. LITTLE: Your Honor, may I approach the witness?

PRESIDING OFFICER: Yes.

THE WITNESS: Thank you.

A. – as one who values the commitment to public service, to set an example for my kids, the people that I worked with, the people that I managed, and it's contrary – the statement of being rogue is contrary to the years that I dedicated my life to the State.

Q. (BY MR. HARDIN) How did you become familiar with Nate Paul?

A. Well, as I mentioned, the first time that I had heard the name was connected to the open records request that was pending at the agency, the Office of Attorney General involving the Department of Public Safety.

Q. And – and did you learn what the issue was about this open records request?

A. Yes, I did.

Q. And what was the issue?

A. The Department of Public Safety had received a request for public information. Under the Public Information Act, agencies that desired to withhold information for a valid purpose have to ask for the attorney general's ruling on withholding information within ten days. The Department of Public Safety had requested a ruling from the attorney general's office on whether it could withhold information under the law enforcement exception to disclosure.

So in other words, if there is information in the request that qualifies as law enforcement information that is not required to be disclosed, the agency is requesting the – the Office of Attorney General to make that determination so that that information can be withheld.

Q. At the time that you – you began to have awareness of Nate Paul, how would you describe your sense of loyalty and support of the attorney general?



A. It's – it was my understanding that General Paxton had met personally with Nate Paul. He considered what had happened to Nate Paul to be wrong and he wanted us to find a way to help Nate Paul.

Q. And what – when was the first time – did you have conversations with the attorney general about this matter?

A. Yes.

Q. When did personal conversations with the attorney general begin in person either – well, in person or by phone, or by text, any of that way? When did you first have contact of some type with the attorney general about Nate Paul?

A. It was in the month of May of 2020.

Q. And what form did that take and how did it happen?

A. I believe it was all in person. There – there were no phone calls or text messages or emails, to my knowledge.

Q. All right. And when they had these phone calls, do you recall what the attorney general said in the first one and what the occasion was for that call?

A. The initial call was a request to pull the file basically.

Q. By whom? Who asked you?

A. General Paxton.

Q. Do you recall what he said on the call?

A. Well, I say it wasn't a call. It was generally in person.

Q. Oh.

A. So stopped by the office, asked me, I would like to see this file. And so I would have – I contacted Justin Gordon, who is the chief of the open records division, and asked him to bring the file to my office.

Q. Now, at that time had you had any contact with Nate Paul's case yet, or was the general – General Paxton's request of you the first time you had become involved?

A. That was the first time that I was involved in the DPS file.

Q. All right.

A. The request at that time.

Q. So did you get the file?

A. Yes, I did.

Q. What did you do with it?

A. I reviewed it and notified the attorney general that I was prepared to meet to discuss it.

Q. How did you do that? How did you notify him?

A. Normally, it would have been an email to his scheduler just to see if he was going to be in the office to see if we could schedule a time to meet. I don't recall specifically if I emailed the scheduler or contacted his aide.

Q. All right. Did you – when you reviewed it, what all did you do? I mean, how much time did you spend reviewing this file?

A. It's my recollection everything was drafted, the initial draft of the ruling was already complete, and it was – a standard law enforcement exception was raised, law enforcement exception applies, the information should not be disclosed. So it was a pretty straightforward review.

Q. Did you learn one way or the other whether there had been a previous ruling and finding from the department as to whether or not the law exception applied to the same event that was now happening with DPS?

MR. LITTLE: Mr. President, I believe the objection would be this question calls for the solicitation of hearsay.

MR. HARDIN: I don't agree it's leading, but I withdraw it because I don't think it was understandable, so I take it back.

PRESIDING OFFICER: Withdraw the question.

MR. HARDIN: Thank you very much.

Q. (BY MR. HARDIN) So let me ask you this: When you reviewed the file, did you find out anything about whether or not – what event was being complained of that they wanted access – whose files they wanted access to?

A. The subject of the event was the August 2019 raid of Nate Paul's home and businesses.

Q. All right. When you reviewed the file, did you find out one way or the other whether this issue had come before the agency once before about the file on the same event?

A. At the time I did not connect this event to any previous determination by the office, but subsequently, I did connect the two.

Q. All right. So ultimately did you discover or connect – this was the second time around for Mr. Paul and/or his attorneys seeking information to overcome the law enforcement exception?

MR. LITTLE: Objection. Leading.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) All right. Now, let me ask you this: When you – after you reviewed the file and you informed the attorney general you were available to meet, was there a meeting?

A. Yes.

Q. And would you – can you put a time limit on – time area for us as to when this meeting occurred?

A. It was in the middle of May. And the reason that I believe that it was between that period is because when the Office of the Attorney General receives an open records request for a ruling, the office has 55 days – up to 55 days to issue that ruling. The DPS ruling was due June 2nd. That was the 55th day. So we would have been discussing it in the middle of May before it was released on June 2nd.

Q. Now, you may – was there already a draft opinion regarding a matter that was intended to be issued before July 1?

A. Yes.

Q. Was it June 1 or July 1? I've got –

A. June 2nd was the 55-day deadline.

Q. All right. And what was the preliminary opinion already existed in the file when you started looking at it?

A. It was to withhold the information under the law enforcement exception.

Q. Now, when you told the lieutenant – the attorney general that you were available, how soon did you meet with him, if you did?

A. It would have been a matter of days between notifying him and scheduling a meeting in his office.

Q. Where did you – you met with him in his office?

A. Yes.

Q. All right. Was anybody else present in the meeting?

A. There were a series of meetings at which Justin Gordon, the chief of the open records division, and Ryan Bangert attended.

Q. All right. So at this first meeting were they both present?

A. I don't recall if both were present, but there were just in the – this meeting and the subsequent meeting, they were both in attendance at one or the other.

Q. What did the attorney general say in this meeting?

A. He asked us to review the file. He asked us what – what our interpretation of the file was. He told us that he had spoken personally with Mr. Paul. He said that he believed that something bad had happened to Mr. Paul. He felt that Mr. Paul was being railroaded by the FBI and by DPS. And General Paxton said that he didn't trust law enforcement. He asked us to find a way to release the information that had been requested to be withheld.

Q. In your experience and your familiarity with the subject, what was your response to that?

MR. LITTLE: Objection. Hearsay.

MR. HARDIN: It's not. This is the witness. This is his –

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

A. I told General Paxton that if we were to reach the opposite conclusion and to require the Department of Public Safety to release the information, it would upset decades of precedent involving the law enforcement privilege where law enforcement agencies rely on the protection that the Public Information Act gives it to protect ongoing information, to protect confidential information, to protect witnesses who could be compromised if their names or their identities were released.

So there's – there's incalculable problems with reversing the decision to withhold the information and require it to be produced, not just across the state but with the Office of Attorney General.

MR. LITTLE: Mr. President, Mr. President, if I may. A lot of this is in narrative and not responsive to the question.

MR. HARDIN: It is exactly responsive.

PRESIDING OFFICER: Just state the objection.  
But sustained. Go ahead.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) What was your opinion based on your experience as a potential danger to innocent citizens who had cooperated with the police, thinking that would be confidential?

A. It could silence people who might ordinarily comply or speak to the police, if suddenly their names or identities could be released.

Q. So what was the attorney general's reaction when you told him – first of all, the stuff that you just said, is that essentially in the sense the information you gave him in explaining what your position was?

A. Yes, sir.

Q. Did anybody else speak up as well?

MR. LITTLE: Objection. Hearsay.

MR. HARDIN: I asked if anybody else spoke up. That is not –

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) Did anybody else speak up?

A. Ryan Bangert also spoke. I don't recall exactly what he said other than –

Q. And what was the attorney general's reaction to all this?

A. He, again, insisted that what had happened to Mr. Paul was wrong and that he didn't trust law enforcement.

Q. And did he make any distinction about which agencies or did he talk about all law enforcement?

A. It was specifically the FBI and the Department of Public Safety.

Q. And did he say why he didn't trust them?

A. He said that he compared what had happened to Nate Paul to General Paxton's own personal situation involving the Department of Public Safety and the State Securities Board and the FBI.

Q. Well, he was – he was – were you aware of who provided his security?

A. Yes, sir.

Q. And who was that?

A. The Department of Public Safety.

Q. Did he indicate in his comments whether – what his level of feeling or trust or distrust about them was?

A. Not to me.

Q. All right. Now, how long did he – when you expressed what his initial opinions were, did he go any further or how did the conversation proceed?

A. He asked me if he could obtain a copy of the DPS file.

Q. Had you ever been asked or know of any other time where the attorney general had asked to see a particular file that there's a public information request for?

A. No, sir.

Q. So what did you do?

A. I said that it was possible for him to receive a copy of the file.

Q. And I believe you said this was around May 15th, did you not?

A. Yes, sir.

Q. Did you provide him the file?

A. Yes, I did.

Q. Did it have everything in it?

A. It – yes, sir.

Q. Did you take anything out of it?

A. No, sir.

Q. Were you – can you tell us whether or not in that file you had there was any brief from the FBI weighing in as to their materials in the file and their position as to whether it ought to be released?

A. Yes. The FBI had submitted a brief in response to the DPS request.

Q. Was it – what was the process or procedure within your department if you have a request for open records, people want to get – some portion of it from another agency, what was your policy as to let the other agency weigh in?

A. The Public Information Act requires state agencies to notify the third party whose information may be at stake that they have a right to submit a letter ruling or letter brief to the Office of Attorney General for consideration.

Q. So in these circumstances, would it be normal or unusual for y'all to have notified the FBI there was this request that the request was to an agency whose files included FBI materials, would it have been usual or unusual for them to let them know so that they could respond if they wanted to?

A. So in this situation involving the DPS request, the Department of Public Safety did notify the FBI that its information may be at stake in this request for a ruling. And the FBI responded by submitting a letter brief to the Office of the Attorney General under the ordinary principles of the statute.

Q. Were you aware through these materials in looking through the file that there was an ongoing federal investigation of Mr. Paul at that time?

A. Yes. It was clear.

Q. Did you take a position with the attorney general that there was an ongoing at least federal – I don't – I'm not including right now State because I have no knowledge one way or the other. But that there was at least a federal ongoing investigation of Mr. Paul that release of these documents would interfere with?

MR. LITTLE: Objection. Leading.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Did you inform him one way or the other about – did you have discussions with him concerning the topic of an ongoing federal investigation?

A. Yes.

Q. And what did you tell him and what was said?

A. It was – it's my recollection that there – there were discussions about the substance of the brief that the FBI had submitted, the quality of the arguments that they had raised and made.

Q. And did – and did the – this brief provide details of the ongoing federal investigation?

MR. LITTLE: Objection. That will solicit hearsay, Your Honor.

MR. HARDIN: No. I've not asked him for communication. I'm just asking whether or not it contained details about it.

MR. LITTLE: May I be heard on that?

PRESIDING OFFICER: Yes.

MR. LITTLE: Mr. President, so Mr. Hardin is asking the witness about the contents of some other document that is not currently in evidence, pretty much right down the fairway of hearsay.

MR. HARDIN: I'm not asking –

PRESIDING OFFICER: I'm going to sustain. Rephrase your question.

Q. (BY MR. HARDIN) I'm not asking you for specifics of what it said. I am only saying: Were there documents and information in this file that would – that uses the basis of a conversation with the attorney general concerning the presence of an ongoing federal investigation of Mr. Paul?

A. Yes, sir.

Q. All right. Now, when you gave the file to him, how did that happen? Did you go to his office? What did you do?

A. I believe I delivered the file to Andrew Wicker, who is General Paxton's aide at the time.

Q. And did you later confirm that Mr. Wicker gave it to the attorney general?

A. Yes.

Q. And how long was it – how long was it after they had an event that you retrieved your file from the attorney general?

A. Well, as I mentioned, when the Office of Attorney General has to make a ruling, it's on the clock, so we have a timeline. I was – I was notified by Justin Gordon, the chief of the open records division, that we need to – needed to make a decision because the clock was coming – coming up.

It was approximately seven to ten days before that when I delivered the file to Andrew Wicker and Mr. Gordon had emailed me asking for a status update.

Q. And so then how after – how long after – back to the original question – was it from the time you gave it to the attorney general till you – let me ask you this: Was it ultimately returned to you?

A. Yes, it was returned to me.

Q. And when was it – approximately when was it returned to you?

A. I believe it was May 28th or May 29th.

Q. All right. And in the meantime, were you part of any later conversations, after the one you just relayed, in which you expressed your opinion the attorney general expressed his – well, let me back up.

In that second meeting, counting the first meeting being him asking you to look at the file, okay, the second meeting would be the one we just discussed. In that second meeting, did the attorney general give you any indication as to what he wanted you to do?

A. Well, he wanted us to find a way to release the information.

Q. And after you expressed yourself, Mr. Bangert expressed himself, the attorney general expressed himself, in that second meeting was there a conclusion as to what was going to happen?

A. No, sir, not that I recall.

Q. All right. How did the meeting end up?

A. We were essentially at an impasse on our recommendation not to release the information and the attorney general's decision to release it in some form. We told the attorney general that we would review our options and follow up with him to see if there's anything else we can look at.

Q. What was his position as to whether or not he wanted the – thought the law enforcement exception should apply?

A. He didn't necessarily take a position, that I recall, other than something happened to Mr. Paul, it was wrong, this shouldn't be allowed for the FBI and the DPS to get away with.

Q. All right. Now, after that, when was the next time you had any contact with the attorney general on this matter?

A. Again, it probably was a matter of days after that, just in light of the timeline and the deadline. We followed up and let General Paxton know that we looked at it again. We didn't think that we could reach an alternative conclusion.

Q. And who was the "we" in that part?

A. Ryan Bangert and myself.

Q. And how did you let the attorney general know?

A. We met in his office.

Q. And do you recall when this third meeting was?

A. I believe it was toward the end of May.

PRESIDING OFFICER: Counselor, we're a little past our midafternoon break. Is this a good spot?

MR. HARDIN: This is fine.

PRESIDING OFFICER: You're fine here.

MR. HARDIN: Sure.

PRESIDING OFFICER: We'll stand in recess until 3:30.

(Recess: 3:09 p.m. to 3:33 p.m.)

**AFTER RECESS**

PRESIDING OFFICER: Mr. Hardin, the floor is yours.

MR. HARDIN: Thank you, Your Honor.

Q. (BY MR. HARDIN) Now, Mr. Vassar, I'm just curious, what size is this file? You know, it just occurred to me. Everybody's been talking about this file that was essentially an open records request for Nate Paul and all. We've talked about what was in there in terms of descriptions. But what size file are we talking about, just visually?

A. It was – it was a manila envelope that was maybe a quarter inch or less in thickness.

Q. All right. And was it actually contained in a manila envelope?



A. Yes.

Q. So like a – not a seal, but like a little closing up at the top?

A. A label.

Q. All right. Did you keep it sealed, or is it just in a manila envelope?

A. It's just in an envelope, not – not with the flap on top, but just a folding manila envelope.

Q. I gotcha. All right.

Now, at this time, we are – I think you said somewhere around May 28th, is that right, when the file you're estimating was brought back to you?

A. Yes, sir.

Q. And that would've meant you said that you believed you gave it to him around when in May?

A. The middle of – the middle of May.

Q. So about – the math would say like 13, 14 days, but you give me what your figure is.

A. I would say May 23rd.

Q. May 23rd when you gave it to him?

A. Correct.

Q. All right.

A. And then it was returned on the 28th.

Q. I gotcha.

So you didn't have it for about five days?

A. Seven to ten days was what I recall. I apologize for the math.

Q. All right. So at any rate, that period of time it was out of your possession for the – to be in the possession of the attorney general, correct?

A. Yes, sir.

Q. All right. Now, when you got it back, so let's say toward the end of May, what was the next event or conversation you had with anybody – the attorney general concerning Mr. Paul?

A. The last meeting that we had regarding the Department of Public Safety file was that we did not recommend changing our conclusion to protect the information, but that there might be an alternative solution to take in issuing a ruling.

Q. Why did you come up with an alternative?

A. General Paxton had asked us to find a way to release the information.

Q. So who came up with the possible alternative?

A. Justin Gordon, who is the chief of the open records division.

Q. And what was that partial – that compromised position?

A. It was basically taking a position of no position. So we were not making a ruling saying to withhold the information, and we were not making a ruling to release the information.

Q. Had you ever participated in that kind of position before?

A. No, sir.

Q. Were you aware of it having been done before?

A. Not until Mr. Gordon suggested it.

Q. And I'm not suggesting to you that never had it before happened in my question in the AG's office. I really am just simply asking were you familiar with it ever having happened before?

A. No, not in the open records context.

Q. All right. Now, what would be the implications of taking a position of no position? Would that be of any advantage to anyone as opposed to declining to release it?

Let's do this. Under no position would there have been three possibilities then that you would be treating that request? Here's what I mean. Just a flat out not – we're not going to release the information because of law enforcement. That would be one, would it not?

A. Yes.

Q. Another would be release the information, give it to them as they request. That would be one, right?

A. Yes.

Q. And then the middle of that would be take no position. Correct?

A. That's right.

Q. If you take no position, does that have any different consequences than refusing to turn it over?

MR. LITTLE: Objection, Mr. President. Calls for speculation on the witness's part.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) All I'm really asking you – try to ask you in a way that's acceptable. I'm trying to determine what – why do no position then as opposed to just you can't have it? What's the significance of no position?

A. General Paxton didn't want to – for it to appear that his office was aiding the Department of Public Safety or the FBI. And so by taking a position of no position, it was semantics, I suppose.

Q. Well, what is your testimony as to whether if you say no position in terms of what you're communicating to people outside the agency as to the level of resistance you have to resisting?

MR. LITTLE: Objection, Mr. President. Calls for speculation on the witness's part.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Now, at any rate, was that the decision that was made?

A. Yes.

Q. No position?

A. We – we were directed to take a position of no position.

Q. And in these conversations and all with the attorney general?

A. Yes.

Q. Had you expressed your position being opposed to that?

A. Yes.

Q. Had Mr. Bangert expressed his position of being opposed?

A. Yes.

Q. Was there anybody else involved in talking about it with the attorney general?

A. Not with the exception of Mr. Gordon, who had attended one of the series of meetings.

Q. All right. And did Mr. Gordon have the same position as y'all did, even though he's the one who came up with no position?

A. Yes. His – my recollection is his initial review was very flattering of the quality and the content in the FBI's letter ruling.

Q. Now – then, after that, did there become a separate issue from reviewing the file? At some time did Mr. Paxton's lawyers' position – or excuse me – Mr. Paul's lawyer's position become, well, we want the unredacted FBI brief?

MR. LITTLE: Objection. Leading and compound.

MR. HARDIN: Well, I'll be glad to rephrase that. Let me give it – if that's okay.

PRESIDING OFFICER: I'll sustain it. And rephrase.

MR. HARDIN: Thank you very much.

Q. (BY MR. HARDIN) So let's go back now. And we – in that file was there a brief that had been prepared by the FBI saying why the documents should not be released to Mr. Paul?

MR. LITTLE: Objection, Mr. President. Asked and answered.

PRESIDING OFFICER: Overruled.

Q. (BY MR. HARDIN) Was there?

A. Yes, there was.

Q. And you got to speak into the microphone. Is your microphone on?

A. Yes.

Q. Okay.

A. Yes, there was.

Q. That's all right. And you're going to find you get tireder and tireder as the day goes on. You got to stay up there. I speak from experience, okay.

In this particular case, did the FBI brief – what type of information was in the FBI brief if it was not redacted?

MR. LITTLE: Objection, Mr. President. This calls for hearsay in the contents of a document that is not in evidence.

MR. HARDIN: There's no hearsay at all here. This is simply asking what documents are these. These are not communications. This is nothing –

PRESIDING OFFICER: Hold on one second.

MR. HARDIN: Excuse me.

PRESIDING OFFICER: Overruled.

Q. (BY MR. HARDIN) What type of documents were in there?

A. The FBI's –

Q. Or I say in there. Referred to in the FBI brief.

A. Right. The FBI's brief identified emails, text messages, strategic planning, staging locations for the raid in August of 2019. They identified the task force members, the brief identified under seal, probable cause affidavit that said it was filed under seal. And the FBI brief indicated that it – that seal had not been lifted.

Q. And so including all this, when we talk about the affidavit seal, it was actually under seal at that time in a federal court, wasn't it?

A. That's what the FBI brief said.

Q. A federal judge has ordered it sealed. It had not been unsealed. But if the FBI brief unredacted was released to the object of the investigation, that person would have all kinds of information that a federal judge had sealed, correct?

MR. LITTLE: Objection, Mr. President. Leading.

MR. HARDIN: I'm asking just is that correct?

PRESIDING OFFICER: Sustained.  
Rephrase.

Q. (BY MR. HARDIN) What type of information – and without going into the details of – let me back up this way.

In the FBI brief, did they – without saying right now what they were saying – did they lay out sources, names of witnesses, background and history of the investigation, personal data of investigating officers, and personal data on individuals? Was that included in the FBI brief as they argued against its disclosure?

MR. LITTLE: Objection, Mr. President. Once again, this is not – the witness's testimony is not the best evidence. And the content of this material has not been entered into evidence and it remains hearsay.

MR. HARDIN: Your Honor, surely we can't keep that information from this record. I'm asking him simply of the types of information was in there.

PRESIDING OFFICER: I will overrule. You can ask for the types of information.

MR. HARDIN: Thank you, Your Honor.

Q. (BY MR. HARDIN) So I believe my question was in the FBI brief, did they – without saying right now what they were saying – did they lay out sources, names of witnesses, background, history of the investigation, personal data of investigating officers, and personal data on individuals, was that included in the FBI brief as they argued against this disclosure?

A. Yes. That was all the content of the probable cause affidavit that I recall.

Q. So was it – what was your understanding as to whether or not lawyers for Mr. Paul were asking for things to be disclosed by the attorney general's office that a federal judge had refused to disclose and sealed?

MR. LITTLE: Objection, Mr. President. Leading.

MR. HARDIN: I can –

PRESIDING OFFICER: Sustained.

MR. HARDIN: I can ask it another way.

Q. (BY MR. HARDIN) Were you aware that a federal judge had placed these documents under seal?

A. Yes, sir. Based on the content of the FBI brief that indicated that the records were sealed and that the probable cause affidavit was identified as sealed.

Q. So essentially was the attorney general of the State of Texas seeking to reveal to a person under a federal investigation the basis of the evidence so far that the government had against him?

MR. LITTLE: Objection. Leading.

PRESIDING OFFICER: Sustained. Can you rephrase that?

MR. HARDIN: Sure.

Q. (BY MR. HARDIN) Was there a clear clash here between what the judicial system had decided somebody that should be sealed versus a man under investigation seeking the sealed information?

A. Yes. That was my opinion.

Q. And was the information he was seeking potentially harmful and dangerous to other people to be disclosed?

A. I believe so. To the extent it revealed the law enforcement information within the probable cause affidavit, the investigators that were involved, and other government officials that participated in the decision.

Q. All right. So how did it proceed now about whether or not – and by the way, by this time, can you give us a time frame where all of a sudden they're seeking the FBI brief?

A. I believe the request was submitted May 24th of 2020. So it was in the middle of our conversations about the DPS file itself.

Q. All right. And did they – when they were seeking it, how long do you think it was before y'all provided an answer?

A. I think the answer was due sometime in July. I want to say July 28th.

Q. Of their open records request for the FBI brief? Is that what you mean?

A. Correct.

Q. Okay.

A. So if I can lay it out –

Q. Yeah, please.

A. – on the calendar.

Q. Please.

A. The DPS file was due June 2nd. The request by Nate Paul's lawyers to the AG's office for the FBI brief was received May 24th. I believe the deadline to issue that ruling was July 28th, just based on the 45-day or 55-day time period.

Q. Mr. Vassar, if we do this in a time frame, what is your testimony as to whether or not the request for the FBI brief by itself came before the no decision on the release of the DPS file? Did it become before or after?

A. It – it came before, because the DPS decision was not issued until June 2nd.

Q. All right. When the June 2nd position was issued – I believe that was what you said, was the no decision; is that right?

A. Correct.

Q. All right. Now, any time after y'all said no decision, was there any attempt anymore by people on that Mr. – Mr. Paul's position – excuse me – was there any attempt any longer to get access to the whole file?

A. No, not to my knowledge. So just generically under the Open Records Act, when the Office of Attorney General makes a ruling, the parties have the right to appeal that ruling to the district court. I'm not aware if that happened.

Q. That's another way. So to your knowledge are you familiar whether or not after y'all said no to the DPS file on June 2nd, was there any attempt by Mr. Paul's lawyers to appeal that to a district court as they were entitled to?

A. I'm not advised of that.

Q. And instead, did they move to be trying to get an unredacted version of the FBI brief?

A. It's – the time lines are suspicious.

Q. And they're suspicious for what reason?

MR. LITTLE: Sorry. Mr. President, I'm going object to the witness's speculation and unresponsive statement. And ask Your Honor to strike it from the record.

PRESIDING OFFICER: We'll sustain that and strike that from the record. You can ask another question.

Q. (BY MR. HARDIN) When you issued no opinion on June 2nd, was there, in that no opinion, a redacted version of the FBI brief?

A. No, sir.

Q. All right. As of June 2nd, did they – they had access to the FBI brief with the probable cause affidavit, setting out the basis for the search and arrest?

MR. LITTLE: Objection. Vague.

MR. HARDIN: Sorry. Excuse me just a second. I'm sorry.

MR. LITTLE: Please.

MR. HARDIN: Strike the word "arrest." It wasn't arrest. I didn't mean that.

Q. (BY MR. HARDIN) Go ahead.

MR. LITTLE: Objection, Mr. President. Calls for speculation. I understand the question to be asking for what Nate Paul's lawyers did or didn't have, unless I misunderstood Mr. Hardin.

PRESIDING OFFICER: Objection sustained.

MR. HARDIN: Would it change if I said he misunderstood me?

PRESIDING OFFICER: Give a try.

MR. HARDIN: All right. No problem.

Q. (BY MR. HARDIN) All right. Now, let's do this. What was the decision – was – did you have any conversations with the attorney general on the issue of releasing to Mr. Paul the FBI brief?

A. Yes.

Q. What did – how did those conversations happen, when, where?

A. They coincided with our conversations about the DPS file, just given that the time lines overlapped.

Q. All right. So can you estimate the time frame when you talked to the FBI AG about whether to release the brief?

A. I believe it was the last week of May.

Q. And when you did so, what did you do? I mean, what was the decision? Can you tell me what the attorney general said?

A. I had notified General Paxton that the office had received a public information request related to the DPS file, and it was a request for the unredacted FBI brief that the – that the FBI had submitted.

Q. And what was his response?

A. He asked to see a copy of the two briefs, the redacted version and the unredacted version.

Q. Did you give them to him?

A. Yes.

Q. What happened next?

A. We met maybe the next day, and he showed me the two versions that I had sent to him and he had highlighted and circled and marked up some of the documents. And he stated to me that he didn't see anything in here that should be withheld.

Q. Attorney General of the State of Texas are you saying actually went over the affidavit and the brief, all the information that was referred to in the brief and made circles himself on it?

A. He – he marked up the copies of the letter brief that the FBI had submitted to the Office of Attorney General.

Q. And the attorney general decided – what had been your advice as to whether it should be released?

A. Well, the initial step in that process would have been to notify the FBI that the office had received a request for its information.

Q. Did you do that?

A. I – yes, I did not personally, but –

Q. Was it done?

A. It was – yes, sir, it was done.

Q. And what was the status? Were you waiting for their response?

A. Yes.

Q. What was the – did the attorney general have a position about that?

A. On the response?

Q. Yes.

A. So it was my understanding that there was a delay in either connecting with the FBI or the correct person to make a decision on whether to respond and how to respond. After a follow-up attempt to contact their office, I don't know the content of that conversation, but I know we made a couple of attempts to contact them.

Q. And then when you were unsuccessful in figuring out who in the FBI to talk to, what happened then?

A. After mentioning all of these sequences of events to General Paxton, he directed us to let the brief go out.



Q. And he had earlier told you he didn't see anything that was a problem releasing?

A. That's right.

Q. Do you know anything about the criminal law of practice history that attorney general might have been particularly informed about to make those kind of decisions?

MR. LITTLE: Objection, Mr. President. Calls for speculation.

MR. HARDIN: No, I – rephrase it to make sure it's understood.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Do you know of anything that you ever witnessed or observed in terms of knowledge, background, or history of the attorney general to be making a decision about what law enforcement information should and should not be released?

A. No, sir.

Q. All right. Now, when you released – so the – are you saying that the attorney general's office released an FBI brief unredacted to the subject of a federal investigation, in spite of it having pointed out that the information in there currently was under seal with a federal judge?

MR. LITTLE: Objection, Mr. President. Leading.

MR. HARDIN: I don't think that's leading. I can –

PRESIDING OFFICER: Leading. Sustained.

MR. HARDIN: Pardon me?

PRESIDING OFFICER: Sustained.

Rephrase.

MR. HARDIN: All right.

Q. (BY MR. HARDIN) Tell us exactly what the consequences and what he did when he ordered that brief to be released to the subject of a federal investigation?

A. So the decision to release the information was done under the Public Information Act in order to reach a decision that we – that the office was required to make in response to a request for information. Based on what I recall, the absence of the third party responding or responding in time or informing the office that it didn't intend to fight the – the release resulted in a release under the act.

Q. Well, would you have released it even if you were making the decision – let me put it this way.

You, as a courtesy, tell fellow law enforcement agencies this is under consideration. Correct?

A. It's – it's a required notice under the Public Information Act.

Q. And your process is – are you allowed and able to review law enforcement information from another agency. And even if you don't hear from that agency one way or the other, do you have the authority to declare the law enforcement exception to apply and hold it back, even if you don't hear from the other agency?

A. There are cases – there are situations in the open records context when the open records division may raise exceptions based on the information that it reviews that may not have been raised by the parties.

Q. In this particular case, what was your position, even when you had not heard from the FBI yet, what was your position as to whether this FBI brief unredacted should be released to the subject of the investigation?

A. I believe that it should have been withheld just based on the content of the document.

Q. And did you argue that position?

A. Yes.

Q. Did you argue that position even when you had not heard yet from the FBI?

A. Yes.

Q. And once that information is released, is it released under any conditions, or can the recipient share it with anybody he wants to?

A. It's not released under any conditions.

Q. So when you release law enforcement information through a Freedom of Information Act or public records request, once that information is out, if anybody wants to find out, what would be the possibility if anybody with larceny in their heart wants to know addresses, names, all kind of personal information about law enforcement or witnesses, would they potentially have access to it if the possessor wants to give it to them?

MR. LITTLE: Objection, Mr. President. This is leading and calls for speculation on Mr. Vassar's part.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Mr. Vassar, are you aware that in September of 2020, a quote special prosecutor was serving subpoenas using the names and addresses of officials that appeared in the file that your agency released?

MR. LITTLE: Objection, Mr. President.

Q. (BY MR. HARDIN) Are you aware of that?

MR. LITTLE: I'm sorry. Objection, Mr. President.

MR. HARDIN: That is why this is relevant –

PRESIDING OFFICER: No, don't talk to each other.

What is your objection?

MR. LITTLE: Objection. Assumes facts not established in evidence in this trial, Your Honor.

MR. HARDIN: Your Honor, I swear to you under my oath as a lawyer you're going to have that evidence presented. Now –

PRESIDING OFFICER: I don't have it now.

MR. HARDIN: Pardon me?

PRESIDING OFFICER: We don't have it now.

MR. HARDIN: I know, but it's coming. The point being is I'm going to ask him if he was aware the event happened. When he talks about evidence not be before the Court as yet, I'm seeking to find out if he's aware how this information was used. He can say he's not aware and that ends the inquiry.

But if he says he does, it points out the danger of what exactly happened here in this case, which is at the heart of the major impeachment contentions that we have.

MR. LITTLE: Mr. President, may I be heard?

PRESIDING OFFICER: Yes.

MR. LITTLE: I've great esteem for my colleague. However, "I promise it's coming" is not a proper response to that objection.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) I'll ask this question. Was the type of information I talked to you about available then to the recipient once you released the FBI brief?

MR. LITTLE: Mr. President, same objection. Same horse, different question.

MR. HARDIN: Still a legitimate question. The question was, was it available to the recipient. That's all. I haven't asked about anybody else you haven't heard information about. I'm talking about the person in this case, Nate Paul.

PRESIDING OFFICER: In this case, Counselor, I'll overrule.  
Go ahead.

Q. (BY MR. HARDIN) Was it?

A. The information that would have been in the FBI brief is what would have been disclosed to the requestor.

Q. Thank you.

Now, can I move on to – is that the last contact – to your knowledge, did the representatives of Nate Paul make any more attempt after you released the FBI brief? Was there any more attempt to get the information from the DPS?

A. Not to my knowledge.

Q. So what is your testimony, as to whether or not after you issued no opinion but then released the FBI brief, was there any more attempt to try to get to a fuller file of DPS?

A. Not to my knowledge.

Q. And was any lawsuit to your knowledge filed in state court to try to get it?

A. No, sir.

Q. What did that indicate to you?

A. They may have gotten the information.

Q. From some other way?

A. Yes, sir.

Q. All right. Now, if we can, when's the next thing you had to do with Mr. Nate Paul?

A. Well, unknown to me at the time, Ryan Bangert contacted me on July 31st, which I think was a Friday, in the evening. And asked me about our foreclosure opinion.

Q. Did you – and how did that come about? That was – do you remember what day of the week that was?

A. It was a Friday. Friday evening.

Q. All right. And, Mr. Vassar, what did you understand that your responsibilities and mission were?

A. So Mr. Bangert contacted me and told me that we needed to look into foreclosure sales.

Q. And did you understand – who did you understand this was a request from that you were asked to do this?

A. From General Paxton.

Q. Do you recall where you were when you got the information?

A. I was at home.

Q. And what did you do as a result?

A. I start – I responded to Mr. Bangert over the phone and told him that I would look into it. I would give him a first draft as soon as I could.

Q. Now, what time of day – first of all, what day of the week was it?

A. Friday.

Q. And what – what time was it on Friday night that Mr. Bangert called you?

A. Between 5:00 and 7:00. I mean, it was – it was –

Q. And at that time did you understand in response to the initial call there was any urgency one way or the other?

A. Yes, it was a –

Q. And when – the urgency, when you were supposed to try to have this opinion?

A. As soon as possible.

Q. What did that mean to you?

No, it's okay. Go ahead.

A. I was – I told Ryan that I would get him a draft sometime that evening, if not first thing in the morning.

Q. All right. Did you do that?

A. Yes.

Q. And then what did you do the rest of the morning in connection with it?

A. Ryan and I spoke about the draft. He agreed with the initial conclusion, which decided that foreclosure sales should be allowed to proceed under the governor's executive order at the time.

Q. All right. And were the two of you in agreement with that?

A. Yes.

Q. About what time of day did y'all get a document that you thought was sufficient to send over to the attorney general as a draft?

A. It was probably 11:00 to 12:00 on Saturday, that next day.

Q. What's the next thing you did in connection with it?

A. Ryan called me not long after that, probably 30 to 45 minutes after he had sent it to General Paxton.

Q. Were you aware as a result of that phone call whether he had talked to the attorney general?

A. Yes.

Q. And as a result, what did you understand your new mission was?

A. I understood that General Paxton said that we got the wrong answer.

Q. All right. So the wrong – the right answer had been what in your view?

A. Well, based on the office's position on numerous COVID-related matters, we had erred on the side of opening Texas, not closing Texas or prohibiting people from gathering. We had issued number – a number of opinions relating to houses of worship, election issues, and schools, all of them encouraging opening, not closing it. So the initial conclusion was based on my understanding of the office's position throughout the summer.

Q. And did you make a legal determination that – that went in line with what you believe the office policy was?

A. Yes.

Q. And then what happened when you were told you had the wrong answer? What did you do?

A. I laughed.

Q. Why'd you laugh?

A. I – I just – because I found out that I had gotten the wrong answer when I believed I had reached the right answer, just based on the office's position throughout the summer.

Q. All right. So then what did y'all do?

A. I told Ryan that I would take a look at reaching a different conclusion. I think he volunteered to do that, and made modifications to the draft that I had sent him.

Q. Now, you two guys are deputy chiefs of the whole office. Right?

A. Ryan at the time was deputy first assistant, and I was deputy for legal counsel, yes, sir.

Q. Were you – you were pretty high up in the – in the food chain, were you not?

A. Yes, sir.

Q. How often do you two write opinions?

A. Rarely.

Q. Do you have any idea why the two of y'all were doing it rather than very capable lawyers underneath you in the litigation section?

A. I think it was a priority issue that General Paxton wanted someone to get it done as quickly as possible.

Q. All right. So – so who did the main drafting the second time?

A. It was essentially the same shell of the first draft. And Ryan Bangert revised the conclusion to conclude that foreclosure sales should not proceed.

Q. Were you – were you aware of, at that time, any contacts that Mr. Bangert and the attorney general were having in drafting the opinion?

A. I knew that Ryan Bangert was speaking with General Paxton.

Q. And were you getting any kind of progress request or were you aware of how often they were speaking one way or the other?

A. No.

Q. All right. And then did you – was it any challenge to rewrite it?

A. Well, we had to go back and adjust the analysis to the extent we could, based on the position that we had taken initially.

Q. All right. Now, once you completed it – about what time in the morning on Sunday did you complete it?

A. I spoke with Ryan throughout the day on Saturday, after we were exchanging drafts and trying to reach an opposite conclusion. It's my understanding that he finished around midnight on Saturday evening.

Q. Was he passing on to and y'all discussing at that time any involvement of the attorney general in the editing process?

A. I was not involved in any conversations direct –

Q. That was going to be my next question. So during that entire evening that night, is it correct to say you were not dealing with the attorney general, only Ryan was?

A. That's right.

Q. Okay. Now, once it was produced, at any time during that process, did you have any idea whether or not this was something that would or would not benefit Nate Paul?

A. No, sir.

Q. Did you later change your opinion or your sense of awareness?

MR. LITTLE: Objection, Mr. President. This calls for speculation.

MR. HARDIN: I'm only asking about his mind state. I'm not asking about –

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) Go ahead.

A. Yes, sir. I believe Monday, the next – or – I think it was Tuesday.

Q. And what changed your mind Tuesday?

A. Well, foreclosure sales across the state are held on the first Tuesday of each month. So when the opinion was announced on our website on Sunday at roughly 1:00 in the morning, the foreclosure sale was reported in the media to have been –

MR. LITTLE: Objection, Mr. President. Any reports in the media would be obvious hearsay and inadmissible.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) All right. All I'm going to ask you is: Did news reports provide you information that changed your sense of awareness?

MR. LITTLE: Same objection.

Q. (BY MR. HARDIN) I'm not asking you what you heard. I'm not asking you what you read. Not asking you any hearsay or anything. Just simply: Did news reports later change your sense of awareness, whatever it was?

PRESIDING OFFICER: He just – excuse me. He's just asking about did it, not what was in them. Overruled.

A. Yes.

Q. (BY MR. HARDIN) All right. Now, at the end of the day, did – whatever that opinion was, did that concern you? And if so, why?

A. Well, not at the time. It was odd, but it wasn't concerning. But I was – at the time I had no context for who was involved or or what it was for.

Q. And then once you did have a context about who might be involved, did that change – what was your reaction to that?

A. It – it was even stranger that we would have gone through that effort to become involved in a potential Nate Paul-related issue involving foreclosure sales.

Q. Okay. Now, after that opinion was done, did you have anything else to do with anything that Mr. Nate Paul and his businesses did, whether it was later bankruptcy or any other events? Did you know anything else – did you have anything else to do on that front, on the foreclosure front, with Mr. Nate Paul or his affairs?

A. No, sir.

Q. All right. Now, let's go to the final area I want to talk to you about. Was it your – tell us what your responsibilities were if somebody above you or below you wants to do a contract with an outside lawyer. Let's start here.

What was the policy generally of outside – of getting outside law firms within the agency? How would that happen ordinarily?

A. So ordinarily with an agency of 800 lawyers and 4,000 employees, there are sometimes a need to retain outside counsel. That could be because it's a specialized area of law. Intellectual property law where the Office of Attorney General doesn't employ IP lawyers. It could also be a local counsel issue. If the State of Texas wants to intervene in a Virginia case, the office would need local counsel. So there are unique instances where we would have engaged outside counsel to represent the agency.

All of those requests are managed by the general counsel division, which I oversaw in my role as deputy attorney general for legal counsel.

Q. Well, now, how often in your memory have you ever recall outside counsel being retained to do a criminal investigation?

A. None.

Q. Ever?

A. No, sir.

Q. All right. And why is that?

A. Mostly just because the prosecutors and the attorneys in the office would handle that work.

Q. So when did you first become aware that the attorney general wanted to hire an outside law firm for a criminal investigation regarding the complaints of Nate Paul?

A. Well, the first time that General Paxton contacted me I believe was in the middle of August of 2020.

Q. And what was the nature of that contact?

A. He wanted to know what the basic process was to retain outside counsel.

Q. What did you tell him?

A. I told him exactly what I just explained to this chamber of there has to be a request. There has to be a specific need. The attorneys have to be vetted to ensure that there's no potential conflicts of interest. And there's a formal approval memorandum and an outside counsel contract template that is signed by the attorney and the law – and the Office of Attorney General.



MR. HARDIN: So can we have H – Exhibit – our Exhibit 160, please, Stacey. Is that not in evidence? All right. We move to offer – we move into evidence 160.

MR. LITTLE: No objection at all, Mr. President.

PRESIDING OFFICER: Show 160 be admitted into evidence.

(HBOM Exhibit 160 admitted)

Q. (BY MR. HARDIN) Now, I'll represent – well, you tell me. What is Exhibit – do you have a hard copy?

A. It's on the screen right now.

Q. Okay. Do you recognize what it is?

A. I do. It's an email from myself to General Paxton's Proton of Mail email address dated September 3rd 2020.

Q. Now, it's a different type of email address than the address than the official attorney general email route, isn't it, or is it?

A. It is.

Q. What is a Proton address?

A. I'm not – I'm not sure. I – I believe it's a private email –

Q. All right.

A. – service.

Q. Well, it's been suggested by his lawyers that that's very frequently used in your – in your organization. Is that true? And does a Proton email address in addition to your official one very commonly used with the people in the office?

MR. LITTLE: Objection, Mr. President. Lack of foundation. And calls for speculation by Mr. Vassar.

MR. HARDIN: No, no, no. They can't do what they did. You heard the cross-examination in this case talking about how common and ordinary it was and everything. Surely I am allowed to ask this witness if that's true.

MR. LITTLE: Mr. President –

MR. HARDIN: That's all I'm doing.

MR. LITTLE: I'm sorry. Mr. President, I believe we've invoked the rule. And perhaps should not be talking about what other witnesses testify to with this witness. to say that.

PRESIDING OFFICER: I was getting ready

MR. HARDIN: Pardon me?

PRESIDING OFFICER: I was getting ready to say that. Sustained. And you should not be talking about other testimony given in that specific instant.

Q. (BY MR. HARDIN) Well, let me ask you. If one were to contend it is commonly used within your agency to have a Proton email address, would that be accurate or inaccurate?

MR. LITTLE: Objection, Mr. President. Calls for speculation.

MR. HARDIN: Your Honor, this is really –

PRESIDING OFFICER: Overruled.

Go ahead.

MR. HARDIN: Thank you.

A. Not to my knowledge –

Q. (BY MR. HARDIN) Pardon?

A. Not to my knowledge. It would not be ordinary to me. I am not even sure what it was.

Q. Yes. I'm not trying to suggest it's never done. But in your experience, have you frequently or infrequently been dealing with official business in your agency with a Proton email address?

MR. LITTLE: Objection. Relevance.

MR. HARDIN: I asked whether –

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) Go ahead.

A. No, sir.

Q. All right.

A. This could be the first time that I have used that email address for General Paxton before I – I hadn't seen it before.

Q. How did you know to use it here?

A. I think I asked him for his email address that he wanted me to send the contract to, the draft.

Q. The general himself?

A. Yes, sir.

Q. So you're saying that five years you've been there, this email address is the first time you ever used it in dealing with – in dealing with him?

MR. LITTLE: Objection. Leading.

MR. HARDIN: I'm asking – just try to be clear.

PRESIDING OFFICER: Sustain the objection, but rephrase.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) Is – in this particular case, do you recall when he gave you this – how did he ask you to do it, first of all? Did he call you, drop in on you, or how did this happen?

A. The first time was a phone call, when he asked about the basic process for retaining outside counsel. The second, he came into my office on September 3rd and he instructed me to draft a contract for Brandon Cammack.

Q. And then did he tell you at that occasion where to send it?

A. Possibly, if I – if I didn't follow up with him to ask him, he could have instructed me in my office on that day of where to send it.

Q. Ordinarily if he – if you sent it to his regular official agency email address, who would have access to it?

A. I believe the assistant has access to his email box. I don't know if – if he had access.

Q. Would this Proton address be on access with other people – is there any way other people would be aware of it or ultimately run into it? If you sent something at this address, does that become available to others, or would it be only to the user of this email?

MR. LITTLE: Objection, Mr. President.

Q. (BY MR. HARDIN) If you know.

MR. LITTLE: Calls for speculation. Lack of foundation. Assumes facts not in evidence.

MR. HARDIN: I'm not asking for – I don't know what facts are not in evidence I have talked about. I simply want – am trying to find out is if this is used, would that then be restricted in availability to the attorney general. That's all I'm asking.

MR. LITTLE: And, Mr. President, what I will renew is my objection that there is no foundation laid for Mr. Vassar to know anything about what the other agency employees can access or cannot access.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Now, when you sent him this contract, did you draft anything in there that was a little different?

A. Well, I drafted the scope of work.

Q. And when the attorney general asked you to do the draft, was anybody else around you when he asked you to send it?

A. No, sir.

Q. Did he describe to you what he wanted this person to get a contract for?

A. Yes.

Q. What did he tell you?

A. It was my understanding that Mr. Cammack was being hired as a second set of eyes, if you will, to review the Travis County District Attorney's referral of the complaint involving Nate Paul.

Q. And had you been ever asked to do that in the criminal law area before?

A. No, sir.

Q. When was the last time you had done an outside agency contract for somebody to do a criminal investigation?

A. I can't recall when.

Q. Does that mean you don't remember any?

A. That's – that's right.

Q. All right. So when you did that, did you have – pay attention to particular concern as to how to limit the scope of work?

A. Yes, sir.

Q. Why did you do that?

A. Well, the referral from Travis County used specific language about providing assistance to Travis County.

Q. Did the referral – did you look at it at the time, the referral?

A. I – the first time I was given a copy of the referral from Travis County was September 3rd.

Q. Were you aware at that time one way or the other of any conversations and disagreements that had been occurring internally as to whether Mr. Cammack should be hired to do this? Were you aware through talking to other people or any other source?

MR. LITTLE: Objection, Mr. President. That response would call for hearsay.

MR. HARDIN: I'm not asking for the statements yet. I'm asking if he's aware of anything.

PRESIDING OFFICER: I'm going to sustain. Would you re-ask the question?

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) So at that time were you aware of any other concern about this matter, namely Mr. Cammack being hired to review a criminal investigation or whatever the assignment was, were you aware one way or the other as to whether there was any opposition by other people in the organization to hiring Mr. Cammack for this project?

MR. LITTLE: Objection, Mr. President. That would be derivative of hearsay.

MR. HARDIN: I have asked simply whether he's aware –

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

PRESIDING OFFICER: He can answer.

Q. (BY MR. HARDIN) Are you?

A. Yes, sir.

Q. Is that another reason you wanted to be cautious?

MR. LITTLE: Objection. Leading.

MR. HARDIN: All right. That's fair enough.

PRESIDING OFFICER: Sustained.

MR. HARDIN: Thank you. Thank you, Judge.

Q. (BY MR. HARDIN) Were you – because without going into what you said, had you had conversations before September 3rd with the attorney general about this matter?

A. Yes, sir.

Q. When did you have your first conversation with him about it?

A. The first time would have been when he asked about the basic process. That would have been around August 15th.

Q. And at that time did he talk to you at all about what he had in mind?

A. No, sir. It wasn't until the week of August 26th, I believe, when I was on vacation. General Paxton called me and asked me to explain the process, the basic process, to two individuals.

Q. Did he mention Mr. Cammack's name?

A. Yes.

Q. What did he say to you?

A. He just asked me to contact both of the individuals, explain the process to them, and that these were the two individuals that –

Q. The other – the other person – well, why two individuals? Was there somebody else under consideration?

A. There were two names that General Paxton gave me.

Q. What was the other name he asked you to prepare a potential contract for?

A. Joe Brown.

Q. All right. Mr. Joe Brown had been a previous U.S. attorney, had he not?

A. That – yes, sir.

Q. All right. Now, so did you prepare a contract like we just introduced for both – both Mr. Cammack and Joe Brown?

A. No, sir.

Q. All right. Whom did you prepare the contract for exclusively?

A. So the only contract that was prepared in this matter was for Brandon Cammack.

Q. And why did you not do one for Mr. Brown?

A. Based on when the attorney general came into my office on September 3rd and directed me to prepare a contract for Brandon Cammack, it was my understanding that there was no longer any need for a contract for Mr. Brown.

MR. HARDIN: All right. I want to take the contract now, Stacey, if you could put up – I move to introduce 160. I'm not sure I got a reaction one way or the other.

MR. LITTLE: Mr. Hardin, you admitted it.

MR. HARDIN: Thank you.

MR. LITTLE: Yes.

PRESIDING OFFICER: Yeah, it's admitted.

MR. HARDIN: Thank you, Your Honor.

Q. (BY MR. HARDIN) I want to move on this contract of September 3rd over to the addendum. Can you go to the next-to-last page, which says Addendum A. You have that?

A. Yes, sir.

Q. And is there a portion of this contract in this addendum that you can direct the Court and the jury to that will show how you tried to restrict the scope of activity in this contract?

A. Well – and, again, this was – this was all drafted based on my understanding of General Paxton's decision of what Mr. Cammack should be doing, as well as the conversations about the Travis County referral and the extent to which it authorized our office to assist.

You can see that the first paragraph specifically refers to certain criminal violations made by state and federal employees. So there's a singular referral that this contract is referring to.

Q. And it says, does it not, that this is to be a review of the allegations, correct?

A. That's correct.

Q. One could review the allegations just by looking at them, right?

A. That's right.

MR. LITTLE: Object to the sidebar. Move to strike.

MR. HARDIN: It's not a sidebar. It's a question, Your Honor.

PRESIDING OFFICER: You can strike the word "right."

Q. (BY MR. HARDIN) Okay. And in reviewing the allegations, which include complaints of potential criminal violations made by certain state and federal employees, were you aware at that time of any of the details of what were – what was in Mr. Paul's complaint?

A. When I drafted this scope, that was the first time that I received a copy of the referral and a copy of the complaint.

Q. And when you looked in the referral, when you looked at the documents that Mr. Paul had provided to Travis County DA's office and that they sent over to the attorney general's office, what type of allegations did you note as to what type of people and conduct this young man was to look into?

A. Based on what I recall, Mr. Paul had alleged that certain members of the FBI and the task force, the Department of Public Safety, may have taken his phone from him or not allowed him to contact his attorney. They may have damaged property searching through evidence. I don't recall the specific nature of the allegations, other than just –

Q. Were there allegations about improper conduct by a federal magistrate?

A. Yes, sir.

Q. Did that give you pause?

A. It did.

Q. Well, all right. So when you see these kind of allegations, then how did you draft it to try to take care of that in your opinion?

A. Well, the last paragraph refers to conducting an investigation under the authority of the OAG, which would be derivative of the complaint, which is to assist. Towards the end of the last – the paragraph, it explains that notwithstanding anything else, outside counsel should only conduct an investigation consistent with the complaint and only as directed by the Office of Attorney General, meaning that any activities that he wanted to pursue should have been authorized and approved by the office.

Q. And the way you structured this, do you make any reference in there to this man becoming a special prosecutor?

A. There's – there's a plain exception that says that the legal services under this contract do not include any other post-investigation activities including but not limited to indictment or prosecution.

Q. So as you believed when you drafted this contract and circulated it to be approved by others, what did you think this contract was setting out giving him the authority to do if it was approved?

A. In short, he was to review the allegations in the complaint – the statements in the complaint, prepare a report that would be returned to our investigators to provide a second opinion to General Paxton.

Q. And those investigators of yours would be who? Who would they have been turned over to?

A. David Maxwell and Mark Penley. David Maxwell was the director of law enforcement at the office. And Mark Penley was the deputy attorney general for criminal justice.

Q. Did you make – did you have discussions with the attorney general that this is what he was authorized to do, or how did – first, did you have any conversations with the attorney general about this?

A. Yes.

Q. About this restriction?

A. About the nature of the services that Cammack was being hired for, yes, sir.

Q. What did you say to him?

A. I just explained that we can't – the OAG, the Office of the Attorney General, cannot ordinarily engage in a criminal investigation, except for a referral, a case of a referral. General Paxton explained that he had a referral from Travis County. And then I explained that even under a referral, we wouldn't have outside counsel representing the agency in a prosecutorial role.

Q. What was his reaction?

A. He didn't have one that I recall.

Q. All right. And so then after you have done this, what kind of process it was supposed to go? Did you – when you sent this to the attorney general, did you get a response from him?

A. No, sir.

Q. Did you hear back from him on this?

A. Not that I recall. When he asked me to send him a draft of the contract, he also asked me to send it to Brandon Cammack.

MR. HARDIN: Well, so if I can, I move to introduce 161, please.

PRESIDING OFFICER: I don't see this on our list.

MR. HARDIN: I move to introduce it. I believe it's not in evidence.

PRESIDING OFFICER: Okay.

MR. LITTLE: No objection, Mr. President.

MR. HARDIN: Stella, can I have a hard copy, please?

PRESIDING OFFICER: There are no objections. When you receive it, Mr. Hardin, you may –

MR. HARDIN: Thank you – thank you.

PRESIDING OFFICER: We'll admit 161 into evidence.

(HBOM Exhibit 161 admitted)

Q. (BY MR. HARDIN) Now, this is – would you identify this for me on September the 3rd? This is –

MR. HARDIN: I'm sorry, Your Honor, may I have just a second?

Q. (BY MR. HARDIN) Now, Mr. Vassar, I want you to look at 161. I want you to look at 161 and see if that is the – basically the same document that you had sent the same day, on September 3rd, except that this one is to Mr. Cammack. Is it the same document?

A. Yes, sir, that's right.



Q. All right. So now you have forwarded a contract to Mr. Cammack and the same contract to the attorney general. But what all would be necessary to happen before this became a true contract and Mr. Cammack authorized to work for the attorney general? What would be necessary?

A. So ordinarily when the Office of the Attorney General wants to engage an outside counsel, that has to be approved internally through what was referred to at the time as an executive approval memorandum. That memorandum would explain the background of the request, the nature of the legal authority through which the agency could act, and the amount that was likely to be expended.

Q. All right. In this situation, if you're going to go through the matrix for the contract, would you explain on this type of procedure what all had been – what would be the process? How many people would have to approve of this?

A. I'll run through them very quickly, but generally the process would start with the general counsel division chief. It would be – it would next go to the financial litigation and charitable trust division. Budget would be next. I believe I would be next in line as the deputy attorney general for legal counsel. Given the nature of the services involved, criminal justice, Mark Penley, the deputy attorney general for criminal justice would have been next. I believe Lacey Mase was next.

Q. Well, in your – in y'all's process, does anyone along – what happens if anyone along that chain refuses to accept it or approve it? What happens?

A. Basically the request is denied, but it could be revived based on further conversations.

Q. All right. In other words, everything stops if somebody declines until at least it's talked about more? Is that what you mean?

A. Yes, sir.

Q. All right. So what happens if the attorney general goes out and unilaterally hires somebody without sending it through the process at all? In your opinion could he do that?

A. Yes, sir.

Q. All right. He has the authority, right?

A. Yes, sir.

Q. He's the guy, okay.

Now, if, in fact – are you familiar with why y'all follow those processes, though, that you just described that would be in the ordinary situation? Why you do you do it that way?

A. Mainly for efficiency purposes, but also just to ensure that each decision is vetted by the divisions that may have input or advice on the specific.

Q. All right. So are the people that are put on their division heads of the divisions that are affected by the contract?

A. Yes, sir.

Q. So in this contract, what all divisions would be affected that would have to okay it?

A. The general counsel division, the financial litigation and charitable trust division, the budget division, myself.

Q. All right.

A. The controller, the agency controller, the deputy for administration, the deputy for criminal justice, the chief of staff, and the first assistant.

Q. That's like eight people, isn't it?

A. It's – it – there's a lot.

Q. Okay. Thanks.

All right. Now, let me ask you – in the emails that we looked at or – in this document, 161 is a contract. Earlier some emails when we looked at 160 – 160 is the contract that goes to Mr. Paxton. 161 is a contract that goes to Mr. Cammack. Is that correct?

A. Yes, sir.

Q. And then you go, if you want, 228, contract 228 – not contract. Exhibit 228.

MR. HARDIN: Well, hold that, please. Don't put that – I'm sorry, Stella. I apologize.

I want to ask you. Is – I want you to look at 166. I believe this is already in evidence, Your Honor, because I think it's already been up on the screen once.

PRESIDING OFFICER: Yes, it is.

MR. HARDIN: Thank you very much.

Q. (BY MR. HARDIN) 161. Now, this is – I want you to look at this and describe for everyone whether this sets out the approval level that has to be done. Does it?

A. Yes, sir.

Q. All right. Now, this is the contract that is to be the process to get Mr. Cammack's contract approved. Correct?

A. That's right.

Q. So it starts out with Joshua Godbey, the charitable trust division. Why would he have to approve it?

A. So the financial litigation and charitable trust division manage the Office of Attorney General's outside counsel contracts.

Q. Do y'all ever approve a contract that hasn't been the agreement to fund it? Who has to agree to fund it?

A. The budget division has to approve funding.

Q. All right. Let's go up. Then Josh Godbey. After him is Ryan Vassar, you. Who drafted this particular document?

A. I did.

Q. All right. And how did you know what to put down here under the synopsis and background?

A. Just based on my understanding, again, of the nature of the services that Cammack was being engaged for.

Q. Now –

MR. LITTLE: Hold on.

MR. HARDIN: Excuse me.

MR. LITTLE: I'm sorry, Mr. President. I believe there may be some distress over whether this document is actually in evidence. We do not object to it. It has not been offered.

PRESIDING OFFICER: Yeah, we're just relooking at that now. So it was not entered, but you do not object. Is that correct? Pardon?

MR. LITTLE: I do not.

MR. HARDIN: I believe it was shown by an earlier lawyer on your side. I think you had –

PRESIDING OFFICER: It was a pretrial issue that didn't –

MR. LITTLE: We are good.

PRESIDING OFFICER: But you're good. Go forward.

MR. HARDIN: Thank you very much.

PRESIDING OFFICER: He did not object.

MR. HARDIN: Thank you. Thank you very much.

Q. (BY MR. HARDIN) Now, let's –

PRESIDING OFFICER: Excuse me. For the record, 166 is admitted into evidence.

(HBOM Exhibit 166 admitted)

MR. HARDIN: Thank you very much.

Q. (BY MR. HARDIN) Now, did you – so you prepared, over on the second page – it says Page 1, but it's the second when you turn it – the synopsis of what happened and the background and all that?

A. Yes, sir.

Q. I want you to tell us in your own words, when you sign off and initial this particular contract, did you sign off as if you approved it?

A. Yes.

Q. All right. Why did you do that?

A. I concluded based – just on my position of whether the agency had lawful authority to hire an outside counsel, Brandon Cammack in this situation, that it did.

Q. So you understood who wanted to hire him?

A. Yes.

Q. Who was it?

A. General Paxton.

Q. Describe in your own words: Did he make clear he was going to do it?

A. Yes.

Q. So did you have any doubt whether or not that's what he was instructing you to do?

A. No, sir.

Q. When you drafted, put a synopsis, and initial it, tell us in your own words: What was your position, then, as to whether this contract should or should not be approved?

A. Based on my position as deputy for legal counsel, my role is to recommend based on whether the agency had lawful authority to act, not whether it should act. So in my review, I determined that Cammack, as outside counsel, could provide legal services to the agency to investigate – or to review the complaint referred by Travis County.

Q. And what would be your position as to whether he had the authority if he stepped outside the scope that you had drafted so carefully in the addendum A?

MR. LITTLE: Objection, Mr. President. That would call for speculation.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Was he authorized to do more on behalf of the attorney general's office than you set out in the scope A of the contract?

A. Not in the draft that I – that I wrote.

Q. All right. Now, when you sent these two contracts or these proposed contracts that you just raised an issue right there – were these drafts or were they – were they final contracts?

A. They were both drafts.

Q. So at the time you sent these out to Mr. Cammack and to the attorney general, what was necessary to make them a binding contract where the attorney general's office had actually legally hired Mr. Cammack?

MR. LITTLE: Objection.

Q. (BY MR. HARDIN) What process was required?

MR. LITTLE: Objection, Mr. President.

This actually calls for a very important legal conclusion. And this witness is not qualified to reach that conclusion on the ultimate issue.

MR. HARDIN: I'm asking him what process within his organization was necessary for it then to be, at least him to consider it, a complete contract with the agency. Let me put it that way.

MR. LITTLE: That is a different question than the one you asked. I'm sorry.

PRESIDING OFFICER: So I'm going to sustain the first – the first objection I've sustained.

MR. HARDIN: But he's allowing the second one.

PRESIDING OFFICER: Well, you can start the second one now. One more time.

MR. HARDIN: All right. Thank you.

Q. (BY MR. HARDIN) So what was necessary in your mind as the person responsible for both drafting and initiating these contracts to make the drafts you sent to Mr. Cammack and to the attorney general, what was necessary, as far as your procedures and your experience and in your opinion, to make it a contract that would – where Mr. Cammack was actually officially hired and entitled to be paid under the contract?

MR. LITTLE: Objection, Mr. President. That question is extremely compound. There are several questions in it. Procedures, policies, his opinion may be very different things.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) The contract that you just sent, had it been signed by anybody?

A. No, sir.

Q. To be a binding contract, as far as you would be concerned, and the agency and your responsibilities, whom did it have to be signed by to be a binding contract?

A. Under the agency's signature delegation policies at the time, it would have been Jeff Mateer.

Q. All right. And if the contract at that time was signed by – solely by Mr. Cammack, do you have a contract or does it have to be signed by somebody that can bind the agency along with Mr. Cammack?

A. It would have needed to be signed by the agency as well as funding obligated to pay for –

Q. All right.

A. – the services.

Q. So did we ever get to that process that you were aware of at this time?

A. It was started. I believe June 4th we started the internal approval process.

Q. And that's – the internal process is circulating it to the people on Exhibit 166?

A. Yes, sir.

MR. LITTLE: Just to correct the record, the witness said June 4th. I believe you mean September 4; is that correct?

THE WITNESS: That's right. September 4th.

MR. HARDIN: I'm sorry?

PRESIDING OFFICER: Let the record reflect September 4th.

MR. HARDIN: Okay. The cover sheet would be 166, would it not? The contract, I believe were the 164 – 161, I'm sorry. I don't – I just want to make sure we got it straight.

MR. LITTLE: Oh, I'm sorry. Were you talking to me?

MR. HARDIN: We've got –

PRESIDING OFFICER: Speak to the Court?

MR. HARDIN: 166 is what I introduced and you accepted. And that's a copy of the approval sheet. asking about.

MR. LITTLE: 166 is on the screen.

MR. HARDIN: I'm sorry, that's what I was

PRESIDING OFFICER: Don't talk over each other. Yes, sir.

MR. LITTLE: 166 is on the screen and it has been admitted.

MR. HARDIN: Pardon me?

PRESIDING OFFICER: You can continue, Mr. Hardin.

MR. HARDIN: I'm sorry. I'm all confused.

PRESIDING OFFICER: 166 has been admitted. 166, correct.

MR. HARDIN: And I thought you were changing the number on me.

MR. LITTLE: I'm sorry. I'm confused by your statement. Maybe this will be a good time for a break.

MR. HARDIN: All right.

PRESIDING OFFICER: In about 15 more minutes. About 15 more minutes we'll have a break.

MR. HARDIN: All right. Thank you.

Q. (BY MR. HARDIN) So let's try to move through this real quickly. Did this start going through different procedures, and what was the outcome of this contract? Did it ultimately go all the way or did it stop somewhere along the way?

A. It stopped.

Q. The approval process. And when did it stop?

A. Mark Penley declined to sign the approval memorandum.

Q. And when did you become aware that Mr. Penley would not sign it?

A. I don't recall the exact date. I – I recall there were conversations that, when I signed it, it would go to Mark Penley next. I advised Jeff Mateer that that was going to be the next line in the sequence. I also advised Mark Penley that he was going to be next after I signed it.

I don't recall exactly when Mark Penley declined to sign.

Q. Now, I think there are other documents that we can introduce later that would show that. We'll do it through other people.

As to your involvement, Mr. Vassar, how would you view your role, once you started sending out the drafts? Did you start having contact personally with Mr. Cammack where he would have different requests that you would communicate with him or what?

A. I was the point of contact for Mr. Cammack just based on the introduction through General Paxton. After the internal approval process had started, I received a call from Mr. Cammack. I believe it was around the 13th of September.

Q. What did he want?

A. He asked if there were any official documents or an official email address that we could give him.

Q. And at some stage along the line, were there inquiry about whether he was going to – inquiries by him as to whether he was going to have credentials?

A. I'm sorry, could you say that again?

Q. Was he going to have credentials? Did that ever become an issue that would show that he was authorized to work on behalf of the AG's office?

A. No, sir.

Q. Did you ever provide him any?

A. No, sir.

Q. Did he ask you for any?

A. He did on that phone call.

Q. And what did you tell him?

A. I told him that he didn't have a contract yet. I didn't understand why he needed credentials to identify himself as representing the agency.

Q. All right. Were you aware – what was your level of awareness as to whether Mr. Cammack – or belief was authorized to be speaking for the AG's office before this process was completed? What was your – what was your belief?

A. He had none. He had no authority to represent the office.

Q. And in your opinion when would he have had authority to represent the office?

A. When?

Q. Yes.

A. When he had a binding and executed contract.

Q. And did he ever, to your knowledge, have a binding and executed contract?

A. On –

MR. LITTLE: Objection, Mr. President. This, once again, calls for a very important legal conclusion. It goes to the heart of the matter.

MR. HARDIN: I'm not asking him for a legal conclusion.

PRESIDING OFFICER: Witness can answer the question, if you know of your own personal knowledge not on hearsay.

A. On October 2nd, I believe Brandon Cammack sent a contract that appeared to be signed by General Paxton and Mr. Cammack himself.

Q. (BY MR. HARDIN) Do you know when you first saw that?

A. I believe it was October 2nd.

Q. Is that the first – describe for us, were you aware before – any time before that that General Paxton had decided to sign the contract on behalf of the attorney general's office?

A. No, sir.

Q. Did you have any idea at that time when you saw it on October the 2nd how and when that happened?

A. No, sir.

Q. Did Mr. Paxton ever tell you that he had signed a contract personally with Mr. Cammack?

A. Yes, he did.

Q. When did he tell you that?

A. I believe it was Friday in October, which may have been the 3rd. He emailed me and informed me that he had signed the contract with Cammack, and that there had been a mistake in Jeff Mateer's letter terminating the contract as an invalid –

Q. All right.

A. – agreement.

Q. We need to jump ahead a little bit for this particular portion. Let me – let me – you're aware, are you not, that – well, let me ask you: Do you recall what date you and a group of people went to the FBI to report your concerns?

A. September 30th.

Q. All right. And are you aware then when y'all informed the attorney general that you had done so?

A. October 1st is when we notified General Paxton.

Q. And after you informed the attorney general, did – at some time on either September the 30th or October 1 had Mr. Cammack been sent a cease and desist letter?

A. Yes.

Q. And whom did he send a cease and desist – by whom sent him a cease and desist letter?

A. I believe Mark Penley sent a letter to Mr. Cammack, and Jeff Mateer sent a separate letter to Mr. Cammack.



Q. And then separately, was action taken in the courts concerning the subpoenas, grand jury subpoenas, that Mr. Cammack had obtained and was serving? Was there separate action undertaken by either Mr. Penley or Mr. Mateer?

MR. LITTLE: Mr. President, we object as to leading.

Q. (BY MR. HARDIN) Are you aware of –

PRESIDING OFFICER: Sustained.

MR. HARDIN: Excuse me.

Q. (BY MR. HARDIN) Are you aware of any action that had taken – personally aware of any action that was taken in the courts concerning the subpoenas that Mr. Cammack had been serving?

A. Mr. – Mr. Penley moved to quash the subpoenas.

Q. All right. And so then when you get a letter, did you get a letter from the attorney general? And if so, what date that was, or text?

A. It – it was an email indicating to me that he had signed the contract with Brandon Cammack. And that Jeff's letter telling Cammack to cease and desist was improperly sent.

Q. All right. At that time, during that first week in October, when we got to October 3rd, what was your status with the agency?

A. I was still employed.

Q. And had Mr. Mateer retired – I mean resigned the day before October 2nd?

A. October 2nd. I believe he resigned on Friday.

Q. All right. When he – when he resigned, had he sent a letter to Mr. Cammack before that, if you know?

A. Yes.

Q. And at that time were all of these actions being done with the – with the involvement of each of you deputies that had been called colloquially "the whistleblowers"?

A. Yes.

Q. Now, when the – before that, when this contract – what was your involvement as far as the contract for Mr. Cammack once Mr. Penley refused to sign off on it? What happened then?

A. From what I recall, Mr. Mateer, Mr. Penley sent a cease and desist. Mr. Cammack followed up to our agency mailbox, just the general mailbox, with invoices that he had purported to work under some authorization from General Paxton. Because we didn't have a record of a contract or a copy of a signed agreement, we informed Mr. Cammack that we could not pay him. And his response was that he had a signed –

Q. What date was that?

A. I believe it was October 1st.

Q. All right. And during the time that you were going back and forth with Mr. Cammack about the contract, were you the person that was communicating with him?

A. He had emailed me directly, but the rest of the conversation was through the general mail box that he has.

Q. Did he send you an invoice seeking to be paid?

A. Yes.

Q. Do you recall when he did that?

A. It was right around the same period, so it would have been October 1st.

Q. And when he sent you an invoice to be asking to be paid, what was your response?

A. We informed him that we did not have a record of a contract under which to pay him.

Q. And once – did you tell him you need a contract signed by somebody within the agency?

A. Well, we just told him we didn't have any contract with his name on it.

Q. That had been signed by anybody?

A. Correct.

Q. So what did he do?

A. He responded and said that he had a signed contract.

Q. Do you recall what date he told you he had a signed contract?

A. He provided it to us in the morning. I believe it was October 1st – or no. I apologize. It was September 30th because we went and met with law enforcement on September 30th.

Q. And did you get a contract from him that had been signed by the attorney general before you went to law enforcement?

A. Yes.

Q. Now, at the time this was all going on, were you willfully and totally involved in the actions that were decided and that led to you going to law enforcement?

A. Yes, sir.

Q. Why did you go?

A. I formed a conclusion just based on my good-faith –

Q. Keep it to the microphone.

A. – belief that General Paxton was using the power and authority of his office to benefit a private individual.

Q. And what was your opinion as to whether or not y'all had done everything you could to stop him before that?

A. Well, all of these – these sequences of events, ranging from May of 2020 to the foreclosure letter in late July and August of 2020, and the Cammack issue in August and September of 2020, in isolation were just activities that we tried to handle for General Paxton.

MR. LITTLE: Mr. President, I'm sorry, I must object as nonresponsive to the question.

MR. HARDIN: Well, let me –

PRESIDING OFFICER: Sustained.

Re-ask the question.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) If – now, let me ask you this: What was your state of mind in terms of the degree that you – in your opinion, of the degree that you and others had engaged in to try to dissuade him from this conduct that you disagreed with?

A. We had – we had repeatedly suggested that the positions that we were being asked to take were contrary to established law and policies. When we did that, he – he directed us to find a different way. So as lawyers do, we found alternatives. And those were the alternatives that he chose.

Q. Well, then, what was the tipping point about September the 29th or 30th that led you to decide to go en masse to the FBI?

A. Well, it became clear at that point that the degree and the extent to which General Paxton appeared to be using the office to benefit a single private individual to target and harass law enforcement rose to a level that just based on our good-faith belief that criminal activity had occurred. And under no circumstances did Brandon Cammack have any authority, either under a contract that was unsigned or a contract that was signed, or by some deputation by Travis County District Attorney's Office to serve as a special prosecutor for the Office of Attorney General. So he was representing himself in a capacity that did not exist. And doing so for the benefit of a single individual.

Q. Under those circumstances, did you feel that the attorney general had any authority to appoint a, quote, special prosecutor?

A. No, sir.

MR. LITTLE: Objection, Mr. President.

Q. (BY MR. HARDIN) Did –

MR. LITTLE: The objection is relevance. I don't believe that there is any contention on the part of the House Board of Managers that General Paxton appointed a special prosecutor. That is not the allegation.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Are you aware as to whether or not Mr. Cammack was going around and serving special grand jury subpoenas claiming he was a special prosecutor of the attorney general's office? Are you aware one way or the other as to whether he was doing that?

MR. LITTLE: Objection. That would call for hearsay.

MR. HARDIN: No, it doesn't call for hearsay. This witness can be cross-examined about what the basis of his knowledge is. And then he can say whether it's hearsay.

PRESIDING OFFICER: Overruled.  
You may answer the question.

A. Yes, sir, I'm aware.

Q. (BY MR. HARDIN) And, in fact, was Brandon Cammack ever hired by the attorney general's office, by anyone in the attorney general's office, and designated a special prosecutor?

A. No, sir.

Q. And in your opinion – what is your opinion as to whether or not they even had the authority to hire a special prosecutor in this case under the facts that you knew them to be?

MR. LITTLE: Objection, Mr. President. Lack of foundation. Speculation. And relevance.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Mr. Vassar, what was your concern if y'all did not go to law enforcement on September the 30th of 2020?

A. Well, the concern was that it would only get worse. General Paxton's use of the office would only continue to be more extreme to benefit Nate Paul, and the potential – for us to be labeled as co-conspirators.

Q. How long did you remain with the attorney general's office after – after October the 1st, 2020?

A. I was terminated November 17th, 2020.

Q. And what was the stated reason for terminating you?

A. For disclosing confidential information outside the agency.

Q. And did they describe to you or give you anything in writing to tell you what confidential information you were supposed to have disclosed?

A. No, sir.

Q. Did you ask for a meeting to find out what it was?

A. I asked what it was, and they didn't provide a response.

Q. Who replaced Mr. Mateer as the first assistant after Mr. Mateer resigned?

A. Brent Webster.

Q. Is he still acting as the first assistant to your knowledge?

A. Yes.

Q. Did you – without going into other conversations, did you seek to find out what confirmation – or what information was being used to terminate you? And did you ever find out what it was?

A. Yes. I asked Mr. Webster what information I had allegedly disclosed outside the agency. And he didn't give a response.

Q. To this day do you know what confidential information you were supposed to have revealed?

A. I have not received a direct answer, but based on the agency's own internal whistleblower report, they've made allegations.

Q. Finally, when you – when you were terminated, how old were your children by then?

A. Six months to four years.

Q. I believe you indicated, but I'm not sure I remember: How long did it take you to find another job?

A. Six months.

Q. How did you live?

A. Just on savings that we had – we had saved.

Q. And when you took another job, where is it now?

A. It's for a local nonprofit policy think tank here in Austin.

Q. At the end of the day, in light of all – and by the way, have you sued? Are you a whistleblower that has sued the attorney general and the State of Texas?

A. Yes, sir.

Q. Why did you sue?

A. Mainly for my family.

Q. What do you mean?

A. Well, to take care of them financially, but also just to be a good example for them.

Q. And what do you mean about a good example for them?

A. Just to stand up for the truth.

Q. You read this report that they put out back in '21?

A. Yes, sir.

Q. You saw what it said about you?

A. Yes, sir.

Q. You saw what it said about the others?

A. Yes, sir.

Q. How would you rate the level of accuracy of the report that Mr. Webster says he primarily prepared?

A. On a scale of 1 to 10, I'd give it a 2.

Q. And has that report been out on the Internet to the world at large?

A. Yes, sir.

Q. All about you and the others being rogue employees?

A. Yes.

Q. Is this the first time you've ever had an opportunity to tell your side since this all happened?

A. Yes, sir.

Q. You feel better or worse?

A. It's not fun.

MR. HARDIN: I pass the witness.

PRESIDING OFFICER: We'll break now until 5:25. And, Members, there are some snacks back in the back for you to get a little energized, and we'll come back for another 60 to 90 minutes, depending on how it goes.

(Recess: 5:03 p.m. to 5:28 p.m.)

**AFTER RECESS**

PRESIDING OFFICER: Your witness.

MR. LITTLE: Thank you, Mr. President.

**CROSS-EXAMINATION**

BY MR. LITTLE:

Q. Mr. Vassar, my name is Mitch Little. I'm with the law firm of Scheef & Stone, and I represent the elected attorney general of Texas. We've much to discuss. I'm going to try to pick up a few crumbs here.

The word that I heard at the end of your testimony was "co-conspirators." Do you remember that word coming out of your mouth?

A. Yes, sir.

Q. One of your concerns on September 30th was if you didn't go to the FBI immediately, someone would think you were co-conspirators with the elected attorney general in this state, right?

A. That was one of the concerns, yes, sir.

Q. And your attorney that you hired before you went to the FBI is a man named Johnny Sutton; is that correct?

A. That's right.

Q. And he's here today, correct?

A. He is.

Q. And he's sitting in this courtroom. Yes?

A. Yes, sir.

Q. Would you indicate him for us?

A. He's right there.

Q. Yes. And he represented a number of you employees at the attorney general's office, correct?

A. Yes, sir.

Q. And by the time that you went to the FBI, Mr. Vassar, just tell the senators: Did you know who performed the home repairs and renovations at the Paxtons' home?

A. No. I had no direct knowledge.

Q. You didn't have any indirect knowledge, did you?

A. It was discussed when all of the events came together and we met as deputies on September 29th, that was mentioned as one of the potential concerns of bribery of the attorney general.

Q. And who mentioned it?

A. Based on my recollection, it may have been Mr. Brickman.

Q. And Mr. Brickman heard it where?

A. I'm not sure.

Q. He heard it from someone else, correct?

A. I – I'm not sure.

Q. You don't know?

A. I don't know where he heard it.

Q. But one of the criminal complaints that you and your group of people who went to the FBI alleged was that the Paxtons' home was being renovated at the cost of someone who is under federal investigation. Correct?

A. You said one of the criminal complaints. I'm not – I'm not – we did a verbal complaint –

Q. Yes.

A. – at the office, but I'm not sure –

Q. Let me be clearer. One of the things that you told the FBI in your meeting with them was that you were concerned that someone else was paying for the home renovations to the Paxtons' home, correct?

A. Me individually, I had no knowledge. But, yes, in the meeting with the FBI with all of us present, there was a roundtable discussion about some individuals' good-faith belief that the attorney general was involved in bribery.

Q. A good-faith belief based on what?

A. I'm not – I'm not sure. It wasn't my direct knowledge.

Q. You were in the meeting?

A. I would – yes, I was in the meeting with the FBI.

Q. What was the basis?

A. I'm not sure. I think it was redoing the kitchen countertops.

Q. Redoing the kitchen countertops; is that what you heard?

A. I'm just giving you the context of what I – I recall.

Q. Did you see any documents exchanged with the FBI in this meeting?

A. No, sir.

Q. Not one?

A. No. We did not provide any documents to the FBI.

Q. And let me be clear because I think your testimony was a little bit confusing, at least to me. It may have been to the senators as well. But you learned about Brandon Cammack's signed contract with the attorney general after you reported the attorney general to the FBI, correct?

A. I think that's correct, yes.

Q. So when you went to the FBI and you told presumably some FBI agents that Brandon Cammack was out serving grand jury subpoenas without authority, you did not know that that man had a signed contract with the attorney general of this state's signature affixed to it, correct?

A. That's my recollection.

Q. Well, surely when you found out you went straight back to the FBI and told them, right?

A. No. I mean at the time –

Q. No?

A. – we were represented by Mr. Sutton.

Q. Surely at that time Mr. Sutton asked you to go back to the FBI and correct that misinformation, correct?

A. What information? What misinformation? That – that Mr. Cammack had a contract?

Q. Yes. He had a signed contract affixed with the signature of the elected attorney general of this state, correct?

A. Yes, based on – what he had provided to us was a signed contract. And General Paxton had confirmed to us that he had signed a contract.

Q. And you had it in hand, correct?

A. Yes.



Q. And surely your lawyer said, guys, we need to go back to the FBI and tell them that there's a signed contract with the affixed signature of the elected attorney general of this state, right?

A. There wouldn't have been any reason to provide them with a signed contract because that wasn't part of the complaint that we had filed with the FBI.

Q. Part of the complaint – let's be clear about the complaint, okay.

Part of the complaint to the FBI was that Brandon Cammack was out serving grand jury subpoenas to support someone else's agenda besides the people of the state of Texas. True?

A. Yes.

Q. And at some point after your meeting with the FBI, you discovered from Brandon Cammack that he had a signed contract with the elected attorney general, correct?

A. That's absolutely true, for nothing that he was doing.

MR. LITTLE: And I'll object to the nonresponsive portion of the question – or answer and move to strike, Your Honor.

PRESIDING OFFICER: Strike the last comment.

Q. (BY MR. LITTLE) Now, let's be clear about something else. After – this contract that was signed by the Attorney General of the State of Texas, Ken Paxton, he had the authority to enter into it, correct?

A. Yes, I believe he did.

Q. And that's because over 4 million voters in this state gave him that authority, correct?

A. Yes.

Q. And that authority exists to bind this state. And if the voters don't like it, they can vote in someone else, correct?

A. That's, yes, how the political system works.

Q. That's my understanding as well.

At what point in time did you come back to the FBI and say, well, maybe there was some authority for Brandon Cammack to do what he was doing? Did you ever do that?

A. No, sir. And just because –

MR. LITTLE: Object. Nonresponsive to anything after "no, sir," Mr. President.

PRESIDING OFFICER: Please keep your answers to the questions.

Q. (BY MR. LITTLE) In your meeting with the FBI, did you tell the FBI that Ken Paxton had illegally disclosed some confidential material to someone?

A. We filed a complaint based on activity that we had formed a reasonable belief that –

MR. LITTLE: Mr. President, I will object that this line as nonresponsive.

PRESIDING OFFICER: Sustained.

MR. LITTLE: Madam Court Reporter, would you mind reading my question back? I should have – I'm sorry, I don't have one.

(Requested portion was read.)

Q. (BY MR. LITTLE) Yes or no?

A. I disagree with the phrasing of the question.

Q. It's a very simple question. Did you tell the FBI in this meeting – did someone in this meeting tell the FBI that Ken Paxton had illegally disclosed some confidential information to someone; yes or no?

A. In the meeting, we alleged based on a reasonable belief that that activity could have occurred, but we were not investigators. That was what law enforcement was for.

Q. That's right. And, Mr. Vassar, I want to see us on this point. You're a lawyer, and you're doing some – I mean, you have very good command of the language. You had a good-faith belief in certain information, but you didn't know that Ken Paxton had disclosed anything to anyone when you made this report to the FBI, did you?

A. No, not –

Q. You were hoping the FBI would sort it out for you and not think that you were co-conspirators with him, correct?

A. No. The purpose of the complaint to the FBI was because we had formed a belief in good faith that the attorney general was involved in criminal activity.

Q. This is something that I keep hearing over and over again. We formed a good – we formed – let me make sure I get it right – formed a good-faith belief that the attorney general of this state was engaged in illegal activity. Did I say that right?

A. That's accurate.

Q. But you didn't know, right?

A. Well –

Q. You didn't know, right?

A. That's the – that's the point of the good-faith belief, is we had no evidence that we could point to, but we had reasonable conclusions that we could draw.

Q. You went to the FBI and reported the attorney general of this state with no evidence. Do I have that correct?

A. We reported the facts to the FBI.

Q. That's not my question. You had no evidence that Ken Paxton had done anything illegal, did you?

MR. HARDIN: Your Honor, it's not necessary to yell at this witness. I suggest it's disrespectful. I request he quit doing it.

MR. LITTLE: I apologize. Let me do this again at a lower volume.

Madam Court Reporter, would you read my question back for me, please, at an appropriate volume.

(Requested portion was read.)

Q. (BY MR. LITTLE) Yes?

PRESIDING OFFICER: Repeat that so – because they could not hear her on the microphone.

MR. LITTLE: Yes, Mr. President, I will.

(Background noise)

MR. LITTLE: Watching a livestream over there. Hold on. Let me ask this question again.

Q. (BY MR. LITTLE) Let me get this straight. You went to the FBI and reported him for potential crimes without any evidence. Do I have that correct?

A. We went to the FBI and reported –

Q. Please answer my question yes or no.

A. – our belief that criminal activity had occurred.

Q. That was not my question.

PRESIDING OFFICER: The witness needs to answer the question yes or no.

Q. (BY MR. LITTLE) Should I ask it again, Mr. Vassar?

A. Please.

Q. I want to get this straight. You went to the FBI on September 30th with your compatriots and reported the elected attorney general of this state for a crime without any evidence. Yes?

A. That's right. We took no evidence.

Q. Did you gain any after that? Did you gain any after that?

A. Well, we weren't collecting evidence.

Q. Did you gain any after that?

A. Evidence of – of what, sir? Of –

Q. Evidence of a crime committed by the elected attorney general in this state elected by over 4 million voters? That guy.

A. I don't – I don't recall if we had collected any evidence.

Q. Don't you think that's something that you should be able to recall, sir?

A. Well, when we presented ourselves to the FBI, we did so as witnesses, not as investigators to collect evidence.

Q. You did so as complainants, hoping that you would not be named as co-conspirators. True? You made a complaint. Yes?

A. Yes, it was –

Q. Without any evidence. Yes?

A. No.

Q. I'm sorry?

A. Again, these are our good-faith beliefs that a crime had occurred.

Q. Respectfully, sir, we are not here in this historic event for your good-faith beliefs. So if you could just tell these senators who are taking up their time and all of Texas' time with this impeachment –

MR. HARDIN: Excuse me. These sidebar testifying comments are an inappropriate form of cross.

If he'd just ask a question, I have no objection.

MR. LITTLE: I will throttle it down. I withdraw it.

PRESIDING OFFICER: Pull that back.

MR. LITTLE: Yes.

PRESIDING OFFICER: Ask a question.

Q. (BY MR. LITTLE) Mr. Vassar, we've got a lot of people whose time is invested in this impeachment proceeding. Did you – did you gain any evidence after you went to the FBI?

A. I'm not sure what evidence that we would have – that I can recall. I –

Q. You had a good-faith belief. We've heard those words a lot in this trial, a good-faith belief. But without any evidence, correct?

A. The evidence that we provided –

Q. Why didn't you go – why didn't you talk to Ken Paxton – I'm sorry.

MR. HARDIN: Excuse me. Please let him finish his answer.

PRESIDING OFFICER: Overruled.

He was finished.

Q. (BY MR. LITTLE) Mr. Vassar, when you worked for Ken Paxton, was he gentle?

A. As far as I knew, yes, sir.

Q. Is he kind?

A. Yes, sir.

Q. He ever yell at you? Scream at you?

A. No, sir.

Q. Don't you think you owed him the courtesy of at least a phone call before you reported a man to the FBI without a shred of evidence?

A. Well, that's not how the reporting structure worked.

Q. Oh, please tell these senators how it works.

A. Well, all of my interactions were directly with Jeff Mateer and Ryan Bangert. General Paxton would call me with questions like the open records issue or the foreclosure letter, or I'm sorry – not the foreclosure letter. That was through Ryan Bangert, outside counsel.

So every other instance was my weekly meetings with Jeff Mateer and Ryan Bangert. And I never called the attorney general. He always called me.

Q. I appreciate your answer, but that was not really what I asked. So let me try again.

Don't you think you owed the Attorney General of the State of Texas at least a phone call before you reported him to the FBI without any evidence? Yes or no?

A. I –

Q. That's not the way it worked? Yes or no?

A. Would you like me to answer?

Q. Yes, I would.

A. Based on our conversations with Mr. Mateer and Mr. Bangert, they were having conversations directly with General Paxton. I was not part of those conversations. So any concerns that they had raised with him would have been in their conversations. I had no reason to call him directly.

MR. LITTLE: Object. Nonresponsive.

PRESIDING OFFICER: Sustained.

Q. (BY MR. LITTLE) Let me try this again, Mr. Vassar. Don't you think you personally – Ryan Vassar, don't you think you owed the attorney general of the state of Texas elected by over 4 million voters a phone call before you reported him to the FBI without any evidence, sir?

A. I was appalled at the time, so –

MR. LITTLE: Object. Nonresponsive.

MR. HARDIN: Excuse me, Your Honor.

PRESIDING OFFICER: Sustained.

MR. HARDIN: I object to the continued interruption of the answer. If he doesn't like the answers he's getting, he can then object to it being nonresponsive. But jumping in the middle of this man is totally unfair, and I object.

PRESIDING OFFICER: I will listen more closely, Counselor. I have not heard him interrupt him. I will listen more closely so the witness can finish his answer, and you can do a follow-up question.

MR. LITTLE: Thank you.

Q. (BY MR. LITTLE) Can we go –

PRESIDING OFFICER: Objection is overruled.

MR. LITTLE: Thank you.

Q. (BY MR. LITTLE) May I go back to my question, Mr. Vassar? My question was, don't you think you personally owed Attorney General Ken Paxton elected by over 4 million voters a phone call before you reported him to the FBI without any evidence? Yes or no? No, I don't; yes, I do?

A. Well, I would disagree that we didn't have any evidence just based on our beliefs, but I don't think I owed General Paxton anything.

Q. You don't? You worked for him for five years.

A. That's right. And I believed in him.

Q. He gave you a job, correct?

A. He did. And promotion.

Q. And a promotion, huh? Not enough to warrant a phone call before you reported him to the FBI, though, true?

A. Like I said –

Q. Do you wish you could go back and call him?

A. I'm sorry, say –

Q. Do you wish you could go back in time and call Ken Paxton and talk to him before you reported him to the FBI without any evidence?

A. I wouldn't do anything else differently.

Q. Interesting. Okay.

You don't know anything about Ken Paxton's campaign donations from 2018, do you?

A. No, sir, I don't.

Q. You didn't work on the Mitte Foundation case, did you?

A. No, sir.

Q. When you went to the FBI, did you have Ken Paxton's phone number at least? Could you call him on his cell phone? Did you have the number?

A. I believe I had his phone number in my phone, yes, sir.

Q. How did you get it?

A. I think he gave it to me.

Q. Why?

A. Just based on working with him and questions that he would call me with.

Q. So you could call him if you needed something, and so he could call you if you needed something, right?

A. That could be an option, just based on a cell phone use.

Q. You even had his secret email address, didn't you?

A. I'm not sure which one is –

Q. Well, there is an email that's already entered into evidence in this case. It's ag.wkp@protonmail.com. Have you seen it?

A. Yes.

Q. He gave it to you, right?

A. Yes.

Q. Did you email him on his secret email address, tell him that you were going to go and report him to the FBI without any evidence?

A. No, sir.

Q. Why not?

A. It didn't occur to me.

Q. Didn't occur to you.

At some point since then has it occurred to you that maybe you should have done that?

A. No, sir.

Q. How secret could this email address have really been, Mr. Vassar, if you had it?

A. I don't know exactly.

Q. Do you consider yourself a close confidante of the attorney general?

A. No, sir.

Q. Do you think you're the only person that had that email address?

A. I have no reason to believe that I was the only one.

Q. So this gentle, kind man, was he attentive to your concerns when you talked to him in the office, talked to him on the phone?

A. Sure.

Q. He's gentle. He's kind. He's attentive. And at what point in time did the weight of what you were doing in reporting this gentle, kind, attentive man to the FBI become apparent to you?

A. On September 29th.

Q. When you walked in there?

A. Walked in where?

Q. To the FBI.

A. No. That was September 30th.

Q. Okay. So what happened on September 29th when the great weight of having to report this gentle, kind, attentive boss struck you? What was going on?

A. September 29th I was in a meeting. Just a division meeting with Lacey Mase. And we received – she received a text message on her phone from an individual that I did not recognize. And the individual asked if a Brandon Cammack was working for our office.

Q. And you knew exactly who that was, didn't you?

A. Yes. I recognized the name.

Q. And what happened in your mind was you realized this contract didn't work its way all the way through the executive action memorandum process, true?

A. Among other things, yes, that's – that's a thought that went through my mind.

Q. Yes. And the rest of that thought is if that process has not been completed, he has no authority to work on behalf of the Office of the Attorney General, correct?

A. Yes.

Q. And that was alarming to you, true?

A. In addition to the fact that he was acting in a capacity that he didn't have, even if a contract had existed at the time.

Q. And in that moment, did you call General Paxton and say, Brandon Cammack's working. What's going on?

A. No, sir.

Q. Do you think it's possible, is there room in the – in your mind for the possibility that if you had called Ken Paxton and told him that information, Ken Paxton would have said, yeah, Ryan. I signed the contract with my own hands, with my own pen?

Is there room in your mind for the possibility that that would have happened?

A. Well, it is possible, but he was out of the state at that time. So I wouldn't have been connected to him or had a reason to call him.

Q. You had his phone number. So what if he was out of the state. Cell phone works out of the state, surely, right?

A. Yes, sir.

Q. You didn't think to call him?

A. Well, as I – as I explained, because he was out of state, Jeff Mateer was running the office.

Q. That's another thing we're going to get to, okay.

My understanding is your belief was that while Ken Paxton was in Ohio working on the Google case, the biggest case that the Office of the Attorney General had, Jeff Mateer was the acting attorney general, right?

A. That's correct. Although, my understanding, in addition –

MR. LITTLE: I'm going to object as nonresponsive to the remainder of this answer.

PRESIDING OFFICER: Sustained.



Q. (BY MR. LITTLE) Mr. Vassar, can it possibly be in a state with as many millions of people as Texas has that it is the belief of the upper echelon of the attorney general's office that any time the attorney general gets on the plane, Jeff Mateer is the real attorney general?

A. I'm not even – I don't recall the distinction about an attorney pro tem. I used to know it, but –

Q. You don't even know what an attorney pro tem is, do you?

A. I know there's two categories. One is court appointed, and one is recusal based, but I don't recall the nomenclature.

Q. And Brandon Cammack wasn't either one of them, was he?

A. No. He said he was on the –

Q. Brandon Cammack wasn't either one of them, was he?

A. No. He had –

Q. He wasn't an attorney pro tem, was he?

MR. HARDIN: Your Honor, he keeps interrupting the witness. He should be entitled to finish his answer.

MR. LITTLE: You're right, Mr. Hardin. I apologize, Mr. President. May I try again?

PRESIDING OFFICER: You may try again.

Q. (BY MR. LITTLE) Mr. Cammack was not an attorney pro tem ever, to your knowledge. True?

A. Like I said, I don't recall the distinction between the two categories of prosecutors, but he was not hired to be a prosecutor.

Q. He wasn't hired to be any type of prosecutor, true?

A. Yes, sir.

Q. He was hired as outside counsel because that's how you drafted the contract personally, yes?

A. Yes, sir.

Q. So when it says Warren Kenneth Paxton misused his official powers by violating the laws governing the appointment of prosecuting attorneys pro tem, Brandon Cammack wasn't a prosecuting attorney pro tem, was he?

A. Not based on my understanding of what that –

Q. I didn't think so either.

MR. LITTLE: Article VI if you would, Mr. Arroyo.

Q. (BY MR. LITTLE) You are familiar with this allegation dealing with whistleblowing, correct?

A. Yes, sir.

Q. Don't you kind of think Ken Paxton had a right to be upset with you reporting him to the FBI without any evidence?

A. I suppose he's entitled to whatever feelings he may have felt at the time.

MR. LITTLE: Article X, if you would Mr. Arroyo.

Q. (BY MR. LITTLE) This says that the Paxtons, and it says Ken Paxton. But you understand he's married to Angela Paxton, right?

A. Yes, sir.

Q. So when somebody's spouse gets accused of bribery, and the form of the bribery is improvements to a home that are owned by both of them, really you're accusing both of them of being corrupt. Right?

A. I'm – I don't know.

Q. Don't you think?

A. I don't know the elements of bribery. I'm not a criminal lawyer. So I'm not sure what the implication could be.

Q. As you sit here today, you know darn well that the Paxtons paid for the renovations and repairs to their home, don't you?

A. No, I don't know that actually.

Q. You don't know who paid for them?

A. No.

Q. Maybe it'll come out in this trial. Mr. Vassar, would you expect to be placed on investigative leave for sending a set of secret grand jury subpoenas to your outside counsel and then deleting that email?

A. No, sir. I mean –

Q. You wouldn't expect anybody to investigate that?

A. For sending an email to my personal lawyer

Q. Yeah.

A. And to be retaliated against by being placed on investigative leave; is that –

Q. No. My question is a little bit different, so let me be clear about what the question is. Wouldn't you expect the Office of the Attorney General to investigate your use of your office email to send secret grand jury subpoenas to that man, Johnny Sutton, and then delete the email? Wouldn't you expect to be investigated for that? Yes or no?

A. No, not necessarily.

Q. Okay. Wouldn't you expect to be fired for that?

A. No.

Q. Wouldn't you expect to be fired for reporting your boss to the FBI without any evidence?

A. Only to the extent the Government Code is triggered. That's what – that's what deputizes the first assistant to act under the authority of the attorney general.

Q. And your belief was that on September 29th – September 29th and 30th, when Ken Paxton was in Ohio doing business on behalf of the people of the great State of Texas, litigation business, very important litigation business, that someone else was the attorney general and that's what the Government Code says; is that right?

A. Well, it was my understanding it was a political event. It was a campaign event. I had no knowledge that he was working on the Google case.

Q. He was doing a campaign event in Ohio?

A. That was my understanding at the time.

Q. Where on earth did you get that?

A. I just – conversations at the time with Mr. Mateer.

Q. So if he was on – let's say he was. Let's say he was in Ohio on a campaign event. Jeff Mateer is the attorney general while he's there?

A. I was just clarifying my understanding based on your question.

Your next question of whether Jeff Mateer is the acting attorney general, again, that would depend on the statute. The statute provides if the attorney general is absent or unable to act, the first assistant shall perform the duties.

Q. Tell the senators what "absent" means.

A. The statute doesn't define it.

Q. Tell me what you think it means.

A. Well –

Q. Out of the state?

A. It would mean the ordinary meaning of the word, under a statutory interpretation approach.

Q. Tell these senators, many of whom are very accomplished attorneys, what the word "absent" means to your understanding, please.

A. I am not advised of what the dictionary definition would be. That would be an interpretive guide. "Absent" could mean out of state. Absent or unable to act could mean incapacitated.

Q. Like if Ken Paxton was on life support in a hospital somewhere, for example?

A. I presume so.

Q. But he wasn't. He was in Ohio, which I guess is debatable one way or the other.

A. I'm not – I'm not aware if that statute has ever been interpreted by a court, so I could not be able to say.

Q. But in any event, it provides the perfect cover for someone in your office to remove Ken Paxton's name from the letterhead and begin sending out letters on behalf of the Attorney General of the State of Texas, true?

A. No. Nobody removed his name from letterhead.

Q. You don't think so?

A. No, sir.

Q. Have you ever seen – have you ever seen attorney general's office letterhead without Ken Paxton's name on it?

A. All the time.

Q. All the time?

A. Yes, sir.

Q. How did correspondence in September of 2020 come to be sent to parties outside of the attorney general's office without Ken Paxton's name on it? Tell us.

A. Well, the agency has different letterhead. There – probably even today, letterhead that's available on the attorney general's website that does not have his name on it.

Q. So –

A. Letterhead that he signed.

Q. I see. So when the attorney general is absent in Ohio, someone at the office goes, grab me the letterhead without Ken Paxton's name on it. He's in Ohio today. Is that right?

A. I don't recall any decision about using this letterhead or who instructed the use of the letterhead.

Q. No one decided. It just happened. Right?

A. Like I said, I don't recall any decision about it. I'm – the agency has different letterhead that exists today.

Q. You're familiar with the Mitte Foundation now, right?

A. I've heard of it, yes, but I'm –

Q. You've been an attorney how long?

A. I was licensed in 2012, so 11 years.

Q. You said your family goes to a Baptist church, right?

A. Yes, sir.

Q. Okay. That Baptist church is organized as a nonprofit, right?

A. Yes, sir.

Q. And at some point in time, I'm sure you've given money to a charity, correct?

A. Yes, sir.

Q. I got to ask you something that's just been really bothering me. And I know I am not the only one. What in the heck is a charity doing making a multimillion-dollar private equity investment with Nate Paul with charitable funds? Any thoughts on that?

A. I'm not sure. I don't know.

Q. Did you ever ask anybody?

A. No. I – I was not involved in the Mitte case, was never consulted on it, or provided any advice for it.

Q. Do you know – maybe you do. Do you know of any charities that make multimillion-dollar private equity real estate deals with charitable funds?

A. I have no personal knowledge.

Q. Okay. Do you recall giving testimony to the House Board of Managers and being questioned on video by Erin Epley, Brian Benken, and Terese Buess?

A. Yes, sir, I remember.

Q. But they never put you under oath, did they?

A. Not that I recall.

Q. Did that kind of surprise you?

A. I didn't think anything of it.

Q. Did you ask why not?

A. I don't know. I don't think I did.

Q. Well, just because you weren't – well, you are an attorney obviously. Just because you weren't under oath doesn't mean that you didn't tell them the truth, the whole truth, and nothing but the truth, so help you God. True?

A. That's right.

Q. Did you review your statement in preparation for this historic trial?

A. No. I consulted with my attorneys and that was it.

Q. Did anyone give you a copy of it?

A. A copy of my statement?

Q. Your statement, yes.

A. No, sir.

Q. So anything that you said in that testimony – I guess we can call it testimony. Anything you said in that testimony that is recorded, we can take as the gospel truth, right? Yes?

A. Just based on my telling the truth, is that what you're asking?

Q. Yes.

A. Yes, sir.

Q. We can – we can take it as being true, yes?

A. Yes, sir.

Q. Okay. Have you ever – before today, have you ever in your life been asked to give testimony as a witness without being sworn?

A. I don't recall. I – I've – I've been a resource witness to many Senate and committee hearings, but I don't recall if there's an oath administered to a resource witness. So I apologize.

Q. Have you ever given sworn testimony anywhere before today?

A. No, I don't think so.

Q. It's a tough first outing, isn't it?

MR. LITTLE: Mr. Arroyo, if you would, Article I of Impeachment, please.

Q. (BY MR. LITTLE) You see Article I on your screen, sir?

A. Yes, sir.

Q. You don't know anything about this, do you?

A. No. This would be the Mitte Foundation matter.

Q. And just to be clear, have you looked at Chapter 123 of the Property Code to determine what the Office of the Attorney General's obligations are with regard to charities in this state?

A. No, sir.

Q. Don't know anything about that, do you?

A. No, sir.

Q. All right.

MR. LITTLE: Mr. Arroyo, Article II if you would.

Q. (BY MR. LITTLE) Now, Mr. Vassar, you've given some testimony about what we'll call the foreclosure opinion, right, that was issued August 1?

A. Yes, sir.

Q. Issued August 1 of 2020? Yes?

A. Yes. I – I believe that's right. It was a Sunday.

Q. That opinion was not a legal opinion under subchapter C, Chapter 402 of the Government Code, was it?

A. Yes. It was a legal opinion under subchapter 402.

Q. It was?

A. Yes, sir.

Q. That's not what you told the House Board of Managers. What did you tell them?

A. I don't recall.

Q. We'll get to that later. But that's not what you told them, is it?

A. I – I don't recall. I may have misstated.

Q. You may have misstated?

A. If you're saying that's not what I said, and my testimony today is that there is no other statutory authority except for Chapter 418 of the Disaster Act to issue a legal authority – to issue a legal opinion by the Office of the Attorney General, so it either has to be Chapter 402 or it has to be Chapter 418.

Q. But we know this is not 402 because it says on the face of the foreclosure opinion that it is not under 402, correct?

A. It does say that it's not, but that doesn't mean it doesn't fall under the authority of that chapter. It just means it didn't – it wasn't written in accordance with the typical legal opinion process.

Q. I was hoping that we would be able to have a chance to discuss this.

MR. LITTLE: Mr. Arroyo, please bring up Section 402.042 of the Texas Government Code.

Now we're looking for 042. That's .212. We'll get to that later. Thank you.

Q. (BY MR. LITTLE) While Mr. Arroyo is bringing this up, I've got a couple questions for you about that.

In order for the foreclosure opinion to have been authorized under Chapter 402 of the Government Code, Mr. Vassar, certain criteria need to be met; is that correct?

A. I believe so.

Q. There first needs to be an authorized requestor, correct?

A. That's correct.

Q. Who are the types of persons who are authorized to make that request?

A. The governor, the lieutenant governor, the speaker, chairman, and chair people of committees of the House and of the Senate, executive heads of agencies, and county and district attorneys.

Q. Did any of those people request the foreclosure opinion?

A. Yes, sir.

Q. Okay. What is the next criteria to satisfy for Chapter 402 of the Government Code?

A. You're going to have to refresh my recollection.

MR. LITTLE: All right. Mr. Arroyo, if you would, move to the second page of that PDF that you just had up.

There you go. If you could just highlight the text at the top, that big chunk of text there. Little bit lower. Thank you so much. And just blow that up for us.

Q. (BY MR. LITTLE) Let's look at Item C, okay? You're a lawyer. We can read this together, right? Right?

A. Yes, sir.

Q. It says, A request for an opinion must be in writing and sent by certified or registered mail, with return receipt requested, addressed to the Office of the Attorney General in Austin, or electronically to an email address designated by the attorney general for the purpose of receiving requests for opinions under this section.

Did I read that correctly?

A. Yes, sir.

Q. That didn't happen with the foreclosure opinion, did it?

A. I'm not advised if it did.

Q. You were in charge of the section. Is there anybody who has more knowledge about this than you perhaps?

A. I don't have access to the email box that it would have been received at, so I'm not aware of how it was delivered, if it was delivered by electronic mail.

Q. Can you tell the senators whether the criteria of Section 402.042(c) were satisfied, yes or no?

A. I – I'm not sure. I don't recall.

Q. And you – that you were in charge, right?

A. Yes, sir. Subsection D allows –

Q. Seems kind of – I'm not talking about subsection D. We're not there yet.

Seems kind of important to know whether this satisfies the criteria for the attorney general to provide formal legal advice. Yes?

A. Yes, sir.

Q. But you told the House Board of Managers this was not – this foreclosure opinion was not formal legal advice, correct?

A. That's correct, it was not.

Q. It was not formal legal advice. It was informal guidance, true?

A. I believe so.

Q. And during COVID, the Office of the Attorney General was dispensing informal legal advice related to COVID almost every day, was it not?

A. It was very frequently. I don't know if it was every day, but –

Q. Were you writing the opinions?

A. Some of them, yes.

Q. People who are working for you were writing the opinions as well, yes?

A. Yes.

Q. And there were all kinds of COVID opinions coming out almost every day, informal legal guidance from the Office of the Attorney General, that did not satisfy the criteria of Chapter 402 of the Government Code, true?



A. I'm not sure about that. Most of – a lot of the things that you're referring to about the daily stuff would have come through Chapter 418, which is the disaster counsel legal function. Those would have come from county mayors or city mayors, county judges, and emergency management directors. Those were coming more frequently than the other ones.

Q. Well, let's build two boxes. In this box, we have Chapter 402, formal legal advice, correct? Okay. So in this box, we place formal legal opinions from the Office of the Attorney General that satisfy the criteria of 402.042. Yes?

A. Sure.

Q. And it's assigned a KP number, correct?

A. That's right.

Q. And it's published in the formal opinions section of the office's website, correct?

A. That's right.

Q. And to be clear for the ladies and gentlemen of this jury, the foreclosure opinion did not satisfy anything in that box, correct?

A. No. That's why it was flagged as not a formal legal opinion.

Q. It's in the 418 box. Because at that point in time, the governor of this state had decided to empower the attorney general to give the people of Texas guidance more freely about what's going on during COVID. True?

A. That's not true.

Q. It's not true?

A. That's – that's correct. It is not true.

Q. How did the attorney general get the ability to give people informal legal advice under Chapter 418 of the Government Code?

A. Well, it wasn't from the governor. The legislature enacted a statute that the governor signed giving the attorney general the power to advise three people – three categories of people: County judges, city mayors, and emergency management directors.

Q. I apologize for my imprecision.

So at this point in time, these people, the legislature, at least in part, had empowered the attorney general to give informal legal guidance more freely. True?

A. To select people, yes, that's true.

Q. Yes. How select were they?

A. It's the three categories of people: County judges, city mayors, and emergency management directors under the disaster act.

Q. There were people in the House Board of Managers who were requesting informal legal guidance relative to COVID, weren't there?

A. But that wouldn't have triggered Chapter 418. The only other expressed statutory authority for a legal opinion is 402.

Q. But if it doesn't have a KP number and it doesn't satisfy the criteria of 402.042, it's not formal legal advice, correct?

A. That's correct. It's not a formal piece of advice. It's an informal piece of advice under Chapter 402.

Q. One of the things that had to do with your termination, I believe, is your voluntarily sending secret grand jury subpoenas outside of the Office of the Attorney General to someone who is not authorized to receive them. Do you understand that?

A. That's never been stated to me, but that's my understanding, based on the OAG's whistleblower report.

Q. Well, you don't have to wait for the OAG to tell you that. You know you did it, right?

A. I – I only sent copies of records to my private lawyer. I did not send them to any member of the public or disclose them to the public outside of the agency.

Q. Was Johnny Sutton authorized to receive secret grand jury subpoenas from Travis County. Yes or no?

A. Well, on their face, they were valid. Brandon Cammack had no contract. He was not a special prosecutor. He had no authority to request them or to obtain them.

Q. Mark Penley thought they were valid enough to quash and to get a judge to sign an order to quash them, didn't he?

A. Well, because they were issued.

Q. They were issued. And when they were issued, they were secret, true? True?

A. I guess, unless they were invalidly obtained under false pretenses.

Q. Are you aware of some type of exception that allows you to send secret grand jury subpoenas to your lawyer?

A. Well, I thought sending it to my lawyer for purposes of legal advice would be permissible. I'm not a –

Q. Did you check and ask Mr. Sutton whether he represented any of the subpoena recipients before you sent them to him?

A. Yes. In our conversation for him to represent us, we discussed whether he was able to do so.

Q. And after you sent those grand jury subpoenas to your lawyer, copying the rest of the so-called whistleblowers, you deleted that email from your inbox, true?

A. That's right.

Q. I think you'll probably recall at some point in your five years of employment at the Office of the Attorney General receiving some type of training in document preservation. Yes?

A. Yes.

Q. And what types of training did you receive? Please tell the ladies and gentlemen of this jury.

A. I believe it's an annual information security training. There's annual sexual harassment training. So there's a variety of required annual trainings that employees of the office are required to complete.

Q. In a second I'm going to ask you – well, let me ask you now.

You are not allowed to delete official records of the attorney general's office. True?

A. Official records, no. That's – that's right, unless –

Q. In a second I'm going to ask you whether you deleted emails from your computer that should have been preserved as official records. Do you want to consult with your criminal attorney first?

A. No, sir.

Q. Did you delete official email records of the Office of the Attorney General, sir?

A. I deleted emails to my personal attorney under the agency's own information security policy that's provided to every employee, that personal messages of a de minimis nature are allowed on agency devices, provided that those messages are deleted, to prevent archival. Because I made a determination that I emailed Johnny Sutton in my personal capacity with copies of records, not records that had to be maintained on an agency device, but copies of records that existed in the office, I deleted the personal message to Johnny Sutton.

Q. It seems, Mr. Vassar, that one of the things you are accusing Ken Paxton of doing is by allowing people outside of the Office of the Attorney General to see secret things they should not see. Do I have that correct?

A. No, sir. Mr. Sutton was my personal lawyer.

Q. No. That wasn't my question. Let me try again. Listen to my question.

One of the things that you are accusing Ken Paxton of doing is forwarding secret information of the Office of the Attorney General to people who should not have it. Yes?

A. That is a suspicion.

Q. You don't even have enough to make an accusation. You suspect that it occurred, right?

A. Yes, sir.

Q. But that's what you did, isn't it?

A. No. I forwarded it to my personal lawyer for purposes of legal advice.

Q. And you think that protects you somehow?

A. Well, if any ordinary person gets a subpoena, I imagine their first call is to their lawyer who reviews the subpoena.

Q. In preparing the foreclosure opinion, Ken Paxton didn't direct you; Ryan Bangert did. Yes?

A. Yes, sir.

Q. And Ken Paxton didn't direct Austin Kinghorn, you did, correct?

A. That's right.

MR. LITTLE: If you would, Mr. Arroyo, please bring up Article II.

Q. (BY MR. LITTLE) This allegation is not true, is it?

A. Is there a specific part that you'd like me to review or –

Q. Read it all.

Ken Paxton is innocent of this allegation, isn't he?

A. So the first provision of the second sentence, this is Article II of the Articles of Impeachment, Paxton caused employees of his office to prepare an opinion.

Q. Hold on a second. I don't want you to read it out loud.

A. Okay.

Q. We don't need to waste the jury's time doing that. They can read. Many of them are skilled attorneys themselves.

This article is not true, is it?

A. Well, it is true that he caused employees of his office to prepare an opinion in an attempt to avoid the impending foreclosure of properties.

Q. But you don't know whether those properties belonged to Nate Paul or business entities controlled by Nate Paul, do you? You don't know that?

A. Nothing other than what's been reported in the media.

Q. You don't know that – what's been reported in the media. Have you ever heard the phrase "self-licking ice cream cone" before?

A. No, sir.

Q. Let me explain to you what a self-licking ice cream cone is, Mr. Vassar. A self-licking ice cream cone is when a bunch of employees at the attorney general's office begin to suspect their boss. They read it in the media. They believe what the media says. They report it to the FBI. And then the media reports that you went to the FBI. That's a self-licking ice cream cone.

Are you familiar with the expression now?

A. Based on your description, yes, sir.

Q. You don't know whether this article is true or false, do you?

A. No, sir, I didn't write this.

MR. LITTLE: Mr. Arroyo, Article III, if you will. Article III. Thank you.

Q. (BY MR. LITTLE) You weren't directed to act in contravention or contrary to the law, were you?

A. No, sir. General Paxton –

MR. LITTLE: Object. Nonresponsive to anything after "no, sir," Mr. President.

PRESIDING OFFICER: Sustained.

Q. (BY MR. LITTLE) Do you think that your decision with regard to any open records request that was made by anyone was improper?

A. No, sir.

Q. It wasn't, was it?

A. No. Everything that we did, we did in a way that we could find a way to make it lawful because we wouldn't have participated otherwise.

Q. You did it by the book, correct?

A. Yes, sir.

Q. You wouldn't do it any other way, would you?

A. That's right.

MR. LITTLE: Mr. Arroyo, Article IV, if you will.

Q. (BY MR. LITTLE) Can you see Article IV, Mr. Vassar?

A. Yes, sir.

Q. Ken Paxton didn't improperly access anything in his office that you're aware of, did he?

A. No, not that I'm aware of.

Q. And if he wanted to ask for a file, he could do that any time he pleased, couldn't he?

A. Sure.

Q. Because that's what 4.2 million voters elected him to do, true?

A. Yes.

Q. To access whatever file the heck he wants. Yes?

A. True.

MR. LITTLE: Article V, please.

Q. (BY MR. LITTLE) We know that Ken Paxton's innocent of this article, right? Right?

A. No. I – I would expect an opportunity to answer questions based on answers that I was provided when I asked what documents are you alleging that I disclosed. And when no response was given, I couldn't give any further information about who the messages may have gone to or for what purpose.

MR. LITTLE: Mr. President, I'm conscious of the indulgence of the hour. And I want to make sure that I'm not running up against any type of deadline or –

PRESIDING OFFICER: We were prepared to go to 7:00, if needed.

MR. LITTLE: Would you like me to continue?

PRESIDING OFFICER: You may continue.

MR. LITTLE: I will be happy to.

Q. (BY MR. LITTLE) You were the chief of the general counsel division at the Office of the Attorney General, correct?

A. At one point, yes, sir.

Q. Yeah. So for the ladies and gentlemen of jury who are here and may not be lawyers, and for the people of Texas who may be watching, you were really a lawyer to lawyers, correct?

A. You could describe it like that, yes.

Q. That's how I would describe it. General counsel is really a lawyer's lawyer. Yes?

A. Yes, sir.

Q. And so what happens in the Office of the Attorney General, when you are in the general counsel's office, actual lawyers come to you and ask you for legal advice. Yes?

A. Yes, sir.

Q. And that happened regularly, true?

A. Yes.

Q. You're first chief of the general counsel division, and then you were deputy attorney general for legal counsel. True?

A. That's right.

Q. And your first involvement with anything related to this impeachment was being approached in the fall of 2019 with a question about an open records request made to the Texas State Securities Board. True?

A. That's true.

Q. And Ryan Bangert approached you with a question – remember, you're the lawyer's lawyer. He approached you with a question about whether the State Securities Board's involvement in a joint task force could harm the law enforcement or investigative privilege. True?

A. That's my recollection, yes, sir.

Q. And you answered his question. Yes?

A. Yes, sir.

Q. And then you were not involved in anything else related to this impeachment matter until March 2020. True?

A. That's – that's not true. I think it was May of 2020, which was the DPS request.

Q. You're wrong about that, but –

A. Okay.

Q. – I just want to make sure I understand what your understanding of the timeline is, okay.

So when was the period of time when you believe you first got a request – or an open records request related to this impeachment matter?

A. Well, to back up just a little bit, if I may, I was not promoted to deputy for legal counsel until April 1st of 2020. So I wouldn't have overseen the open records division until after April.

So I don't know when the DPS request was submitted to our office. That could have been the date that we received it in March, but I wouldn't have been tasked with anything related to it until after I was promoted on April 1st, and then the conversations that I had in May of 2020.

Q. Tell the ladies and gentlemen of the jury who Joe Larsen is.

A. I believe he's an attorney representing Nate Paul.

Q. And what type of work does he do, to the best of your understanding?

A. I'm – I'm not sure. He was – he was a requestor in two of the open records requests.

Q. Yes.

A. I don't know if that's his practice.

Q. In fact, Joe Larsen works at – he's pretty well known in the state of Texas for being a Public Information Act lawyer. Yes?

A. I'm – I'm not sure.

Q. Had you ever encountered him before?

A. No, sir.

Q. Okay. So I'm going to tell you my understanding is on March 3 of 2020, Joe Larsen sent what I call "the big request" to DPS, okay. So the one that happened in 2019 was a request – public – for public information was made to the Texas State Securities Board. Yes?

A. Yes.

Q. Ken Paxton asked you about the law enforcement privilege. You answered his question – I'm sorry, Ryan Bangert asked you about the law enforcement privilege. You answered his question. And that went away, poof. Yes?

A. I never heard anything else, yes, that's right.

Q. Then March 3 of 2020, Joe Larsen made a Public Information Act request to DPS, what I call "the big request." He's asking for a whole lot of information related to the search warrant execution on Nate Paul. Yes?

A. I don't know about the dates. Again, I don't know when he submitted it to DPS, but yes, if that's how you want to categorize "the big request," then yes, that is accurate.

Q. Well, this is probably beneath many of the people on the jury who very well understand this, but for people who are watching at home, when someone makes a Public Information Act request of an agency in the state, the agency comes to the Office of the Attorney General for representation, says help us, help us decide. Yes?

A. It's not representation, but it's a request for a ruling.

Q. Yeah. They want a ruling.

A. Right.

Q. And so in this situation, DPS wanted a ruling. Yes?

A. Correct. If they want to withhold anything under the Public Information Act, they must request a ruling.

Q. But Joe Larsen didn't wait for your ruling, did he?

A. I'm – I'm not – I don't think I follow.

Q. On April 10th of 2020, Joe Larsen sent a demand to DPS saying, I asked for this stuff. Give it to me now.

Are you familiar with that request or demand?

A. No, sir.

Q. On April 16 he filed a lawsuit to get it. Are you aware of that, sir?

A. I recall the lawsuit.

Q. I'm going to show you what's been marked as Exhibit 5. Maybe like one copy.

MR. LITTLE: Your Honor, may I approach the witness?

PRESIDING OFFICER: Yes, you may.

MR. LITTLE: Thank you. We move for admission of AG Exhibit 5.

PRESIDING OFFICER: Mr. Hardin?

MR. HARDIN: No objection, Your Honor.

PRESIDING OFFICER: AG Exhibit 5 should be admitted into evidence.

(AG Exhibit 5 admitted)

MR. LITTLE: Thank you, Mr. Arroyo. Exhibit 5, if you would. This is good.

Q. (BY MR. LITTLE) What is this, Mr. Vassar?

A. This appears to be a petition for mandamus filed by Joe Larsen – Joseph Larsen, as plaintiff against the Department of Public Safety, April 16 of 2020.

Q. Who did he sue?

A. He sued the department, it appears.

Q. What did he sue to get?

A. I'm not sure.

Q. Take a moment and look through it. Maybe you can figure it out.



A. Sure.

So according to Count 1, Joseph Larsen –

Q. You don't need to read it out loud.

A. I'm not. I'm not.

Q. Okay.

A. I'm summarizing.

Q. I'm sorry. Go ahead.

A. He's suing DPS because of his claimed refusal to produce the information that he requested.

MR. LITTLE: Mr. Arroyo, can you find Count One for the ladies and gentlemen of the jury so that they're not listening to this blind?

A. Do you want me to continue?

MR. LITTLE: Not quite.

There you go. Thank you.

Can you just pull up Count One?

Q. (BY MR. LITTLE) Mr. Larsen is suing DPS based on his big request for all the documents that DPS has related to the Nate Paul search warrant, true?

A. I don't – I don't know – it looks like, yes, Page 1 references the March 4th, 2020, DPS request for all communications. So we could call that one the big one, if that's the big request.

Q. I call it "the big request."

A. Okay.

Q. So in the big request, Mr. Larsen is suing to get all the raid information. Yes?

A. Yes. I mean –

Q. Probable cause affidavit. Yes?

A. It says all communications in this document, but I would assume it would have said all records.

Q. He wants the full Monty?

A. Right.

Q. Everything DPS has related to the Nate Paul search warrant. Yes?

A. I presume so.

Q. And he's suing to get it. Yes?

A. Yes, it appears so.

Q. And the OAG was aware of this litigation. True?

A. Yes. We became aware of it. I don't recall when, but –

Q. It would be pretty stupid for Nate Paul to sue to get something that he already had, wouldn't it?

A. Well, this predated any conversation – this – this lawsuit could have even predated a request for ruling to our office, so –

Q. Let me – let me press pause there for a second.

To be clear, this big request is the request to which OAG responded and said, we take no position on it. True?

A. Yes, the big request.

Q. Yeah, the big request.

So this thing – by the time OAG even decides anything, Joe Larsen has already sued DPS to get it, true?

A. Correct. If I'm following – so this was filed, it appears to be, April 16th. The OAG's nondecision in the big request was June 2nd. So this – this lawsuit – and I apologize if I'm not following you, but –

Q. You are following.

A. Okay.

Q. Mr. Vassar, you are following me.

What happened is Joe Larsen says, I'm not going to wait to see what the OAG decides on this. I'm suing. Right?

A. Sure. I don't know what he was thinking at the time, but –

Q. And the OAG's no decision on the big request did not lead to the production of any documents to Nate Paul, did it?

A. Not – not under the Public Information Act, no, sir.

Q. No. But Joe Larsen didn't stop there, did he?

A. If you're talking about the public information request to the Office of the Attorney General for the FBI brief, then you are correct, he did not stop there.

Q. All right. Press pause there.

This third request from Joe Larsen was for an unredacted copy of the FBI's brief. Let's go back a step.

This is very confusing and arcane, so I want to go slowly. All right?

When Joe Larsen made the original big request of DPS for the search warrant, et cetera, DPS had to give notice to the FBI. Yes?

A. Yes, sir.

Q. Because they were holding the FBI's own documents. Yes?

A. That's right.

Q. Said, hey, we're holding some stuff that probably by right belongs to you. Do you want to object?

And the FBI has a period of time to object. Yes?

A. That's right.

Q. And what the FBI did in response to that was they sent a legal brief. Yes?

A. Yes, sir.

Q. And that legal brief is a bunch of legal arguments from a lawyer at the FBI. Yes?

A. That's right. The brief identifies the content of the information that the agency wants to withhold.

Q. And the brief that the FBI generated and gave to Mr. Larsen was almost completely redacted, like something you might get from the CIA, right?

A. I don't recall exactly, but based on what I recall, it was redacted.

Q. It was just basically a bunch of pieces of paper with big black blocks on them, right?

A. I – I don't recall, but it was redacted. I do remember that.

Q. And Joe Larsen says, this is no good.

He makes a demand for the unredacted FBI brief. He made a third request, so Request No. 3 under the Public Information Act, for an unredacted version of that brief. And he made it directly to the OAG's office. Yes?

A. Yes, sir.

Q. He didn't make it to DPS. He didn't make it to FBI. He made it to your office. Yes?

A. Yes, sir.

Q. And what happened is, the OAG sent notice to the FBI, the same notice DPS had sent earlier, and said, hey, this guy wants a copy of the unredacted brief. You guys need to show up and object if you don't want him to get it. True?

A. Yes. That would have been the third-party notice.

Q. And the FBI blew it, right?

A. I don't recall. I was not involved in those conversations. I don't recall what happened.

Q. The FBI didn't respond in time. True?

A. That could –

Q. True?

A. I believe that could be true. I don't recall. It – I'm happy to refresh my recollection if you have –

Q. Joe Larsen got the unredacted FBI brief. Yes?

A. Yes, I believe so.

Q. And he – and he got it because your office decided the FBI blew the deadline. Yes?

A. That's functionally correct.

Q. Functional – what do you mean? What does that mean?

A. Well, after we had advised General Paxton about the issue –

Q. What did you need to advise him about? Ken Paxton – hold on a second.

Ken Paxton –

MR. HARDIN: Excuse me. Excuse me. He asked him what you mean. He's in the middle of answering, and he cuts him off because he don't want the answer. apologies.

PRESIDING OFFICER: Sustained.

MR. HARDIN: Excuse me –

PRESIDING OFFICER: Slow down.

MR. LITTLE: You're very right. My apologies.

Q. (BY MR. LITTLE) Did you need Ken Paxton to tell you that the FBI blew the deadline?

A. I'm sorry. Did I – did I need Ken Paxton to tell me that the FBI missed the deadline?

Q. Yes.

A. No, sir. No. We – I brought it to General Paxton –

MR. LITTLE: Object. Nonresponsive to everything after "no, sir."

PRESIDING OFFICER: Sustained.

Q. (BY MR. LITTLE) So after the FBI blew the deadline, Joe Larsen got the unredacted FBI brief fair and square. Yes? Yes?

A. I assume so. I did not provide it to him, but I assume a copy was provided in response to the decision to let the brief go out.

Q. Okay. Just make it – like – tell the ladies and gentlemen of the jury like you would a seventh grader. Did – did Joe Larsen get the unredacted FBI brief because the FBI blew the deadline?

A. It was mainly because General Paxton told us to release the FBI brief.

Q. And he told you to do that because the FBI blew the deadline, right?

A. I don't know if that's why he told us that.

Q. But they did blow the deadline. Yes?

A. I don't recall. I – I was not involved in contacting them directly. I don't know what any responses we would have received or when.

Q. This is you – sorry.

You're in charge of this. Yes?

A. That's right.

Q. And you can't remember, right?

A. No, I don't – I didn't have direct contact with the FBI about a brief or a notice. Those are all handled by the opinions division.

Q. Are you satisfied in your own mind that the proper notice was provided to the FBI and the deadline was not satisfied?

A. To – based on my knowledge, yes. I didn't see it, but –

Q. Nate Paul's lawyer got that fair and square, didn't he?

A. Maybe under the Public Information Act.

Q. The law, you mean?

A. Correct. Just under an interpretation of whether sufficient notice was provided or whether a third party submitted briefs that it wanted to submit.

Q. It's just a brief. It's just a bunch of legal arguments, isn't it?

A. It is.

Q. You told Rusty Hardin when he asked you on direct that this item contained all types of information that would – that would subject law enforcement to potential retaliation, that somebody might come and shoot them at their home or something like that. That's not true.

A. Well, that's not exactly what I said.

Q. This unredacted FBI brief is just a bunch of legal arguments from some Fed lawyer, isn't it? Isn't it?

A. The – the act requires the brief to identify information to which exceptions might apply.

Q. That's all he asked for, right, the brief?

A. Correct.

Q. So the insinuation that Ken Paxton somehow got the file in sneaky sneaky, delivered it to Nate Paul, you don't have any evidence to substantiate any of that, do you?

A. I have no direct knowledge of what he did with the file when it was in his possession.

Q. You want to make an accusation while you're here on the stand? You want to accuse the elected attorney general of the state of delivering something to Nate Paul that he shouldn't have? You want to do that now?

A. I don't – I don't know what he did.

Q. So when Ken Paxton asked for the file, you gave him the file, right?

A. Yes, sir.

Q. He had every right to ask for that. Yes?

A. Yes.

Q. If he just felt like looking at it, he could ask for it. Yes?

A. That's right.

Q. And irregardless of his feelings about Nate Paul and whether he was unjustly being railroaded or the feds are mistreating him, he had every right to look at it, didn't he?

A. Yes, sir.

Q. And you don't know that Ken Paxton did anything illicit with that file, do you?

A. No, sir, I don't.

Q. You're not here to testify about any of that, are you?

In fact, when Ken Paxton had this meeting with you about the file, he told you that he had spoken to Nate Paul. He didn't hide that, did he?

A. No, sir.

Q. He told you he would believe that Nate Paul was being railroaded, just like he has been. Yes?

A. Yes, sir.

Q. He told you he didn't trust DPS or the feds, didn't he?

A. Yes, sir.

Q. And he didn't hide that, did he?

A. Not – not in that meeting.

Q. Do you, by the way? Do you trust the feds? Trust the FBI?

A. Yes. I have no reason not to. I trust law enforcement and our peace officers.

Q. You can't think of one reason in the last three or four years not to trust the FBI?

A. I'm speaking mainly personally.

Q. Ken Paxton told you he didn't want to use his office to help the feds in any way, didn't he?

A. Yes, sir.

Q. He didn't hide that from you, did he?

A. No, sir.

Q. And when you were discussing the ruling, what I'll call the no decision ruling on the big request, you reached an impasse where each side made its case. And he's the boss, right? Yes?

A. Yes, sir.

Q. And he didn't overwhelm you. He didn't tell you to do anything against your conscience, did he?

A. No, sir.

Q. He told you to be a lawyer and make a decision, right?

A. No. No, sir.

Q. Well, you made a no decision. Yeah?

A. Well, to clarify, it – it wasn't my decision to make. It was his decision for the ruling to be a nondecision. There was a couple of decisions in there that maybe confused me.

Q. Have you ever seen the probable cause affidavit in connection with Nate Paul's search warrant? Have you seen it personally?

A. Yes, sir.

Q. Earlier you said that you delivered a file to – you gave a file to Drew Wicker. And just show the ladies and gentlemen of the jury with your fingers how thick that manila envelope was. Like that?

A. I'd say less than a quarter of an inch. You know, just – not very thick.

Q. Probable cause search warrant affidavit is 224 pages, isn't it?

A. I don't know.

Q. You don't know. You said you saw it?

A. Well, I saw the body of the affidavit. I don't know if there was anything else attached to it. When DPS submitted its request to us, it was a request based on representative samples of information. So we would have received a representative sample of whatever DPS provided. And I don't recall seeing a document of that size.

PRESIDING OFFICER: Counselor, we'll go maybe ten more minutes. You can stop anywhere you like in between.

MR. LITTLE: You're very kind. Thank you.

Q. (BY MR. LITTLE) I want to talk about the foreclosure guidance for a few minutes before we retire for the evening. The legal question from Ryan Bangert was, are foreclosure sales gatherings, quote/unquote, since the governor and the local county judges and mayors have prevented gatherings of ten or more people, right?

A. Yes, that's what I remember his question to be.

Q. That's really the simple legal question. And you, as a lawyer at the OAG's office, you do your research and then you take a position. Yes?

A. That's right.

Q. Okay. And we agree that what you were doing was not a formal attorney general opinion. True?

A. It was not formal, that's right.

Q. These are what you call informal letters or announcements. Yes?

A. Yes. Informal opinions, I mean –

Q. Let me just – let's save us a little bit of time.

I have a transcript of what you told the House Board of Managers. And what you told them was this AG foreclosure guidance was an informal letter or announcement. Yes? True?

A. If that's – if that's what you're saying.

Q. Is that what you said?

A. I don't recall. Again, based on my recollection of 402 and 418, those are the only two statutes that give the Office of the Attorney General express statutory authority to issue legal opinions.

Q. And after you and Austin – after Austin Kinghorn did the research and he explained to you his position on it, you talked to Ryan Bangert. True?

A. Yes.

Q. And Ryan Bangert called you and said, well, that's not the right answer. True?

A. We prepared a draft, and then provided that to Ryan Bangert. And then, yes, he called me and said that's not the right answer.

Q. And Ryan Bangert told you, General Paxton wants to stop these foreclosure sales, right?

A. Yes. He said we reached the wrong answer.

Q. Yes. And so what you know secondhand is Ken Paxton disagreed with the result that you and Austin came up with, didn't he?

A. Yes. That's what –

Q. And he has the right to do that, doesn't he?

A. Yes.

Q. And he was elected to make those decisions, wasn't he?

A. Yes.

Q. Did Ryan Bangert tell you – you know what, Ryan Vassar – there's two Ryans – I'll sign this so you don't have to ruin your career, Ryan? Did he tell you that?

A. No, sir, I don't recall.

Q. Did he intimate that?

A. No.

Q. Did he imply it?

A. No. It was basically a timing.

Q. What do you mean it was basically a timing? Tell me what you mean.

A. We prepared the first draft. By the time Ryan had finalized the second draft, it was 11:00 or midnight, 11:00 o'clock at night or midnight. And he was talking with General Paxton, is my understanding. So I had gone to bed, and Bart wasn't available to sign it.

Q. Were you happy to sign it?

A. I would have signed it.

Q. You didn't avoid signing it, right?

A. No.

Q. You didn't say, Ryan, I don't feel comfortable. Would you sign this instead of me?

A. No, sir. I didn't say that.



Q. So Ryan Bangert didn't jump on the grenade, so to speak, and say, you know what, this is really dangerous, Ryan Vassar. I'm going to sign it, did he?

A. Not that I remember.

Q. Did Ryan Bangert tell you, Ryan, I totally disagree with what we're doing here, but I'm going to do it over my own strenuous objections?

A. I don't remember him saying that.

Q. You worked on this opinion on Saturday night, right?

A. It was all day Saturday, yes, sir.

Q. But that wasn't even the only COVID opinion that went out that day, that Saturday, was it?

A. I'm not sure. I would have to go back and look.

Q. Well, I'll put it in front of you here in a little bit.

You do not have the first clue whether this informal foreclosure guidance stopped a single property foreclosure, do you?

A. I have no direct knowledge.

Q. And you heard it secondhand from some Austin business journal article, right?

A. That's right.

Q. Did you believe it? Did you believe it?

A. I had – I had no reason to disbelieve it, just based on the timing.

Q. Did you do any research yourself?

A. No, sir.

Q. Any investigation at all?

A. No, sir.

Q. Just one problem, it's 100 percent false. Never happened. It's not true. It's pure fiction. Did you know that?

A. No. I wouldn't have had any reason to know that.

MR. LITTLE: Your Honor, I believe this is a good time to stop for tomorrow, if Your Honor is willing to conclude for the day.

PRESIDING OFFICER: Yes. Court will adjourn for the day. 9:00 a.m. tomorrow morning.

(Proceedings recessed 6:48 p.m.)

