

RECORD OF PROCEEDINGS

of the

HIGH COURT OF IMPEACHMENT

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

THE SENATE OF THE STATE OF TEXAS

SITTING AS A HIGH COURT OF IMPEACHMENT

SIXTH DAY

(Tuesday, September 12, 2023)

APPEARANCES

Mr. Rusty Hardin, Ms. Lara Hudgins Hollingsworth, Ms. Jennifer Brevorka, Ms. Megan Moore, Ms. Leah M. Graham, Mr. Armstead Lewis, 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, Ms. Stella Jares, Mr. Dan McAnulty, Mr. Jim Yarbrough, 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

(10:07 a.m.)

THE BAILIFF: All rise. 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.
Bailiff, if you will bring in the jury.

(Senate members enter the Senate chamber)

PRESIDING OFFICER: Good morning, everyone. Will our prayer leader come up to pray.
Senator Blanco from El Paso.

SENATOR BLANCO: Let us pray. Heavenly Father, we come before you today with humble hearts seeking your guidance and your wisdom as we embark on our work. We pray for strength and clarity of mind and ask that you grant us the gift of strength and courage.

Your Word assures us in Isaiah 41:10, Fear not for I am with you. Be not dismayed for I am your God. I will strengthen you. I will help you. I will uphold you with my righteous right hand.

Lord, we hold on to this promise knowing that you are our source of unwavering courage. Strengthen our resolve to trust in your plan even when the path before us seems uncertain.

We also pray that we may be instruments of your righteousness, discerning right from wrong and upholding the principles of fairness and equality.

Lord, we thank you for being our ever-present help in times of need and for the wisdom and the grace that you provide. May we walk boldly in your light knowing that you, by our side, we can conquer all obstacles.

We offer this prayer in Jesus' name. Amen.

PRESIDING OFFICER: Thank you, Senator. You may be seated.

To the public and to the media and to the members, we are beginning late this morning. The Court's always ready at 9:00 a.m., but both the House and the defense had issues they needed to bring forth to the Court, and so we have walked through some of those issues.

Can I have both sides come to the bench, please.

(Conference at the bench off the record)

PRESIDING OFFICER: The bailiff will bring in Mr. Cammack.

(Witness enters the Senate Chamber)

PRESIDING OFFICER: Mr. Cammack, please raise your right hand.

(The following oath was given to the witness)

PRESIDING OFFICER: I do solemnly swear 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, and nothing but the truth so help me God.

THE WITNESS: I do.

PRESIDING OFFICER: Please take your seat.

And before you begin, I've always been asked by both sides – I meant to do this earlier – the time clock. Presentation of the evidence, the House, nine hours, 19 minutes and 12 seconds left, 9:19:12.

Respondent, 12 hours, 14 minutes, and 15 seconds left. 12 hours, 14 minutes, and 15 seconds.

You may begin.

BRANDON RAYMOND CAMMACK,
having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HARDIN:

Q. Good morning.

A. Good morning, sir. How are you, sir?

Q. Is your microphone on, please, sir?

A. Can you hear me? Is that better?

Q. That's better.

A. Okay. Good morning.

Q. All right. Mr. Cammack, obviously, but state your name for record, please.

A. My name is Brandon Raymond Cammack.

Q. And, Mr. Cammack, how old are you?

A. Thirty-seven, sir.

Q. And as we've gone through this – you're doing really well about leaning forward – the microphone – I think that microphone and this one requires to be pretty close. If you – sometimes I may call it to your attention, but I – if you can just sort of try to keep it in mind, that would be good.

A. Okay.

Q. Now, what is your profession?

A. I'm a lawyer.

Q. And can you take about a minute and a half, if you don't mind, and sort of give us a little bit of your background and experience, whatever got you to where you are now.

A. Sure. I've been – it all started – I went to school at the University of Houston for my undergrad. And I went to the University of Houston Law School as well, graduated in 2015.

During my time at U of H, I interned for the Public Defender's Office in Harris County. I clerked for the 208th District Court in Harris County for Judge Denise Collins. I – when I graduated, I went out – and my dad, Sam Cammack, is also a criminal defense lawyer. I got out and started working for him. I worked for him for about three years and then went off on my own, and I've been on my own, I guess, for the last five years now.

And then about last year or so, I partnered with Ben Friedman, who is my business partner. We have a criminal and a personal injury docket. I think I've personally, at this point in my career, handled closed to 600 cases, probably tried 15 to 20 cases, somewhere in there. Handled appeals up at the court of appeals in Houston. I've argued at the Court of Criminal Appeals. And that's what I do. That's how I got here.

Q. All right. Fine. When you say you graduated from law school in 2015 – and I believe you said you're 37?

A. That's correct.

Q. So did you do something in between undergraduate and law school?

A. No, I – no, I didn't, sir. I just went straight into law school.

Q. Okay. So when you graduated from law school in 2015, you were what age?

A. I would have been, I guess, 29.

Q. All right. So I'm still trying to fit back. Ordinarily you'd be 25 if you went straight for col- – did you do something before college or so?

A. I went to school for two years, and then I started working for my grandfather Sam Cammack, Sr. – Sam Cammack, II, for his business, and then I took – just took a few years off, just focused on working and making a living and then decided to go back to school at my dad's advice.

Q. Got you. So your grandfather was in what kind of business?

A. He was a business owner. He did a variety of things throughout his life, but he was a commercial real estate developer and also owned a mortgage business, and so I worked with him over there.

Q. How long did you work for him?

A. I was there, I would say, two to three years or so and then decided to go back to school.

Q. All right. Now, as you are aware, the time frame we're generally here about are events in the year 2020.

At that time, how long had you been a lawyer?

A. About five years.

Q. Okay. And, by the way, I think congratulations are due. Did you just recently get married?

A. I got married to my beautiful wife, Terri, on September 2nd, so . . .

Q. So you have been married now how long?

A. A week and a half. We didn't get to do a honeymoon.

Q. And – and is your wedding one thing that sort of set the time frame as to when you might be available as a witness in this case?

A. Yes, sir. That's why we didn't – I'm here so we didn't get to honeymoon. We'll do that next year.

Q. All right. Now, at the time that – let's say in the period of time of August of 2020, you had been a lawyer about five years; is that right?

A. Yes, sir, that's correct.

Q. Had you had any federal practice at that time?

A. I believe at that time I was licensed in the Southern District, but my practice was primarily in the county and district court, state court cases.

Q. And was it at that time exclusively criminal?

A. Yes, sir, exclusively criminal.

Q. And you've added sort of a personal injury component to it since 2020?

A. That's correct.

Q. All right. And – and in your criminal practice had you ever been a prosecutor?

A. No, sir.

Q. So had your experience been literally exclusively, as you have described, doing criminal defense work?

A. That's correct.

Q. So if you hadn't been a prosecutor, is it fair to assume that maybe you had never dealt with issuing grand jury subpoenas or dealing with a grand jury in the role of a prosecutor?

A. I had never issued grand jury subpoenas as a defense lawyer.

Q. Okay. Now, you probably had prepared packets representing people for grand jury, urging them that – whatever your client's position was, correct?

A. Yes, sir. We've presented grand jury packets to the grand jury through the DA's Office when we turned those over.

Q. All right. Now, at the time – can you tell us when you first got involved in this case now? When did you first hear from someone and whom was it?

A. I got – well, it would actually be on my birthday of 2020, August 22nd. That's when I first knew about Mr. Paxton reaching out to me. I got a call from an unknown number on that day. I think I was out to lunch with some friends or something. And then later that – that evening I got a call from a gentleman named Michael Wynne, who I knew through the Rotary Club, and said –

Q. Yeah.

A. – Mr. Paxton had reached out to me.

Q. Excuse me. I didn't mean to interrupt on you.

Mr. Wynne – was Mr. Wynne already a friend of yours, or an acquaintance? Would you describe – as of August of 2020, how would you describe your relationship with Mr. Wynne?

A. Just a – an acquaintance. I knew Michael – I've been heavily involved in the Rotary Club, which is a charitable organization. We have a downtown Rotary Club of Houston. I've been involved with charities for, like, the last six years I think. And he became a member of – that year.

And then I had worked with Michael – he was a chair of the Houston Bar Association. I was a member. And he had reached out to me, I think, earlier this summer to do a panel on how the courts would conduct business during COVID-19. And so I – I reached out to Judge Rosenthal, Judge Susan Brown, Kelly Johnson, Judge Jordan, Herb Ritchie, and there was a gentleman from Baker Botts. But we basically did a Zoom panel on how we would conduct business. So those – that was my only interaction with Mr. Wynne.

Q. All right. Did you become – as you got to know him, did you become familiar with the fact that he was a former federal prosecutor?

A. Yes, sir, I did.

Q. And what was your knowledge as to his background at the time of this call that you just described that you got from him?

A. Well, at that time I really didn't – I didn't really know much about his background other than – you know, other than just – it was more just like when I would see him in passing, you know, at a Rotary meeting, how are you doing? I didn't really – it wasn't like a friendship or anything like that. I just knew him from those two settings.

Q. Now, you mentioned your father awhile ago was and is a lawyer. But at the time that Mr. Wynne and, ultimately, the Attorney General reached out to you, were you in a solo practice or were – were you with your father?

A. I was in a solo practice at the time.

Q. And did you have a secretary or anybody, a paralegal or anybody helping you –

A. I had a legal assistant and I had – I think at that time I maybe had one other lawyer working for me. And my older brother was in law school as well, and I – I'd sponsored his – I think I sponsored his bar card as a temporary bar card or something like that.

Q. All right. So that if you got involved into a case that involved potentially a great number of documents, witnesses, et cetera, the support you would have had would have been what?

A. I don't understand the question.

Q. The support groups – I mean, what kind of legal support would you have had in order to be able to conduct an investigation or something?

A. Well, the documents that I – I mean, I received just personally to my email.

Q. Okay. Now, tell me the nature of your call from Mr. Wynne.

A. Mr. Wynne had reached out to me and told me that Mr. Paxton was trying to get in touch with me. Didn't really say anything more than that.

The call that I had gotten on my birthday from Mr. Paxton was from an unknown number, so there was really no way to call back, and then it wasn't until the next day that I spoke with him.

Q. So as a date for the jury to have, the date that you spoke with Mr. Paxton was what date?

A. That would have been August 23rd of 2020.

Q. And, by the way, up there, did you have with you – not that – did you have the invoice you ultimately sent to the Attorney General's Office?

A. No, sir.

Q. Did you bring it to the stand with you?

A. No, sir. I don't have anything –

Q. All right.

A. – in front of me.

Q. Do you – do you want or need that as a point of reference for dates? Or if you don't, that's fine. Or would you like to have available a copy in order to periodically check things? It's totally up to you.

A. I'll take it, sure.

Q. Pardon me?

A. I'll take it, yes, sir.

Q. Okay.

MR. COGDELL: Mr. Hardin, this is his bill?

MR. HARDIN: This is Exhibit 227, which I move to introduce if it is not in evidence.

MR. COGDELL: No – no objection.

PRESIDING OFFICER: Admit Exhibit 227 into evidence.

(HBOM Exhibit No. 227 was admitted)

Q. (BY MR. HARDIN) Now, I'm not going to really regularly be talking to you about this necessarily, but I'm offering it to you as periodically if it helps you plug in some dates.

A. Okay.

Q. Have you – in a conversation previously, have you sometimes referred to this to make sure you were comfortable with certain dates?

A. Yes, sir. With respect to the dates, this would be helpful –

Q. All right.

A. – to try to help me remember.

Q. Now, let's go to the first – by the way, did you learn as you went along – thank you, Stella – that Mr. Wynne was the one who recommended you to the Attorney General?

A. Yes, sir. Mr. Paxton told me that when I met him.

Q. All right. So now let's go to that conversation, your first conversation with the then Attorney General Mr. Paxton.

Did you return his call or did he call you?

A. I believe I returned his call. I returned his call the next day, and we spoke. And he asked me to – he said he would – you know, he had gotten my name from Michael Wynne. I think the words were, you know, your name was dropped in the hat by Michael Wynne, and I'm looking to hire someone to work on a criminal investigation. And we scheduled a time for me to come out to Austin here to his office.

Q. So five-year lawyer, solo practice, what was your reaction?

A. I mean, I was – I was excited because, you know, it was the Attorney General's Office and so I was excited for the opportunity to go out and meet him.

Q. All right. And did you do so?

A. I did.

Q. And when did you do it?

A. I believe that was August 26th. Our meeting was on August 26th.

Q. All right. And in the August 26th meeting – hold on just a second. All right. So tell me about that. Did you drive up to Austin or up to here?

A. Yes, sir. I drove out to Austin.

Q. Did you go anywhere else first?

A. No, sir, just came straight to meet –

Q. Straight to the Attorney General's Office?

A. That's correct.

Q. All right. Describe for us that meeting.

A. So I – I went in. I signed in in the front desk, and then I went up to the floor where his office is. And I think I waited around maybe 15 or 20 minutes, and then Mr. Paxton came to the floor and we went into his office. And then –

Q. All right. Who was in the initial meeting between you and Mr. Paxton?

A. It was just me and Mr. Paxton in his office.

Q. Do you recall about what time of day you talked to him?

A. I think that would have been – I – I don't recall the exact time –

Q. All right.

A. – but maybe around lunchtime, somewhere in there.

Q. Okay. Now, what did Mr. Paxton say?

A. So – so before I got there, he had actually reached out to me, like, through text messages and said, Can you bring a resume with you? And I was, like, Well, I haven't prepared a resume in a long time. But I went ahead and prepared one and I brought my resume in. And then it was kind of like, you know, our conversation we're having now, where are you from, what do you do, your background. I gave him my resume and just kind of pleasantries. And then he said that he was looking to hire a special prosecutor to investigate a criminal case where potentially there were potential violations of the Texas Penal Code.

Q. And you mentioned special prosecutor. Was that his word?

A. Yes, sir.

Q. And so, of course, you hadn't been hired at that time, but later when you were, whenever you represented yourself as a special prosecutor, where did that term come from?

A. Mr. Paxton.

Q. All right. And did he tell you what the role of this special prosecutor he was interviewing you for would be?

A. No, sir. Not – I mean, not – not really.

Q. Initially when he talked about this job, what did you think it was going to entail?

A. My understanding – well, this was just an assumption. I was, like, well, if I'm going to be hired as a special prosecutor, I would potentially be presenting the case to a jury maybe at some point or presenting the case to be charged.

Q. All right.

A. That was my initial impression.

Q. And he didn't tell you otherwise at that time?

A. That was – like I said, sir, that was just my assumption of what the job would entail.

Q. All right. And then how long would you estimate you talked to him in this initial meeting in his office?

A. Roughly 15 or 20 minutes.

Q. Did he express anything – any views about his own staff or why he was hiring somebody from outside?

A. Yes, sir. He said that he was interviewing multiple people – considering multiple people for the position and that he couldn't get his own – his own staff would not work on what he wanted them to work on.

Q. All right. He said they would not work on it?

A. That's correct. And he mentioned that, you know, he just wanted to find out the truth and – about what happened.

Q. Okay. Do you recall anything else from the conversation in that initial meeting?

A. No, sir. I mean, that's –

Q. All right. And then did you – what happened after you had this original meeting with him in his office by himself?

A. He said, I want to introduce you to someone. I, obviously, knew who Mr. Paxton was; and he said, I want to introduce you to this first assistant, Jeff Mateer, whose office was down the hall. So he walked me over there and I – I met with Mr. Mateer in his office, just Mr. Mateer and I.

Q. And how would you characterize or describe Mr. Mateer's reaction when he came in and introduced you?

A. It was the same type of conversation, pleasantries, how are you. You know, I gave him my resume. You know, I told him, you know, some – the conversation kind of didn't really get off the ground much, just like I'm here for the special prosecutor – to interview for the special prosecutor position. And his attitude was kind of like disengaged about it. He didn't really seem – knew about it, but didn't really seem interested in it. I'd say, you know, kind of just like it was Mr. Paxton's own deal that he was focused on.

Q. All right.

A. It wasn't an area – obviously wasn't an area of focus or concern for Mr. Mateer.

Q. Did it strike you in any way as if his attitude was –

MR. COGDELL: Objection.

Q. (BY MR. HARDIN) – well, this is – this is Mr. Paxton's deal? He's not that interested in it?

MR. COGDELL: Objection –

PRESIDING OFFICER: Sustained.

MR. COGDELL: Thank you.

Q. (BY MR. HARDIN) Tell me how it did strike you.

A. I'm sorry, sir?

Q. How did it strike you as to Mr. Mateer's involvement in it?

A. Just he was just very disengaged about – did not seem interested in it at all, seemed like it was just kind of a side deal that Mr. Paxton was working on. It was his own focus. Mr. Mateer was not focused on it at all.

Q. How long would you think you were in Mr. Mateer's office?

A. I'd say roughly 20 minutes.

Q. Had Mr. Paxton left you there by yourself with Mr. Mateer?

A. Yes, sir.

Q. And then what happened after you finished meeting Mr. Mateer?

A. I went back over to Mr. Paxton's office and he was in there, just him and I. And, you know, I said goodbye. Thank you for the opportunity. Thanks for calling me up. And he said, Okay. We might be in touch with you. So I drove back to Houston.

Q. All right. So how did – how was it left when this was all over in that first meeting?

A. How – I'm sorry, how was it left?

Q. How was it left? What was supposed to happen next?

A. Well, I really didn't know. I mean, I looked at it like, okay, I just interviewed with Mr. Paxton and the first assistant, and so if they want to talk to me, they know how to get in touch with me. That's –

Q. All right. So you left, obviously. What's the next thing that happened in connection with this case?

A. I got a – I got a text message from a gentleman named Mr. Vassar a couple of days later asking me to set up a time to meet with him.

Q. Do you recall the time – the date or so that you got the text message?

A. That would have been – that would have been August 26th or -7th, I believe. It was just – well, August 28th maybe, 27th, 28th.

Q. I'm looking down at Exhibit 227, and I notice it looks like the first time you charged was 9-3. So did you have some – did you choose not to bill the State for that first meeting or two when you went up there?

A. That's correct. And also I'd like to say, that's a – that's a typo, that 9-3-20 date. The date that I actually went out there for the meeting was 9-4-20. So I made a typo there.

Q. Okay. All right. Now, at the – once you got back, you got the text from Mr. Vassar, what happened next?

A. So we scheduled a time to speak on the phone that day. That's what the text message was about. And we got on a call together.

Q. All right. And did you ultimately send a draft – receive a contract or proposed contract from Mr. Vassar?

A. Yes, sir. He asked me for my email address on that phone call, and, you know, I told him, you know, this is about the special prosecutor position. He agreed. And then he said, Well, I'm going to be – I need your email address. I'm going to be working on the contract for you.

Q. Okay. Did you receive that contract?

A. So, yes, sir, I did.

Q. When?

A. Well, I got the contract on – on 9-3, September 3rd, but I didn't – it must have got lost – I get hundreds of emails. It just got lost in the shuffle somewhere. So Mr. Paxton actually reached out to me on 9-3 and said, Did you get the contract, by text message. And I said no. Because I was supposed to go out there on 9-4 to meet with the complainant, Mr. Paul, and also Mr. Paxton.

So the short answer is I got the contract, I just didn't see it that day. It got lost in the shuffle somewhere.

Q. All right. So tell me about how this – this appointment or arrangement set up for 9-4. Whose idea was that?

A. So I got – I got a call from Mr. Paxton. And it was kind of, like, Hey, we want you to do this job and –

Q. Excuse me for interrupting. Did you consider that the notice to you that you'd now been hired?

A. Yes, because he said I would be getting a contract. You got the job. And he asked me, you know, What – what's the hourly rate that you would charge to do this? And I said, Well, I'll do it, you know, for \$300 an hour; and he said, I think we can get that for you.

Q. Now, you might – I'm just guessing, you correct me if I'm wrong. In your criminal practice, customarily your billing, were you charging people hourly ordinarily or was it usually some type of flat-fee arrangement?

A. On criminal cases, flat fee; on personal injury cases, contingency fee.

Q. So did you have experience in charging that fee of 300 an hour or were you just sort of guessing?

A. It wasn't guessing. I just was trying to consider, you know, what was going to need to be done in the case.

Q. Okay. Okay.

A. I mean, and so I figured – I landed on 300. I thought that was fair.

Q. All right. Now, when you had that – how long did that phone call that you're describing? That was your second – was that your second call with Mr. Paxton?

A. Yes, sir.

Q. All right. And then how long did that call last?

A. I don't recall. It wasn't very long, a few minutes maybe.

Q. You gave him your hourly rate. And then was there an appointment made for when?

A. So there was an appointment made on – for 9-4, September 4th, 2020.

Q. Who picked that date?

A. We agreed to that date because I was going to meet the complainant – or Mr. Paul that morning. And so after – you know, I'm in Houston, so there's – I'm driving back and forth. I try to do – meet them both the same day, so . . .

Q. Had you already – when did you receive Mr. Paul's name as the person that you were going to be – that you say complainant. In other words, describe what you meant by that when you said he was the complainant.

A. Well, he was the one who had made the complaint or the allegations and so I viewed him as the complainant.

Q. All right. Had you seen any document as yet connected with the case?

A. No, sir.

Q. And so do you recall when you first received Mr. Paul's name?

A. That would have been from Michael Wynne when I set the meeting up to go out there and visit with him for – with Mr. Wynne for the first time – Mr. Paul for the first time.

Q. All right. Who set up the meeting with Mr. Paul?

A. Mr. Wynne.

Q. And did you inform the Attorney General that you were going to also meet Mr. Paul before you met him on the 4th?

A. I did.

Q. When did you do that?

A. I don't recall. It was within one of those days.

Q. Would it have been – would it have been the day that you talked to him about coming up on the 4th?

A. Yes, sir.

Q. Okay. So did you inform him that he was going – you were going first to Mr. Paul and then coming to the Attorney General?

A. That's correct.

Q. So tell us about your first meeting with Mr. Paul. How did that happen and where?

A. So I met Mr. Paul at his office with Michael Wynne. And, yeah, I drove out here early in the morning. I met with him for, I'd say, hour and a half, two hours. And that was the initial time that I – you know, I heard the allegations about their complaint.

Q. Had you done any research on Mr. Paul, his background, who he was, et cetera, before you had this first meeting with him?

A. I think I may have Googled his name and read a headline or something like that.

Q. But did you limit your looking into him to Google him? Is that about the only thing you remember doing at that stage?

A. Yes. I didn't look at any court records or anything. I mean, that's all that I did.

Q. And what was your level of knowledge about him when you first went to meet him on the –

A. That he was –

Q. – 4th?

A. – a commercial real estate developer here in Austin.

Q. Okay. Did you see that he was – that he had had a search warrant executed on his house and business back in August?

A. No, sir.

Q. So what was your level of knowledge of Mr. – of Mr. Paul at the time you met him that first time, whether you got it from the Attorney General or anyone else?

A. I mean, I didn't know him, didn't know anything about him.

Q. Okay. And where did you meet him?

A. At his office.

Q. Who was present during the meeting?

A. It was Mr. Paul and Mr. Wynne.

Q. All right. So what happened at the meeting? Without going in necessarily at this time with what he said to you, what was the nature of the bill – who did most of the talking in the meeting?

A. Nate Paul did most of the talking. And it was – it was just a lot of information given to me in a short time period.

Q. Well, how was he doing that? I mean, how were you given information?

A. He was talking about – he was just talking, trying to tell me, you know, the circumstances surrounding the search of his home.

Q. Did he make any presentation to you?

A. Towards the end, he showed me a copy of a search warrant and an order, and that was kind of the gist of – of his complaint. He showed me this presentation on a pdf document.

Q. And so if you had to estimate the time that you visited with Mr. Paul at that time to get his – whatever he wanted to impart to you, how much of that hour and a half or hour and 45 meeting was Mr. Paul talking to you?

A. I don't understand. Like a percentage –

Q. Yes.

A. – type thing?

Q. Yes.

A. Let's just say he was talking the majority of the time. Mr. Wynne was not –

Q. And – and how would – what was your first impression of Mr. Paul? How would you describe what you saw or listened to in this meeting?

A. Energetic, passionate, and had a lot of conviction, kind of an aggressive attitude, you know, just very, you know, energetic person.

Q. And what was your reaction when you left? Let me ask you this: Did he basically give you his side of the matter that you had been retained to investigate?

A. That's correct.

Q. And what was your reaction to it?

A. I mean, I was convinced by what I was shown in the search warrant presentation and all that.

Q. So when you left, did you – to go talk to the Attorney General, what was your – had you already formed a personal belief as to what you thought was going on here?

A. No, not a personal belief. I – I was just, like, hey, if – if what he's showing me on how the search warrant was altered is true, this is a big deal.

Q. Okay. And did you at that time say to anybody or think that it looks like they did some bad stuff?

A. I had not developed an opinion about it one way or the other. I mean, that was my first time. You know, it was kind of like drinking through a fire hose, just a ton of information coming in a short time.

And I – when I went to Mr. Paxton's office after that, I told him it was convincing, and he agreed.

Q. Okay. So just let's move now to General Paxton – your meeting with General Paxton on the 4th of September, was it?

A. That's correct.

Q. What – how long was that meeting? Where did you meet with – meet him?

A. So we arranged to meet at his office again, and the meeting was, I think, roughly 20 minutes or so.

Q. And then what did Mr. Paxton say in that meeting?

A. So I told him I was convinced pretty – it was a convincing presentation of what he – he agreed with that. He also said that the people in his office who were not – they weren't doing – they weren't investigating the case. They weren't working on it.

You know, at that point I had learned that there were some federal agents and people, I guess, in positions of power who were kind of involved in that, and he made a comment that you need to have some guts to work on a case like this. And I was fired up about the opportunity to do it.

Q. So how would you describe to the jury and the Court your level now of excitement? Now that you've got a little bit of an idea of what – what Mr. Paul says, you and the Attorney General have agreed it's convincing, and you think this is going to be a big deal. How – how – what was your state of mind about that?

A. I was excited to be working on a project with the Attorney General's Office.

Q. You were already there, right?

A. I mean, it's the chief law enforcement officer of our state. And, you know, it wasn't about money or anything like that. It was just an opportunity to do something new in my career and – and try to help out.

Q. All right. And when he said that you – his people weren't working on it, did he express anything about how he felt about that to you or tell you whether they were not working on it or they wouldn't work on it? In your own words, what did he say?

A. Well, I just – I don't recall specifically, but he – you know, he said that he couldn't get the people in his office to work on this case.

Q. Okay. And did you leave that meeting with the impression or feeling that his people were refusing to work on it?

A. Yes. Yes, sir.

Q. Did you wonder, well, if they're not going to work on it, why don't you fire them?

A. I mean, I –

Q. You didn't think about that?

A. No, sir.

Q. All right. Okay. Now, after that meeting – did that meeting get terminated a little early? Or tell me. You said it was about 20 minutes.

A. He said he –

Q. Excuse me just a second. You've driven all the way up from Houston from it – for it. What happened to shorten it a little bit?

A. He had to go to a press conference, and I was going to take off. And he said, Well, why don't you just come over there with me to the press conference. And so I went over there with – with him and with – one of his staff came over to the press conference. And then after that, we went back to the office. I just kind of watched the press conference.

Q. All right. So now not only have you been hired by the Attorney General, but you're going to a press conference with him. How did that make you feel?

A. Well, I mean, I've been with my dad in press conferences before in some of his high-profile cases, but it was – it was cool, yeah.

Q. Okay. All right. Now, did – did you think anything about – let me back up.

So you had 20 minutes or so to talk to him about the case. Did y'all talk about any of the facts in the meeting before the press conference?

A. No. I – I did not really have a full grasp on all of the people that were involved and all of the facts of the case at that point. Just –

Q. Now, what – what was your impression or belief at that time as to the occupations or nature of the people you were supposed to investigate?

A. I knew that they were – they were both local law enforcement and some of them were federal law enforcement officers at the time.

Q. Did you know that one of his allegations was about a federal magistrate?

A. Yes, sir.

Q. What was your reaction to hearing he wanted you involved – investigate a federal judge?

A. My reaction to it was just hearing out their side of the story. I didn't really have an opinion one way or the other. However, if the allegations that they were making were true, then that would be – that would be serious.

Q. Okay. Now, did he talk about any – any – in that conversation, any of – either Mr. Paul or him, of any people other than federal and local law enforcement being the people he wanted investigated?

A. No, sir.

Q. After the press conference, did y'all – how much longer were you in the company of the Attorney General?

A. I think probably 15 or 20 minutes. We went – we went back to his office and finished up the conversation there.

Q. Well, what happened in that conversation?

A. When we got back to the office – excuse me. When we got back to the office, I was – I was a little bit concerned because at the time I think I had roughly – I'm in a private practice. I think I had roughly 75 cases on my own docket. And I told them,

I'm, like, well, if I'm coming back and forth between Houston and Austin, I – you know, how am I going to be able to do this? And he said, Well, look – his words were, If you can just get a wet ink copy of the original search warrant, this may – will be over pretty quickly and if – meaning that – I'm sorry.

Q. No. Go ahead.

A. Well, just if what had been produced to Nate Paul and his lawyers matched up with the original copy, it would be over quickly. But, obviously, if there were discrepancies between the original wet ink copy, in his words, then this thing could drag out a little bit more.

Q. So what did you think you were going to do originally then?

And, by the way, had you ever heard the phrase – and maybe it's very common – "I had a wet copy"? What – is that what he said, a wet copy?

A. A wet ink copy.

Q. What does that mean? What did you take it to mean?

A. Just the original search warrants that were signed off by the judge had, you know, a wet ink signature on it.

Q. Okay.

A. Not the scanned pdf version.

Q. All right. So what did you walk out of that meeting, heading back in a car to Houston, did you think your mission was?

A. So we really didn't go into the scope of my – of the work. At that point – it wasn't until I actually got – so the copy of the contract had been sitting in my inbox. So when I get back home and I read my contract and see that the scope is limited to like more of an investigative role, then I'm like, okay, well, I'm a lawyer, I'm just going to collect evidence, review evidence that's presented to me, and draw some type of conclusion. Either corroborate what the allegation is or contradict that and put it in a brief and submit it. So I knew at that point once I read my contract, that I wouldn't be trying a case or anything like that. It was limited in scope.

MR. HARDIN: Can you put the – the original – the contract up and go to the Addendum A, please. I believe the contract is in evidence in several ways.

MR. COGDELL: Is this in, Mr. Hardin? Do you know?

MR. HARDIN: Pardon me?

MR. COGDELL: Is it in?

MR. HARDIN: I think it is.

MR. COGDELL: I'm not contradicting you. I just don't know.

MR. HARDIN: I'll check. Hold on a second.

MR. COGDELL: Can we get an exhibit number, Rusty?

MR. HARDIN: 160.

PRESIDING OFFICER: It is in.

MR. HARDIN: It's House 160, and it's in evidence.

MR. COGDELL: Thank you.

Q. (BY MR. HARDIN) Now, do you recognize what I – this particular excerpt from the contract?

A. Yes, sir.

Q. All right. And when you –

MR. HARDIN: If you could scroll up – yeah. That's going to be good.

Q. (BY MR. HARDIN) When you – can you explain to the jury what you realized your scope was more limited when you saw this, I take it you're saying, than you originally imagined your role would be?

A. Just in an investigative role. And then my ultimate goal or job at the end of this would be to prepare a report of my findings and give that to the Attorney General's Office. And whatever they do with it is –

Q. And was this scope different than what you understood it to be when you originally talked to the Attorney General?

A. This was different than what I had, I guess, come up with my mind, you know –

Q. Can you –

A. – what I would be doing.

Q. Can you – have – tell us what lines or sentences there, Mr. Cammack, so she can highlight exactly what you noticed when you saw that it was changed – a little bit changed in the scope of what you could do.

A. Can I have a second just to look at this and read it?

Q. So, for instance, do you see the sentence, if you would, "prepare a report documenting any potential criminal charges that may be discovered in the course of the investigation"? Do you see that? And before it.

A. But that's the – yes, sir. So that's like the report I was referring to.

Q. Okay. And that is a more restricted role – is it your testimony that's really a more restricted role than you understood from the Attorney General you were originally going to have?

A. I'm sorry. Could you repeat the question?

Q. Is that a more restricted role than you originally thought you were going to have when you talked to the Attorney General?

A. Yes, sir.

Q. Okay. Now, you notice it says, Notwithstanding anything to the contrary contained in this outside counsel contract. Outside counsel shall conduct this investigation only as consistent with the complaint referred to the OAG and only as directed by the OAG, correct?

So were you – who did you believe you were being hired by?

A. The Office of the Attorney General.

Q. Did you have any contact with the district attorney's office?

A. No, sir.

Q. Did you ever at any time during this representation think you were working for the district attorney's office?

A. No, sir.

Q. Throughout your representation in this matter, whom did you think – or whom – who hired you and whom did you think you were working for?

A. The Office of the Attorney General.

Q. All right. And in turn throughout all of this, who in the Attorney General's Office in a position of responsibility did you consistently have your contact with?

A. The only person I reported to was Mr. Paxton at his direction.

Q. Okay. Now, do you see, Except for outside counsel's duty to provide a post-investigation report, this outside-counsel contract expressly excludes legal services relating to any other post-investigation activities including, but not limited to, indictment and prosecution?

Had you, yourself, looked into the law that talked about the jurisdiction – respective jurisdictions of a district attorney's office and the Attorney General's Office?

A. No, sir.

Q. Did you ever?

A. No, sir.

Q. Okay. In this particular matter, what event did you think you were going to be investigating?

A. The – the referral from Travis County DA's Office with respect to this allegedly unlawful search.

Q. All right. And then later did you – did you receive another referral, what's been called referral number two?

A. Yes, sir.

Q. Now, that's dated September the 23rd. Do you happen to recall when you received it?

A. I think I got that on 9-24.

Q. Okay.

A. On an email from a – from the Travis County DA's Office.

Q. And was that a totally different matter than you were originally hired to investigate?

A. Yes, sir.

Q. When you got that, what was your response?

A. Well, I read through it and I just – I don't remember when I spoke with Mr. Paul and Mr. Wynne at the meeting, if it was before or after that. But when I got it, it was related to some type of alleged mortgage fraud where these lenders were wrongfully foreclosing on his properties and then trying to sell it at the auction. I – I don't recall any more detail than that.

Q. All right. And when you looked at that one, of course, who was the complainant, the person who was complaining about the criminal conduct and wanted it investigated?

A. It was also Nate Paul.

Q. Now, when you looked at it, did you see that it was essentially a complaint about civil litigation matters?

A. Are you – I'm sorry. Could you repeat it?

Q. Yeah. And I'm really only asking about your mindset –

A. Yes, sir.

Q. – not one way – one way or the other.

A. Okay.

Q. Did you notice whether it actually was a complaint about civil litigation matters in bankruptcy court?

A. Well, I wasn't looking at it through that lens at all. And to be frank with you, I – I didn't have any experience in handling any type of mortgage fraud or prosecuting any type of potential white-collar crime in that way.

Q. All right. So did you just sort of put it aside and not ultimately do anything with it?

A. No, sir, that – that's not true.

Q. Okay. Well, tell me, in your words.

A. Well, I spoke with Mr. Paxton about the referral because I wasn't sure if my scope of my contract covered that.

Q. Certainly.

A. And so, you know, he said that it did. And so I was like, well, I'm going to rise to the occasion, I'm going to figure this out.

Q. All right. So let me see if we can go through the mindset or experience for you.

You see a referral on a separate matter which is not the one you were originally hired for, correct?

A. Yes, sir.

Q. And you receive it on September 24th. And you notice it's an allegation of mortgage fraud occurred in bankruptcy court. You see that?

A. Yes, sir.

Q. So how did you find out what the Attorney General felt about it? Did you call him?

A. Yes, sir. I mean, I – I – I'm sorry, but I don't remember the exact date.

Q. That's okay.

A. But I asked him – I know for sure that I asked him if that was covered within the scope of my contract, and he said yes.

Q. Do you remember when that conversation was and what the rest of the conversation was?

A. I would just have to give you an approximation. It was roughly around the time that I received the contract on 9-24, either the day before or day after or the day of, somewhere in that 23 to 25th range.

Q. And do you recall what the occasion of that conversation with him was somewhere around the 24th of September? Did you call him explicitly for that – about whether this was – this referral number two was in your contract or were there other things that y'all talked about as well?

A. I – I don't recall the entire nature of that specific call.

Q. Okay. Did you notice when you looked at referral two, that one of the people he was refer – that he was asking to be criminally investigated was a federal bankruptcy judge named Tony Davis?

A. No, sir.

Q. You – you didn't notice at that time?

A. No, sir.

Q. Okay. Did that referral, just like the first referral, have a list of people that Mr. Paul claimed were people of interest?

A. It did, yes, sir.

Q. All right. And did it list these people – do you recall whether, when it listed them, whether it listed actually personal data, like their address and their phone numbers?

A. I don't recall if that was in the referral or not.

Q. All right. You don't remember whether that was in referral number two; is that what you're saying?

A. Yes, sir.

Q. All right. Was that the case in referral number one?

A. Yes, sir. There were some – there were names and, I believe, some demographic information –

Q. All right.

A. – in the first one. I just – I don't recall.

Q. Now, in referral number – let's go back now to the period a little before September 24th when we were talking about the original referral.

After you returned – did you receive any type of documents and materials to – materials to review when you left the meeting with both – with Mr. Paul back on the 4th of September?

A. Yes, sir.

Q. Can – can you tell us what kind of materials he gave you that you took back to Houston to review?

A. So I – I had taken my handwritten notes from the meeting back with me, and then I also received like a little five- or six-page document that appeared to be some type of time line of events giving – giving Mr. Nate Paul's version about what happened.

Q. All right. Now, did you take that just as his version?

A. Yes, sir.

Q. All right. But when you left there, what did you – did you have – when you left there and then on the 4th and after your meeting with the Attorney General, had you developed sort of a game plan in your own mind as to how you were going to do the investigation?

A. So I did. I was trying to consider, you know, how to – to get information to either corroborate or contradict what was being said.

Q. All right. And – and did you – tell us how you viewed the role of Mr. Paul and his lawyer Mr. Wynne in this, in terms of how they were – what role were they to play in the upcoming investigation?

A. Well, I viewed Mr. Paul as the complainant. He's the one who was complaining of these allegations. And then, you know, Mr. Wynne was his attorney in some other separate matter.

Q. Did you – how did you view your role as the Attorney General as – did you look at them almost as a client in terms of sharing – them sharing information with you and all? How would you describe that in your own words?

A. With – I'm sorry, with who?

Q. With Mr. Paul.

A. Okay.

Q. And, of course, Mr. Wynne is his lawyer, but in your view of the – did you consider yourself as like a prosecutor and a citizen had come in and made a complaint?

A. I viewed him as a complainant in the case and just in the same way that if a client hires me for a case and they bring in a banker's box full of documents and information, I'm going to go through it. And so I didn't think that it was unusual that I would be getting information from the complainant and his attorney. And as I got that information, you know, I thought this was the same information that Mr. Penley had had.

Q. Yes. Had you met Mr. Penley?

A. No, sir.

Q. Did you ever meet him?

A. No, sir.

Q. All right. So when you originally were hired by the Attorney General, did you make a certain assumption as to what your role and Mr. Penley's would be?

A. Well, I thought I would meet Mr. Penley at some point. I remember – I asked Mr. Paxton in that first – or that second meeting if – if I'd be meeting – you know, if – am I going to talk to him? Does he have a file that I can start working with?

And his response was, yeah, I think he's out of town and – but he had a file on his desk. So I did assume at some point that I would meet Mr. Penley and take a look at his file.

Q. Well, did you assume originally that you would be working with the Attorney General's staff as you gathered information and that that would mean that you'd be working with the division head?

A. I did. I mean, obviously, as a solo practitioner I don't have access to a lot of the resources that government offices has. And so I thought at some point I would be dealing with or meeting with some of these individuals.

Q. Right. And so did you just assume that Mr. Penley was being kept informed as to what was going on here?

A. I didn't really think about that at the time.

Q. Okay. Fair enough. But at any time – how many times did you ask Mr. Paxton about either meeting Mr. Penley or – or getting some information or getting some support from the Attorney General's Office?

MR. COGDELL: I'm sorry. I didn't understand the question, Mr. Hardin. Can you – can you repeat your question, Rusty? I didn't hear it. I'm sorry.

MR. HARDIN: Sure.

Q. (BY MR. HARDIN) How many times did you ask Mr. Paxton about either meeting Mr. Penley or getting some information or getting some support from the Attorney General's Office?

MR. COGDELL: Thank you.

A. I asked – it's kind of two parts. With Mr. – with respect to Mr. Penley, I had only talked to him about Mr. Penley maybe twice. And then – that was early on. And then that's when I was asking about was there a file? I'm like, you know, how do I get in touch with him on this deal?

And then as far as getting support from the office, I think I asked probably four or five times over the course of this three-and-a-half-week period when this all happened, well, can I get a badge? Can I get credentials? Which I never got, but I repeatedly asked for those things.

Q. (BY MR. HARDIN) And what was the Attorney General's response each time?

A. I think initially his response was, okay, we'll have to get somebody to work on that or we'll get it to you. It was just never – I never got a firm answer on when I would be getting those things. I knew I would need it when it came to issuing subpoenas and things like that.

Q. Yeah. So what things were you asking him for? You ask – let's start with Mr. Penley. Each time that you asked him or mentioned Mr. Penley, did he have some reason not to put you in touch with Mr. Penley?

A. The only thing that I asked about Mr. Penley was did he have a file and will I be meeting with him? To which his response was, he's out of town and his file is on the desk. I just thought in my mind that I would eventually meet with him to discuss this case. I mean, I don't know anything about any of these people in that office, and so I'm like, I didn't know – I didn't know anything going on. So . . .

Q. How did you – how did you know Mr. Penley? Just looking at a flowchart? How did you know about him?

A. I knew – I knew the name from – from Mr. Wynne and Mr. Paul in that first meeting.

Q. Did Mr. Wynne and Mr. Paul – were they critical of Mr. Penley in that first meeting?

A. Yes.

Q. What did they say?

A. Well, they – they said that Mr. Penley said that there was no information that could be presented to them – to him that would make him believe that a federal official broke the law in the way that they claimed.

Q. All right. And this conversation with him was September – that was the one September 4th?

A. Yes, sir.

Q. Okay. Now, did you think that was a little strange that they didn't want to deal with the head of the division in the Attorney General's Office?

A. My understanding was that they had met with him one time.

Q. That's all, just one time.

A. Yes, sir, that's what I was told.

Q. Is that what they – is that what they told you?

A. Yes, sir. And he refused to look into it. And then that was kind of reinforced by the fact that Mr. Paxton said that he couldn't get anyone in his office to work on the case.

Q. All right. So in your conversations with them and as your investigation, were you ever told or informed that they actually met with Mr. Paul three times?

MR. COGDELL: Excuse me, Your Honor. The "them," objection, hearsay. That includes other people other than Mr. Paxton.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Let me ask you this: Did you ever learn from Mr. Paul, Mr. Wynne, or Attorney General Paxton that Mr. Penley –

MR. COGDELL: Excuse me. Excuse me, same exact objection.

MR. HARDIN: Let me just finish, please.

MR. COGDELL: I'm sorry.

Q. (BY MR. HARDIN) That Mr. Penley or Mr. David Maxwell met with Mr. Paul and Mr. Wynne three times?

MR. COGDELL: Okay. That's both multifarious and hearsay.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Did you ever learn that Mr. Penley – did you learn anything from any source about how often Mr. Penley was trying to get Mr. Wynne to provide further documents?

MR. COGDELL: Objection.

MR. HARDIN: The objection is only is – was he aware of anything like that.

MR. COGDELL: Objection, hearsay. The question was, did you learn from any source. Objection, hearsay.

MR. HARDIN: I'm only –

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) Were you?

A. I'm sorry. Could you please repeat the question?

Q. Sure. Were you ever aware from any source that Mr. Penley after three meetings was continuing to try to find – get documents from Mr. Wynne? Did you ever hear that from anybody?

A. I did.

MR. COGDELL: Objection. I'm sorry.

THE WITNESS: I'm sorry.

MR. COGDELL: Objection, hearsay.

I apologize. Sorry, Mr. Cammack. Sorry, Rusty.

Objection, hearsay.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) In your mind what was your understanding from any source of the level of involvement of Mr. Penley and Mr. Maxwell in this investigation?

MR. COGDELL: The – I'm sorry, Rusty, the level of –

MR. HARDIN: I've not asked – I'm not asking for any statements or anything. I'm asking what his understanding and mindset was.

MR. COGDELL: I understand. I just didn't – you said "the level of," and then the word trailed off. I'm sorry if I'm being difficult.

MR. HARDIN: How sorry are you?

MR. COGDELL: Pretty sorry. Sorry enough.

MR. HARDIN: All right. I – my question, I think, stands, Your Honor. I simply want to know what his state of mind and level of knowledge was because it has a lot to do with what he does later.

PRESIDING OFFICER: I didn't hear an objection actually. I just heard him say he couldn't –

MR. HARDIN: I didn't either.

PRESIDING OFFICER: He just said he couldn't hear you.

MR. COGDELL: I just didn't understand the question. That question as asked, I'm fine. Go ahead.

MR. HARDIN: Is your microphone on?

MR. COGDELL: Well, he's reading it. I can't read that far. Okay. I'm sorry.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) Now, in the – at the end of the day, what was your level of knowledge about this?

A. So I was told early on by Mr. Paxton that the people in his office weren't doing what he asked them to do. That's why he was considering hiring outside counsel.

Q. Right.

A. And then towards the end of September, in this three-and-a-half-week period, I was told by Michael Wynne that Mr. Penley had reached out to him, kind of out of the clear blue, for documents. And then I asked Mr. Paxton about that when I spoke with him, and he said, Well, I told him to stand down. He's not working on this case. You are.

Q. That who should stand down?

A. Mr. Penley.

Q. General Paxton told you that Mr. Penley should stand down, he wasn't involved in the case anymore?

A. That's correct. And that was my only other time that I knew about any of his involvement.

Q. All right. Do you recall when that conversation was and where you were?

A. It would have been a phone call towards the end of September.

Q. All right. Thank you. Now, let's go back. After the 4th, I assume you started reviewing the materials you had received?

A. Yes, sir.

Q. Tell us about how you proceeded in your investigation then.

A. All right. So I was still trying to get my arms around what was alleged and all of the folks that were involved in it and trying to figure out – since I – you know, I didn't really have any information – what information I would be able to obtain. And just started kind of thinking of the way to do this would be to – to do grand jury subpoenas to get information regarding like phone calls and things between the individuals involved in that first referral.

Q. All right. Now, by the way, did you – did you, during this period of time, Mr. Cammack, consult with any other people you thought might have had these types of investigations before to sort of get an idea of how to – how to proceed?

A. No, sir. No, sir.

Q. This is not something you had done before, correct?

A. I had not ever done this before.

Q. Okay. Now, by the way, in your communications with the Attorney General, how were you communicating with him? By phone, by text, by email? Could you describe the forms of communication y'all used?

A. So we spoke by phone and through text message, and then throughout this process I continually forwarded emails to him as something would come up or I would get some information.

Q. Well, did you use any kind of encrypted communications?

A. Yeah. I think about the middle of the month he asked me to use the Signal app, which I wasn't really familiar with at the time. I just thought it was like a WhatsApp or just like –

Q. You weren't unfamiliar with Signal app at that time?

A. I had never used it before.

Q. All right. And – and how did that come about that he wanted you to communicate with him using Signal app?

A. He asked me on a phone call to download the app and use that.

Q. Did you go on the Internet to look and see what a Signal app was?

A. No, sir, I just downloaded the app.

Q. Okay. And do you recall what the nature of the conversation was in which he asked you to start using Signal app?

A. It would have been a call where we were talking just generally about the case, kind of the status of it and what was going on. It wasn't – I do remember it was not a phone call specifically about using that app.

Q. And what type of email address did you – did you use with him?

A. What do you mean?

Q. Well, do you recall what the email address was?

A. No, sir.

Q. Was it an official Attorney General's Office email address?

A. Oh, I see what you mean. No, sir.

Q. All right. What – what was it?

A. His email address was – it was a Proton mail address –

Q. All right.

A. – that I was sent – that I was given.

Q. Had you used Proton before?

A. No, sir.

Q. Had you ever heard of Proton?

A. I had heard of it. I've never used it.

Q. Okay. Now, in addition, what about the phones? What type of phone number did you have that you would communicate with him?

A. He – I had the original number that he had first called me on. And then I think later he gave me another number. Around that time I was getting – getting calls from unknown numbers or it would say "potential spam." You know, you get those types of calls. And I was like, well, I don't want to miss the Attorney General's number, so I got myself a separate number and gave it to him. That way I knew when that phone rang, that was Mr. Paxton calling.

Q. So you – are you saying that you ultimately got a phone that was totally dedicated to phone conversations with the Attorney General of the State of Texas and that's the only number that you communicated with on that phone?

A. Yes, sir.

Q. And you did that why?

A. Because I didn't want to miss a call from an unknown number or a spam likely call or – you know when you get those spam calls, I didn't want to have that come up and miss an important call, so . . .

Q. Did he use those – did he use multiple phone numbers with you?

A. Yes, sir.

Q. How many?

A. Two numbers.

Q. Okay. And were either of those official Attorney General lines?

A. I believe they were cell phone numbers. I don't believe they were office numbers.

Q. All right. In fact, when was the first time that you ever learned what the official email address or the Attorney General office email address was of the Attorney General that you were dealing with all this time?

A. The first time that I ever saw his governmental email address?

Q. Yes.

A. Was when I got a cease and desist letter from Jeff Mateer.

Q. And when was that?

A. That would have been, I believe, August 1st or 2nd.

Q. And how was it that you saw what the Attorney General's official email address was?

A. They were all copied on the email, all the gentlemen. Mr. – Mr. Vassar, I think, was one of them, and –

Q. Was that first time, when you got your cease and desist letter, the first time you ever knew of any official communication form of communicating with the Attorney General whether it was through text or email or phone?

A. I thought all of my communications with him were official, but that was the first time that I saw his governmental email address.

Q. All right.

A. Yes, sir.

Q. Now, when you – did you trust the Attorney General?

A. Yes, sir.

Q. Were you flattered about him reaching out to you?

A. Yes, sir.

Q. Did you trust Michael Wynne?

A. Yes, sir.

Q. Did you appreciate him referring you to the Attorney General?

A. I did, yes, sir.

Q. Okay. And did you always trust Michael Wynne to have your best interest at heart and try to help you?

A. Yes, sir. I didn't have any reason not to trust him. I knew that he was Nate Paul's lawyer.

Q. Okay. Did you trust Nate Paul?

A. I didn't really know Nate Paul. I just was trying to do my job.

Q. All right. Now, let's move to the period of the middle of September.

After you came back, you had all your material from the 4th that you had gotten from Nate Paul. What did you do after that?

A. So around this time I'm – I had a conversation with Mr. Paxton because I wanted to try to get the individuals named in that first referral, like, call logs and email logs showing whether or not these people had been talking around the time that the search had taken place.

And so being that it's sensitive since they are federal agents and there's some people in power there, I thought that the grand jury subpoena would be a discreet way to get that information and so I brought that up to Mr. Paxton.

Q. And do you recall when this conversation was?

A. I believe it was around – we had talked about it from early on in the month, like within that first week of September, but the conversations kind of continued going on until about the middle of the month, about September 14th.

Q. Okay. Now, at that time what was Mr. – what did you say to Mr. Paxton and what did he say to you?

A. I told him I think we should try to do grand jury subpoenas being that this is a discreet way to get information. Grand jury proceedings are private and secret proceedings and so we'd be able to get information that way without raising any kind of alarms or causing some type of, you know, panic about the situation. And he said it was a smart idea.

Q. So he endorsed it?

A. Yes, sir.

Q. Did either of you talk about the fact that if you issued grand jury subpoenas for a claimed offense that Mr. Paul was presenting to you, that the recipients of those grand jury subpoenas would know what was going on or have questions or be maybe even alarmed? Did y'all discuss that at all?

MR. COGDELL: Excuse me. Objection, leading.

MR. HARDIN: I think I gave him several –

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Did you – did y'all talk about the possible reaction of people that got these subpoenas?

A. No, sir.

Q. Later you issued subpoenas, did you not, for credit unions and banks and stuff like that, correct?

A. Yes, sir.

Q. Was there any conversation between you and the Attorney General about how those people might feel when they got those grand jury's?

A. No, sir.

Q. Did you become later aware – I mean, we'll get to who all that was on there – of – that some of these subpoenas were going to lawyers or people that were opposing Mr. Paul in litigation? Were you aware that that's who some of the people were?

A. No, sir.

Q. Okay. Well, then let's get to what you know.

When you talked to the Attorney General back about downloading the app and everything, were you also talking to him at that time about trying to seek credentials and other types of things that you needed for what you were doing?

A. Yes, sir. I needed –

Q. When – when did you first start asking for those types of things?

A. In my first meeting with him on September 4th. And then I asked about it again, like, as I'm approaching the time where I need to be – at the time I'm doing the applications for these subpoenas.

Q. What – what did you ask him for?

A. An email address, am I going to get some type of badge or some credentials, like – because I'm going to be approaching people with legal documents and I need something to show that I have the authority to do that.

Q. What did he say?

A. We're working on it.

Q. Now, you assumed, did you not, that, of course, it would be perfectly fine to give you those things because it would be of public record and there was nothing wrong with it, correct?

A. I expected to get that.

Q. Yes. And you expected him to believe you were going to need that, did you not, in your investigation?

A. Yes. And I ended up – did – I did need it.

Q. How many times do you think you asked the Attorney General for these official documents?

A. It would have had to have been four or five times over the course of a month.

Q. And each time you asked him for them, what was his response?

A. We're working on it. We'll get it to you.

Q. At some time did you begin to wonder why they would not give you any kind of official documents to show your status?

A. No. You know, I don't know the – I don't know how the office operates within the Attorney General's Office. I wasn't sure if there was a bunch of red tape to go through. I – I didn't know any of that. I just knew that I would need it to do what he was asking me to do.

Q. Right. We always hear about the slowness of bureaucracy and government agencies. Is that the kind of thing you just thought was going on?

A. Yes, sir.

Q. Okay. So it never occurred to you that maybe he didn't want them to be public?

MR. COGDELL: Objection, leading and assuming facts not in evidence.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Did it ever occur to you – did you ever have the thought or wonder, is – don't they want this public or what? Did you have that kind of thought process?

A. I wasn't thinking about anything like that.

Q. Okay. Fair enough.

Now, when you mentioned the grand jury possibility to the Attorney General, in that conversation – and you think that conversation was when, roughly?

A. That would have been around – I know I spoke with him about it on – on September 6th because I have a note here on this invoice, but the middle of the month around September 14th.

Q. Okay.

A. There were a couple of conversations where I was just kind of trying to figure my way through this.

Q. Now, you, of course, as you mentioned before, had never done a grand jury investigation, correct?

A. That is correct.

Q. So did you ask him some questions that – the Attorney General some questions to try to help you in that respect?

First of all, did you assume that maybe he would know these kind of answers?

A. Yes, sir.

THE WITNESS: I am so sorry. Judge, is there any way I can use the public restroom and take a break?

PRESIDING OFFICER: All right. We'll stand at ease for ten minutes.

THE WITNESS: Sorry about that.

PRESIDING OFFICER: No. We'll give you ten minutes. The witness may step down.

MR. HARDIN: Thank you, Judge.

(Break taken from 11:24 a.m. to 11:29 a.m.)

PRESIDING OFFICER: Court will come to order. And hold on one moment, Mr. Hardin, for all the jurors to be seated again.

Q. (BY MR. HARDIN) Mr. Cammack –

PRESIDING OFFICER: Hold on one second. They're not all in their seats.

MR. HARDIN: Sorry, Your Honor.

PRESIDING OFFICER: Looks like we're short two members.

Mr. Hughes and Mr. Miles – Senator Miles, Senator Hughes, please come forward.

We're one juror short, so we're going to wait. We're texting him now.

(Pause in proceedings)

PRESIDING OFFICER: Mr. Hardin, you may resume.

MR. HARDIN: Thank you, Your Honor.

Q. (BY MR. HARDIN) All right. Mr. Cammack, I want to go to, if I may, when you were asking him and talking to him about the grand jury subpoenas.

During that conversation – and you – you've mentioned that you asked him about credentials. How did you go about trying to find out how to do a grand jury – issuing and using grand jury subpoenas? What did you do?

A. Yes, sir.

Q. Your microphone.

A. Yes, sir. So I asked Mr. Paxton – you know, at this point he's like, it's a smart idea, this is the way that we should proceed. So the next question is, okay, well, how – how do we do this? Because I wasn't sure whether the Attorney General's Office had their own special grand jury in session for cases or if we would do it through a county, like Travis County grand jury. And so I didn't know the answer to that.

He said he didn't know the answer to that. He would need to find out. And, you know, I think he had indicated to me at that time, you know, he wasn't a criminal lawyer and most of his experience was in business law, so he would find out which – which grand jury that we would –

Q. And did you find out?

A. He reached back out to me around the middle of the month, maybe a day or so after, and told me that we would be going through the Travis County grand jury.

Q. But the AG himself called you back and told you that?

A. Yes, sir.

Q. And – and then what did you do?

A. So my next step was to reach out to Travis County District Attorney's Office. And it was kind of weird because I – before I even had an opportunity to do that, I get a message or a voicemail that Michael Wynne had sent me saying this is the person that you need to contact over there.

Q. How soon after you had the conversation with the Attorney General that – concerning the fact that it would be a Travis County grand jury, how soon after that conversation with the Attorney General did Mr. Wynne reach out and give you a contact in the Travis County DA's Office?

A. I don't recall exactly, probably within 24 to 48 hours.

Q. Do you have any idea how Mr. Wynne would have known that you were seeking that information?

A. I'm sorry?

Q. Had you told Mr. Wynne you were trying to find out or did it just come in unsolicited?

A. No, I spoke with Mr. Wynne about – about the grand jury process.

Q. All right.

A. So he was aware – you know, him and Nate Paul were both aware that that's what – how I was proceeding with their investigation.

Q. When you got that information, did you reach out to the Travis County grand jury?

A. I reached out to the Travis County District Attorney's Office and spoke –

Q. Excuse me. I said grand jury. You're right. The office. Excuse me. Go ahead.

A. I spoke with, I forget – it was a nice woman. I forget her name. She was – she put me in touch with a gentleman named Don Clemmer. And then Don Clemmer put me in touch with, I guess, this – this real sweet lady. I think her name was Bailey. She might have been the grand jury coordinator over there.

Q. Let me ask you this: Was the last name Molnar? Does that sound –

A. That sounds – that sounds like – correct.

Q. Did you tell these folks that you were a special prosecutor working with the Attorney General's Office?

A. Yes, sir.

Q. Okay. And as such you were asking assistance to get some grand jury subpoenas?

A. Yes, sir.

Q. And did they help you get the grand jury subpoenas?

A. Yes, sir, they did.

Q. And let me ask you –

MR. HARDIN: At this time, Your Honor, I want to move to introduce in mass – I believe we informed counsel on the other side – Exhibit 257, which I'll represent is all of Mr. Cammack's production in this matter to both sides. These are the documents that he has – he has produced to lawyers on both sides, and I move to introduce them in toto.

PRESIDING OFFICER: Any objection?

MR. COGDELL: Yes and no. Yes.

PRESIDING OFFICER: Speak on the microphone, please.

MR. COGDELL: Yes.

PRESIDING OFFICER: Still can't hear you.

MR. COGDELL: Object to 649, 691 –

MR. HARDIN: Dan, can I stop you for just a second to explain to the Court?

We have given them excerpts – it was too voluminous to be carrying around the hard document here, but what we did do – it was about 2,000 pages. It was a lot. What we then gone – I've gone through and taken out excerpts and put an exhibit

number on them. But they are excerpts from – what I was seeking to do was introducing the whole group and then taking out and putting an exhibit number on those that we specifically were going to talk about.

Go ahead.

MR. COGDELL: I appreciate all of that, Mr. President. But to be clear, we got an amended exhibit at 4:50 this morning which includes these, several of which I will be objecting to, several of which I won't.

MR. HARDIN: Excuse me, are we going to start getting into when we get stuff for them and what time of the morning? I would just ask for –

PRESIDING OFFICER: Just stop right now.

MR. HARDIN: Yeah.

MR. COGDELL: Like I started to say, object to 649, 691, 687, 688, 689, 690, 686, and 650.

PRESIDING OFFICER: Reason for the objection?

MR. COGDELL: Sir?

PRESIDING OFFICER: You're objecting to those documents? Okay.

MR. COGDELL: I am. Now, I do not have objections to 677, 678, 679, 680, 681, 682, 683, 684, 685, and 693.

The last sequence, Mr. President, I do not have an objection to.

PRESIDING OFFICER: So let's go back to the objection.

MR. COGDELL: Yes, sir.

PRESIDING OFFICER: I had asked you for a reason for the objection to the –

MR. COGDELL: Yes, sir.

PRESIDING OFFICER: – other documents.

MR. COGDELL: Yes, sir. The basis is hearsay on each. And just so – let me try to get them in order so Mr. Hardin and I can literally be on the same page.

MR. HARDIN: Let me ask one more time, real quickly, the ones you object to, Dan.

MR. COGDELL: Sure.

MR. HARDIN: Make sure I got all of them.

MR. COGDELL: Yes, sir. The ones I'm objecting to are in order, Rusty, are: 649 – that's the work product, if you're with me. You want me to come over there? I'm happy to do that if that's easier for you.

MR. HARDIN: No. Go ahead.

MR. COGDELL: 649, 650, 686, 687, 689, 690, and 691.

MR. HARDIN: And the type of objection, Your Honor, the basis?

MR. COGDELL: Hearsay. And I don't know if you – Judge, do you have – Mr. President, do you have them in front of you?

PRESIDING OFFICER: We don't have them.

MR. HARDIN: May I do this? May I do this? Let me go right now to discuss the ones that he has no objection to and ask that they be admitted.

MR. COGDELL: Sure.

PRESIDING OFFICER: Okay. We'll admit the items that you have no objection to. And to be certain we have those right numbers, would you repeat those numbers that you do not object to?

MR. COGDELL: The numbers that I – and I'm not sure these are in order, but 677, no objection.

PRESIDING OFFICER: Yes. Okay.

MR. COGDELL: 678, no objection.

PRESIDING OFFICER: Yes.

MR. COGDELL: 680.

PRESIDING OFFICER: Yes.

MR. COGDELL: 681.

PRESIDING OFFICER: Uh-huh.

MR. COGDELL: 682.

PRESIDING OFFICER: Yes.

MR. COGDELL: 683.

PRESIDING OFFICER: Yes.

MR. COGDELL: 684.

PRESIDING OFFICER: Yes.

MR. COGDELL: 685.

PRESIDING OFFICER: Yes.

MR. COGDELL: And 693.

PRESIDING OFFICER: What about 679?

MR. HARDIN: All right.

PRESIDING OFFICER: Hold on one second. Just checking this.

MR. COGDELL: You inquired on 679? I don't have that one in front of me.

PRESIDING OFFICER: Okay. You originally said you had no objection to 679, but you may have misspoken.

MR. COGDELL: I'm certainly capable of doing that. No, 670 – you're correct, Mr. President, 679, I – we do object to 679.

PRESIDING OFFICER: Okay. So 679. So to the court reporter – and forgive my "uh-huh" for a moment there, something I said the witnesses shouldn't do.

So to be clear to the court reporter, no objection to 677, 678, 680, 681, 682, 683, 684, 685, 693.

And it's my understanding, Mr. Hardin, to begin, you will just focus on those. And if you want to refer to the others, you'll have to give us an answer on why it's not hearsay at that time.

MR. HARDIN: That's correct. Your time –

PRESIDING OFFICER: I'm admitting – so we are admitting into evidence 677, 678, 679, 680 – I'm sorry – 677, 678, not 679 at this time, 680, 681, 682, 683, 684, 685, and 693.

(HBOM Exhibit Nos. 677, 678, 680, 681, 682, 683, 684, 685, and 693 were admitted)

MR. HARDIN: And, Your Honor, can I have ten minutes' credit back because of the housekeeping we did here?

PRESIDING OFFICER: Did you say you needed ten minutes?

MR. HARDIN: Can I have ten minutes' credit back for the conversation we had –

PRESIDING OFFICER: I'll give you five.

MR. HARDIN: Thank you.

PRESIDING OFFICER: All right.

MR. HARDIN: All right. One has to take what they can get.

Q. (BY MR. HARDIN) All right. Mr. Cammack –

A. Yes, sir.

Q. – did you start receiving assistance to get these grand jury subpoenas done as to who they would be from Mr. Wynne?

A. Yes, sir.

Q. And is it still on? I didn't hear. Yeah.

A. Can you hear me?

Q. Yes.

A. Okay.

Q. Yeah. All right. And what form of assistance were you getting from him?

A. Well, I – I started to get a lot of information from Mr. Paul and Mr. Wynne through emails. That included the list of individuals who were, I guess, suspects or somehow witnesses or somehow related to that first initial referral.

Q. And were these people that were to be put on the list of subpoenas?

A. Some of them were, yes, sir.

Q. All right. And were you receiving from Mr. Wynne, regularly, information of people to include on the grand jury subpoenas?

A. Yes, sir.

Q. Now, what was your thought process in terms of your investigation as to why you would automatically put those people on if they're asking? In your mind, you were doing what?

A. Well, I didn't independently source any of these individuals' name. I walk into a – I walked into this referral, and I'm just – I'm given a lot of information about different people who were involved and how they may be related to that first referral. And so I trusted that that was the information that – that they were giving me was the same information that the Attorney General's Office, Mr. Penley, would have already had to conduct his investigation.

Q. All right. So you assumed that you were just getting information that already existed –

A. Yes, sir.

Q. – in the hands of the OG – the AG?

A. Yes, sir.

Q. But you hadn't talked to anyone in the AG, correct?

A. Other than Mr. Paxton, that's correct.

Q. All right. And each time that you had a course of action in this case and thought you were going to do something, did you have a practice of contacting the Attorney General to update him?

A. Yes, sir.

Q. And so as you went along and gathered all of this information from Mr. Wynne and Mr. Paul, were you keeping the Attorney General involved – informed of all this?

A. Yes, sir. I would discuss it on the phone, or anytime I got, like, a document emailed me – emailed to me from Mr. Wynne, I would forward that onto the Attorney General's email address. And then when we spoke again, if we did, I would say, hey, you know, I sent you this or sent you that.

Q. So let me see if I understand. Whenever you received information from Mr. Wynne and/or Mr. Paul by email, you would then forward that information to the Attorney General?

A. The majority of the time, yes, sir.

Q. All right. So when they were sending you lists of people that should be subpoenaed by the grand jury, were you making sure you kept Mr. Paxton informed of that?

A. I'm sorry. Do you mean if, like, I sent that information to him or just letting him know that I received that information or –

Q. Just letting him know that you received that information.

A. Yes, sir.

Q. All right. So would it be an accurate statement that as you proceeded in this – well, let me put it another way.

As you proceeded in your information – in your investigation and as you determined what to do with the grand jury and what to do about grand jury subpoenas, were you at each stage keeping the Attorney General informed?

A. Yes, sir.

Q. At any time did the Attorney General contact you and say no, no, no, no, let's don't do that?

A. No, sir.

Q. So from your own state of mind, in every single thing you did in this investigation, what is your testimony to the jury as to whether you believed you had the full support and agreement of the Attorney General of the State of Texas?

A. That's true. I – I did everything at his supervision. Kept him informed on everything. When I reached out to Travis County District Attorney's Office and introduced myself regarding the grand jury subpoenas – I mean, I got affirmation the entire time that everything was good, and no one said anything different until I, you know, got a cease and desist letter at the end of –

Q. And so was one of your frustrations that you didn't have anything official to tell people that's what you were doing; is that correct?

A. That's right.

MR. COGDELL: Excuse me. Objection, leading.

THE WITNESS: I'm sorry.

MR. HARDIN: Well –

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Were you frustrated about not having any identification and documents and means to tell others in this outside world?

A. Yes. Because, I mean – yes, sir.

Q. All right. And what was the reason? What was the reason for being so frustrated?

A. Well, for example, when I issued – I had some subpoenas issued for Microsoft, and I got an email back saying without a governmental email address, we can't execute these subpoenas. So I knew that as I'm continuing to work in the course of this deal that I would need to have some type of identification, whether it's a governmental email address, you know, some number. I don't know what their processes are, but I knew that I would need some type of credential to be able to do what I was asked to do.

Q. What were you subpoenaing Microsoft for?

A. Email records, I believe, for certain individuals that were involved in that first referral.

Q. All right. So in the first referral, you were – you were seeking email information, everything from Microsoft about all of these individuals?

A. Whoever had, like, an Outlook email address.

Q. And in addition to the people involved in the execution of the search warrant, were you receiving from Mr. Wynne other names that should be added in?

A. I – I don't recall all of the names that were on the list.

Q. Oh, yeah. I'm not asking you what the names were. But were you receiving during this time that you were conducting the investigation continued lists and suggestions of people to investigate and to list a grand jury subpoena for?

A. Yes, sir.

Q. At this stage did you reach a stage of discomfort that you were getting all of this information from the lawyer of a man that you knew was already under investigation by law enforcement?

A. I didn't know that – that Mr. Paul was under investigation at the time. I knew about this search, obviously, but I didn't know that he was under any kind of – at the time it would have been a current investigation.

And then just with respect to Michael Wynne, I trust – had no reason not to trust that Michael was giving me information that he had already collected and that I thought that the Attorney General's Office already had. So I thought that whatever he gave me was for the purposes of investigating that referral.

Q. Okay. I want you to – I want you to look – I put some hard copies up there for you.

A. Yes, sir.

Q. It's in evidence now. Exhibit 678.

A. 678.

MR. HARDIN: And it's going to be Bates stamp – well, do you need the Bates stamp? No. Okay. Thank you.

Q. (BY MR. HARDIN) Can you tell us what that is, please?

A. So this is an email that I sent to Ryan Vassar with – so this is same day that I met with Mr. Paxton on 9-4, and I – when I got back home, I signed the draft contract that they sent me and sent it back, and I asked for an executed copy back.

Mr. Vassar had asked me to see if there were any kind of conflicts, so I reached out. I never had – I didn't have any clients that had any cases pending where the AG's Office was opposing counsel, and I reached out to the State Bar Ethics Hotline and said, hey, is this okay? You know, I don't have any cases pending against them. And they said it's fine, you know, congratulations on the job.

Q. All right. Trying to look at these – I'm trying to look at these subpoenas in terms of what's admitted. And I want you, if you would, to turn to 681. I'm only going to ask you – not put it up because I believe that's one they – no. That is one that's in evidence.

Can you help me out? Look at 681 and identify this for the jury, please.

A. So this was an email from me to Michael Wynne and it says Sample form, grand jury – Google grand jury subpoena.

Q. All right. And then look over to the – why did you send it to Michael Wynne?

A. Michael Wynne had initially – so I had never issued a grand jury subpoena before.

Q. Pardon me?

A. I had never done – I had never issued a grand jury subpoena before.

Q. Right.

A. And so I asked Michael – once I put this draft together, I said, Can you take a look at it – it's the same information that they had already given me – and make sure that the form here is correct?

Q. And so did Mr. Wynne respond to you and tell you it was okay?

A. He said, Form is fine.

Q. And then what – at the end of the day, what did that help you do?

A. What did it – I'm sorry, what did it help me do?

Q. Yes. Did that help you decide how you were going to do the subpoenas and what language you were going to use and everything?

A. I sent this to him. I mean, I knew he was a federal prosecutor at this point in the past, you know, Harvard educated. I just sent it to him to – you know, does the form look okay here. So it helped me to know that this – this was the right way to do it.

Q. All right.

MR. HARDIN: Your Honor, I'm looking here. I'm having to order up the ones they've objected to. And there are some of these that I very much want to get into evidence, and I don't believe there is a legitimate objection. I'm trying to figure out how to handle this without taking any undue time now.

But, for instance, if I could – do we have hard copies for the Court, Stella, of these exhibits? Do we have any more stacks?

Q. (BY MR. HARDIN) You have before you 691. Without referring – without – without saying anything about what is in its contents, I want you to identify for the record and tell us what it is.

MR. COGDELL: Mr. Hardin, you said 691?

PRESIDING OFFICER: Yes.

MR. HARDIN: Yes. I wrote that down as one you objected to.

MR. COGDELL: I don't have a 6- – oh, I do too. I stand corrected. Thank you.

PRESIDING OFFICER: We have that on the list you objected to, correct?

MR. COGDELL: Yes, sir. I'm sorry.

PRESIDING OFFICER: Well, we're waiting for us to see it. We don't have a copy before we can rule.

MR. COGDELL: Yes, sir.

Q. (BY MR. HARDIN) All right. Do you see 691? Would you – without talking about the internal contents yet, would you describe what that document is?

A. This was an email from Michael Wynne on September 21st, 2020, with an attached Excel spreadsheet that appears to have individuals' names listed there with various demographic information.

Q. Does – does it list – does it list names, addresses, and identifying data that had been blacked-out for purposes of this exhibit, but does it list names, addresses, and personal data of people to be investigated and included on the grand jury subpoena?

A. Yes, sir.

Q. All right.

MR. HARDIN: I don't understand what the objection was to that, Your Honor.

PRESIDING OFFICER: Well, again – go ahead. I'm sorry.

MR. COGDELL: The objection is hearsay. It's not a list created by Mr. Cammack but by Mr. Wynne, and it is being offered for the truth of the matter asserted because they're going to –

MR. HARDIN: Your Honor – go ahead, excuse me. No, I thought you were through. Go ahead.

MR. COGDELL: That's okay. It is going to be offered for the truth of the matter asserted because they're – they're going to be arguing that these were the names ultimately where subpoenas were being used on. So objection, hearsay.

MR. HARDIN: There are a series of these, Your Honor, that, first of all, not offered for the truth of the matter, only that it was provided to him. We are not suggesting that these people should be and were witnesses for the grand jury – should have been a grand jury subpoena.

But more important part is, Article XVI is a conspiracy article that says that General Paxton engaged in conspiracy with others. We are not alleging that they engaged in a conspiracy with Mr. Cammack. We are alleging that he engaged in a conspiracy with Mr. Paul and Mr. Wynne. And any statements that are made in pursuant of that conspiracy would be admissible whether or not it is hearsay. It's an exception to the hearsay rule.

I know I am springing that on the Court, and you might want a moment to think about it or so. But that's why, A, it's not hearsay; but, B, even it were – was, it is an act in furtherance of the conspiracy.

MR. COGDELL: They are admissible through the testimony of a coconspirator, not through Mr. Cammack who Mr. Hardin admits is not a coconspirator.

PRESIDING OFFICER: Give us a moment.

MR. HARDIN: Pardon me? Okay.

MR. COGDELL: And just – Judge, while you're – Mr. President, while you're considering this, I would – I would – based upon Mr. Hardin's argument for the admissibility of it, there is no suggestion that General Paxton created or participated in the creation or the assimilation of this exhibit.

PRESIDING OFFICER: Okay. Give us a moment.

MR. HARDIN: Your Honor, if I may, there's a business records affidavit, Exhibit 547, a business records affidavit for all of Mr. Cammack's files. So the idea that it's hearsay goes out the window. It would have to be – it would have to be kept out for some other reason. These are all – have been certified.

Can we bring up – if you would like, I'll bring up the affidavit for you to look at. 547.

MR. COGDELL: You can't put a business record on something that is – you can't make a coconspirator statement admissible or whatever through a business records affidavit.

PRESIDING OFFICER: As you said, Mr. Hardin, you didn't mean to spring this on the Court at the last second, but it has – it is to us at the last second. I think this is a good time for a lunch break.

MR. HARDIN: Sure.

PRESIDING OFFICER: And give us a chance to review all this.

MR. COGDELL: And just for your edification, Mr. President, I think the majority of these – I think, Rusty – correct me if I'm wrong, but I think the ones we're objecting to are very similar to – our objection to these is going to be consistent with the majority of the other ones that you want in, right?

PRESIDING OFFICER: That was going to be my next question. Is the objection on all of these –

MR. COGDELL: I don't know on all of them, but most of them.

PRESIDING OFFICER: Most of them.

MR. HARDIN: Yeah. His objection would cover those, and our response covers all those that were kept out in his records.

PRESIDING OFFICER: Okay.

MR. HARDIN: Thank you.

PRESIDING OFFICE: We may reach out to you during the lunch break. We may not. But we will come back at 1:00 p.m.

The witness can be excused until 1:00 p.m. Be back at 1:00.

(Recessed for lunch at 12:00 p.m.)

AFTER RECESS

(1:12 p.m.)

THE BAILIFF: All rise. The Court of Impeachment of the Texas Senate is now in session.

PRESIDING OFFICER: You may be seated.

To both parties, you gave us a lot of homework during lunch, I assure you.

MR. COGDELL: I'm just trying to assure you, keep your day job and don't ever wander, Your Honor.

PRESIDING OFFICER: Yes, sir.

Could I have both parties, come up, Mr. Hardin? Both parties.

MR. COGDELL: Yes, sir.

(At the bench, off the record)

PRESIDING OFFICER: Court is back in session.

Mr. Hardin, Mr. Cogdell.

MR. COGDELL: Yes.

PRESIDING OFFICER: We're sustaining the objection on 686 and 691. And then the other ones we'll bring up one by one as we walk through.

MR. COGDELL: Yes, sir.

PRESIDING OFFICER: So 686 and 691 will not be admitted.

Bailiff, call the witness.

(Witness entered Senate chamber)

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

MR. HARDIN: Thank you, Your Honor.

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

MR. HARDIN: Thank you, Your Honor.

BRANDON CAMMACK,

having been previously first duly sworn, testified as follows:

DIRECT EXAMINATION (CONTINUED)

BY MR. HARDIN:

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

A. "Cammack."

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

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

A. Let me take a look.

Yes, sir.

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

A. No, sir.

Q. All right. Who was it prepared by?

A. This document was prepared by Michael Wynne.

Q. By Michael Wynne?

A. Yes, sir.

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

A. This was e-mailed to me.

Q. E-mailed to you.
And did you ask for it?

A. No, sir. This was unprompted.

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

A. Yes, sir.

Q. When you received that from Michael Wynne –

PRESIDING OFFICER: Mr. Hardin?

MR. HARDIN: Yes.

PRESIDING OFFICER: Excuse me. So there was an objection on 649.

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

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

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

PRESIDING OFFICER: Yes.

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

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

A. Yes, sir.

Q. Okay. Now, when you – this particular document – and notice here you forwarded that document to whom?

A. I sent this document to Mr. Paxton.

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

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

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

A. No, sir.

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

A. No, sir.

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

A. No, sir.

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

A. Yes, sir.

Q. All right. When was that?

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

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

A. Yes. Just like in other – other things that I forwarded to Mr. Paxton, if I had a conversation about it, I would have said, Yes, sir, I sent you over something that I got from Michael Wynne or Nate Paul – or Michael Wynne actually.

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

A. I'm sorry. Could you –

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

A. No, sir.

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

By whom did you think you had been hired by?

A. The Office of the Attorney General.

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

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

Q. Without ever discussing it with him or anything?

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

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

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

Q. Yeah.

A. Yes, sir.

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

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

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

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

Q. All right. And then let me ask it another way finally. That's all I have on this. Did you attempt throughout your representation or throughout your retention as investigator, try to keep the attorney general updated on all of your activities?

A. Yes, sir.

Q. All right.

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

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

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

PRESIDING OFFICER: Yes, you may.

VOIR DIRE EXAMINATION:

BY MR. COGDELL

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

A. Yes, sir.

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

A. Yes, sir.

Q. You acted like that was a trick question. It wasn't – it wasn't meant to be. So would you agree with me, Mr. Cammack, that the act of reviewing it and then forwarding it was consistent with your description at the top of being work product, agree?

A. Yes, sir.

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

PRESIDING OFFICER: So your objection is work product?

MR. COGDELL: Yes, sir.

MR. HARDIN: Your Honor, the work-product privilege on this document belongs to this witness and witness alone. And the question would become if he considers this his work product, he's produced it to us, which waives his work product. And I think I suspect he would concur again that he's not claiming the work product, and he's the only one in this equation that has the right to, and he's provided it to us voluntarily through this production. So it's waived, even if he did. But I –

MR. COGDELL: With respect, I don't agree with the last –

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

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

PRESIDING OFFICER: Hold on, Mr. Cogdell.

MR. COGDELL: I'm sorry.

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

THE WITNESS: Yes, sir.

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

MR. COGDELL: Yes, sir.

DIRECT EXAMINATION (CONTINUED)

BY MR. HARDIN:

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

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

Q. Many times was it unsolicited?

A. Towards the end it – it was –

Q. All right.

A. – yes, sir.

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

MR. COGDELL: Objection. Leading.

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

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

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

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

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

Q. But, Mr. Cammack, did he also –

MR. COGDELL: Excuse me. Excuse me. May the witness be allowed to answer – finish answering the question?

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

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

PRESIDING OFFICER: Were you through, Mr. Cammack?

MR. HARDIN: Pardon me?

THE WITNESS: Yes, Judge. Yes, sir.

MR. HARDIN: Thank you.

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

A. I'm so sorry. I –

Q. Was he regularly providing you information?

A. Yes.

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

A. There were – there were a couple of Excel spreadsheets that he had forwarded to me that had the names and demographic information of individuals as they related to the – the referral that I got. There was a timeline that I was given early on. There was a memo that was provided to me, like a prosecution memo. There was – and as I sit here right now, I just – I can't think of anything else other than those three.

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

A. Yes, sir.

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

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

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

A. Yes, sir.

Q. You just referred – you just mentioned a prosecution memo that he provided you?

A. Yes, sir.

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

MR. COGDELL: Objection. Conjecture and speculation.

PRESIDING OFFICER: Sustained.

Just rephrase it.

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

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

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

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

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

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

A. Yes, sir.

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

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

Q. All right.

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

Q. Well, we – Mr. Wynne was representing Mr. Paul, wasn't he?

A. Yes, sir.

Q. We can kind of agree, can't we, that he's not going to be providing things to you that are harmful to Mr. Paul? Can't we agree on that?

A. Yes, sir.

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

MR. COGDELL: Objection. Leading.

PRESIDING OFFICER: Sustained.

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

A. Yes, sir.

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

A. It was helpful.

Q. All right. You – you know it was helpful, then, right?

A. Yes, sir.

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

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

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

MR. COGDELL: Objection. Leading.

PRESIDING OFFICER: Sustained.

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

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

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

MR. COGDELL: Objection. Leading.

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

Q. (BY MR. HARDIN) Was this information –

PRESIDING OFFICER: Sustained.

MR. HARDIN: Excuse me.

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

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

PRESIDING OFFICER: I'll overrule.

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

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

Was this information provided to you to help Mr. Hall – Paul or to harm Mr. Paul?

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

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

A. 650.

Q. Do you have it?

A. Yes, sir.

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

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

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

A. Yes, sir.

Q. And was the prosecution memo prepared by you?

A. This – this document was, yes.

Q. All right. And did you use as a basis for this a – a prosecution memo proposed by Mr. Wynne that he sent you?

A. Yes, sir.

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

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

Q. All right.

A. And then forwarded it on.

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

A. Yes, sir.

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

A. Yes, sir, 9/13.

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

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

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

A. Could you repeat?

MR. COGDELL: That's a third question.

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

A. I believe my counsel did.

Q. Yes, your counsel did. I know.

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

A. Yes, sir.

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

A. Yes, sir.

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

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

Q. To both sides, correct?

A. Correct.

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

A. Yes.

Q. Did you ever discuss this document with him?

A. I did.

Q. When?

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

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

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

Q. To him?

A. To him.

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

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

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

A. Yes, sir.

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

MR. COGDELL: Objection. Hearsay.

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

PRESIDING OFFICER: Overruled.

Q. (BY MR. HARDIN) All right. Now –

PRESIDING OFFICER: The exhibit is admitted 650.

(HBOM Exhibit 650 admitted)

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

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

MR. COGDELL: Thank you.

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

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

A. Yes, sir.

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

A. I got these names from Michael Wynne.

Q. All right.

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

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

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

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

Q. All right. So would it be a fair – would it be a fair statement that everything you prepared in this document, that the research and writing of it was information provided by Mr. Paul or Mr. Wynne?

A. So – yes. Yes.

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

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

So, you know, he said, No problem. Have at it.

So I used that as the basis of what was going to ultimately be an investigative report to turn in at the end.

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

A. 696.

Q. I don't think you have it up there. I want to show you and ask you just to look at this document, first of all, and see if you recognize it. Don't testify about the contents or anything.

A. Okay.

Q. Okay.

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

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

PRESIDING OFFICER: Okay.

MR. COGDELL: I don't either.

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

A. Yes, sir.

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

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

MR. COGDELL: Thank you.

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

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

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

A. Yes, sir.

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

A. This document appears to be a – a list of individuals to approach about an interview.

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

A. Sure.

MR. HARDIN: I move – I move to introduce 696.

MR. COGDELL: Objection. Hearsay.

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

MR. COGDELL: And therein lies the problem. Mr. Hardin suggests, as "they" keep feeding the information. There is zero evidence that Ken Paxton saw this document, participated in this document, created this document before it was sent by Mr. Wynne to Mr. Cammack. And for Mr. Hardin to suggest there's not a statement is – is belied on the face of the document. Look at the very first –

PRESIDING OFFICER: Your objection is sustained –

MR. HARDIN: All right.

PRESIDING OFFICER: – as to hearsay.

MR. HARDIN: May I – just for the record, I have one thing.

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

PRESIDING OFFICER: I sustained it to hearsay.

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

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

A. Yes.

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

A. Yes, sir.

Q. And in preparing those grand jury subpoenas, I think we've testified you used the assistance of the AG's office or the district attorney's office to get the forms prepared, correct?

A. That's correct.

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

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

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

A. No, sir.

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

A. Yes, sir, they facilitated that.

Q. Did you – did you discuss with anybody in the District Attorney's Office anything about who you wanted to subpoena or anything like that, or did you simply provide them the information, they helped you with format, and presented it to a judge for you?

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

Q. All right.

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

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

MR. COGDELL: Objection. Conjecture and speculation.

PRESIDING OFFICER: Sustained.

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

A. Yes, sir.

Q. Did you issue some subpoenas originally by e-mail? You've got your billing record up there?

A. Yes, sir, I'm looking at the –

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

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

Q. Pardon me?

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

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

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

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

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

Q. For the second one?

A. Yes, sir.

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

A. Because when I – can I explain myself?

Q. Sure.

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

And then there were also phone numbers to see if any contacts had been made around that time between cell phone numbers. So I say all of that to say this: Most of the people who were on this list either had a gmail account or a hotmail or a Microsoft account. So rather than piecemeal, you know, let me get a couple of subpoenas here, there, there was no intention of it to be this shock value of sending out so many subpoenas. It was like, Let me get all of this information together. I will go through it and then go from there.

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

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

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

A. Those were by e-mail –

Q. Yeah.

A. – the cell phone records.

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

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

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

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

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

A. I do not, sir.

Q. Okay. That's all right.

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

A. No, sir.

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

A. No.

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

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

Q. So is it an accurate statement to say that you issued grand jury subpoenas on behalf of the person that you – that was under a state charges, you issued subpoenas to his agency, the Securities Board?

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

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

PRESIDING OFFICER: Sustained.

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

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

A. Yes, sir.

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

A. That's correct.

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

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

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

PRESIDING OFFICER: Sustained.

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

A. Of the gentleman – I think you said Rani Sabban?

Q. Yes.

A. No, sir.

Q. All right.

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

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

A. No.

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

MR. COGDELL: Okay. That's –

Q. (BY MR. HARDIN) – namely the Mitte Foundation?

MR. COGDELL: I'm sorry –

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

MR. COGDELL: Multifarious. Assuming facts in evidence.

MR. HARDIN: It's all in evidence.

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

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

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you very much.

Q. (BY MR. HARDIN) Did – were you aware of that?

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

Q. Sure.

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

A. No, sir.

Q. Okay. Now, then you move on to the – the subpoenas that you were going to serve personally. And is it your testified those – those subpoenas were based on the second referral that Mr. Paul had filed with the – originally with the DA's office on September 23rd?

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

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

A. Yes, sir.

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

A. I did.

Q. How did you inform him?

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

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

A. No.

Q. All right.

A. I don't think I individually named –

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

A. I don't believe I individually named each person, but I –

Q. All right.

A. – just don't recall that.

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

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

Q. September the 29th?

A. Yes. Yes, sir.

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

A. So he was insistent on going.

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

A. Just maybe a day or so. I – you know, I told them – I was informing them of what I was going to do to serve – you know, I was going to go drop off the subpoenas, and he insisted on going. And I was like, you don't really need to do that. I didn't

really think it was appropriate. But he said, you know, I'm – I'm Nate Paul's lawyer, and I'm – it's important for me to be there in case they ask you any questions about his case or anything that's going on.

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

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

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

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

A. I was not aware of that.

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

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

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

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

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

A. Okay.

Q. By the way, by this time, Tuesday the 29th, how much contact did you have with the attorney general about this investigation? How many times? First of all, go – how many times did you talk to him by phone?

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

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

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

Q. Roughly the 3rd.

A. The 3rd?

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

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

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

A. I think that's accurate.

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

A. I'm sorry. What?

Q. How many – how many of those 15 to 20 times were phone calls?

A. I would have to –

Q. Roughly, just approximately.

A. I mean, maybe 7 to 10 times.

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

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

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

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

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

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

Q. Now, did the attorney general, was – did you give the attorney general advanced notice that you were going to go – going out on the 29th and serving subpoenas?

A. Yes, sir.

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

A. No, sir.

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

A. No, sir.

Q. How many did you – were you planning to serve?

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

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

A. The e-mails that I sent out?

Q. Yes.

A. Yes, sir.

Q. Those subpoenas?

A. Yes, sir.

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

A. Yes, sir, that's – that's correct.

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

A. We – first – we went to two banks.

Q. Now, let me stop you there just a second. In each of these banks that you went to, did you identify yourself as a special prosecutor for the attorney general's office?

A. Yes, sir, I did.

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

A. Yes, sir.

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

A. Just talking to them, yes, sir.

Q. Yeah.

A. And giving the subpoena.

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

A. Yes, sir.

Q. All right. And you were there about a case Mr. Wynne – Mr. Paul contended was a mortgage fraud case, correct?

A. Yes, sir.

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

A. Yes, sir.

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

A. There was a – it wasn't – I wasn't serving a subpoena. I don't believe it was a – I was trying to talk to him.

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

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

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

Q. And where – where had the deceased clerk of the court been a clerk?

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

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

A. Yes.

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

A. Her husband.

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

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

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

A. And Mr. Paul.

Q. And Mr. Paul.

A. Yes.

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

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

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

A. Yes, sir.

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

MR. COGDELL: Object – objection. Leading and argumentative.

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

PRESIDING OFFICER: Sustained.

MR. HARDIN: Thank you.

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

A. Yes, sir.

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

A. I don't recall. I – I don't recall.

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

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

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

A. Yes, sir.

MR. COGDELL: Objection. Excuse me.

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

MR. COGDELL: Excuse me.

Q. (BY MR. HARDIN) – is that right?

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

PRESIDING OFFICER: Sustained.

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

A. I think four or five.

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

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

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

A. I got a cease and desist letter.

Q. From whom?

A. From a gentleman named Mark Penley.

Q. What did you do?

A. I responded to his cease and desist and said –

Q. And –

A. Okay.

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

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

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

A. I believe I called him.

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

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

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

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

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

A. Maybe October 1st, around there.

Q. So who was there – the federal marshals were at your office?

A. They came by my office.

Q. When – who was the first person you contacted?

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

Q. How many times did you call him?

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

Q. On the fifth time?

A. One of the times.

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

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

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

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

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

A. No, sir.

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

A. Yes, sir.

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

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

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

A. That's correct.

Q. Okay. Did you – did you talk about the merits or anything or why they were there? What did – do this: What did you say to him and what did he say to you?

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

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

Q. Okay.

A. And then hung up the phone.

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

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

Q. Okay.

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

And I got the business card from those two gentlemen, took a picture of it. And I sent it to Mr. Paxton. Said, These are the guys who showed up at my office. And that was – that was that.

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

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

Q. And what did Mr. Mateer tell you?

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

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

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

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

A. Yes, sir.

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

A. It was signed by Mr. Paxton.

Q. The one you sent back to him?

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

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

A. The one that I sent them – I'm sorry.

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

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

Q. How had that happened?

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

Q. I know.

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

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

Q. Now, let's put a day on it. What day do you get to Austin?

A. That was on the 28th.

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

A. September 28th.

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

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

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

A. My contract was there on the table.

Q. And was it signed by who?

A. Myself and Mr. Paxton.

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

A. No, sir.

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

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

Q. I just want to make sure real quickly here. You got back from Mr. – you sent Mr. Vassar your contract, which had only your signature on the 4th; is that right?

A. That's correct.

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

A. No, sir.

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

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

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

A. I did.

Q. And what did you tell Mr. Wynne?

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

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

Q. The contract you sent to Mr. Wynne early that morning –

A. About 5:00 a.m.

Q. – 5:00 a.m. had only your contract – your – your signature?

A. Yes, sir.

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

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

Q. Okay.

A. And we – that was – had to be around lunchtime maybe.

Q. And you walked in and saw what?

A. My contract was there on the deal signed.

Q. Signed by the attorney general?

A. Yes, sir.

Q. And that was the first time you had ever seen one –

A. Yes, sir.

Q. – signed by him. All right. Now, finally, when things – things got a little hectic for you after that, did they not, after you – after the 29th and 30th of September?

A. Yes, sir.

Q. When – when was the next time that you saw the attorney general?

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

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

A. I did.

Q. When?

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

Q. And what – how – what were the circumstances of you seeing him?

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

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

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

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

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

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

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

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

And then – yeah. Like –

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

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

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

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

Q. Was he – was there anything surprising about him being there to you? Did you know he was going to be there?

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

Q. Pardon me?

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

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

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

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

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

And when Mr. Paxton came in as I was going to leave, I think I was there maybe an hour, he had mentioned, you know, that Mr. Penley didn't have any authority to tell me to stop working. He told him to stand down and just to continue to work on this report.

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

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

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

A. Oh, I mean, I left.

Q. So what did you think? What – what was the meeting about?

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

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

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

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

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

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

Q. And what did they want?

A. Mr. Paxton wanted me to meet Brent Webster, who –

Q. Brent Webster, did he – did you know who he was by that time?

A. No, sir.

Q. Did you know what position he now had?

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

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

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

Q. What did you tell him?

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

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

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

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

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

Q. Did the attorney general apologize to you?

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

Q. And then did y'all stay there or did you go somewhere else?

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

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

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

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

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

Q. You drove up again?

A. I drove up again.

Q. Do you recall what that date is?

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

Q. All right. And then where did you – where did you go when you drove up?

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

Q. And then who was there?

A. Brent Webster and Mr. Paxton.

Q. And what happened there?

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

Q. Did you ask why?

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

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

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

Q. And what happened at that meeting?

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

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

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

A. I think I ball-parked it. I said, What about my \$14,000 invoice?

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

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

A. That sticks out in my mind, sir.

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

A. Just because it – it was offensive.

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

A. He was just listening in.

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

A. That's what Mr. Webster said.

Q. How long were you at the Starbucks?

A. Fifteen minutes, 20 minutes tops.

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

A. Did – I'm sorry, what do you mean?

Q. How did it make you feel?

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

Q. And then what happens? How – anything you remember? What happened then?

A. Yeah. They left the Starbucks and tried to get in the car and drive off. I said, Excuse me. Can I get a ride back to my car?

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

A. That's what it looked like.

MR. HARDIN: Pass the witness.

PRESIDING OFFICER: Mr. Cogdell.

CROSS-EXAMINATION

BY MR. COGDELL:

Q. Good afternoon, Mr. Cammack.

A. Hi, Mr. Cogdell.

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

A. Yes, sir.

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

A. Yes, sir.

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

At the time you got involved in the Paxton matter, Mr. Cammack, you were a five-year lawyer, right?

A. Yes, sir.

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

A. He's younger than me.

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

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

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

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

A. No, sir.

Q. That was – that was Nate Paul.

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

A. I've spoken with him three times.

Q. When was the first time?

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

Q. About how long was that meeting, Brandon?

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

Q. And the next time you met with him?

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

Q. And about how long was that?

A. An hour and a half to two hours.

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

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

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

A. Roughly seven.

MR. COGDELL: Could we see Article of Impeachment, Article X?

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

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

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

A. Yes, sir.

Q. I've –

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

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

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

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

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

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

A. Yes, sir.

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

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

A. I'm sorry. Could you –

Q. Sure.

A. – rephrase that? I'm sorry.

Q. Yes, sir, sure.

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

A. No, sir.

Q. And you will agree with me, Mr. Cammack, that you certainly never believed that you were a part of an investigation into a baseless complaint, right?

A. No, sir, I did not.

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

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

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

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

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

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

Q. Mr. Hardin has a reputation as a – not a good lawyer, a great lawyer, right?

A. Yes, sir.

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

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

PRESIDING OFFICER: Sustained.

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

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

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

A. Yes, sir.

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

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

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

A. That's correct.

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

A. Yes, sir.

Q. So you have your own practice, right?

A. Yes, sir.

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

A. And myself, yes, sir.

Q. And yourself.

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

A. Yes, sir.

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

A. Absolutely.

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

A. Yes, sir.

Q. Arrests went way down. Court – courthouses literally closed, right?

A. They did.

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

A. That's right.

Q. Now, I assume you never aspired to be a prosecutor or you would have applied to the DA's office, but still when the attorney general calls, that's a – that's a big moment, right?

A. It was a big moment.

Q. Okay.

A. Yes, sir.

Q. You trusted Mr. Wynne, right?

A. I did.

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

A. He's a serious lawyer.

Q. He's a serious lawyer.

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

A. With Michael Wynne?

Q. Yes, sir.

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

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

A. A serious practice, yes.

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

A. Yes, it was on my birthday.

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

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

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

A. I know.

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

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

Q. Got it.

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

A. I'm sorry, one more time.

Q. Sure.

If there has been a suggestion made in this courtroom before these 31 senators that it is somehow wrong or illegal to investigate the legality of a search or a search warrant, that is not your world view. Agree with me?

A. I agree with that.

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

A. That is what we do.

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

A. Yes, sir.

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

A. That's right.

Q. The execution of a search warrant, right?

A. That's right.

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

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

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

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

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

A. That's right.

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

A. That's right.

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

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

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

A. Right.

Q. And the fact that – and we've, Oh, my God, it's a federal agent, or, oh, my God, it's a federal magistrate. I mean, again, they – they deserve and are owed their deference. But there's nothing sacrosanct about an AUSA in our world view, right?

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

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

A. I did feel that way.

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

A. That's right.

Q. And which was it that – which person said that? Was it Mr. Paul that said that about Mr. Penley, or Mr. Wynne that said that about Mr. Penley, or do you know?

A. It was Mr. – Mr. Paul said that.

Q. Okay.

A. Mr. – Mr. Wynne was there when he said that.

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

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

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

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

Q. I'm assuming –

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

THE WITNESS: All right, Judge.

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

A. Base people off of their character, I mean –

Q. That's right.

A. That's it.

Q. And you do not automatically foreclose from your mind or from your obligations an inquiry into the legality of search warrants simply because it was signed off by a – a federal magistrate, right?

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

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

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

A. Yes, sir.

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

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

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

Q. And that would have been – if it's the day after your birthday, that would have been August the 23rd?

A. Yes, sir.

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

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

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

A. Yes, sir.

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

A. Yes, sir.

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

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

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

A. Yes, sir. On the 26th.

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

A. Yes, sir.

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

A. He was nice, yes.

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

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

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

A. Correct.

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

A. Probably 20, 25, something like that.

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

A. Yes, sir.

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

A. Yes, sir.

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

A. Yes, sir.

Q. And he – did he act like he knew why you were there?

A. He did.

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

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

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

Q. Okay.

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

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

A. Yes, sir.

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

A. That's correct.

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

A. No, sir.

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

A. He did not.

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

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

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

A. That's fair to say.

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

A. He did not. He did not.

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

A. That's right.

Q. And to put – to put us back in your world view at the time, again, we're in the middle of COVID. Well, let me step back.

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

A. Yes, sir.

Q. Spoke for 45 minutes or so?

A. About 45 minutes.

Q. It was late, right?

A. It was late.

Q. And it was after Mr. Hardin –

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

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

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

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

I believe that on your drive home, you – you call your grandmother, right?

A. I think I told you that.

Q. You did.

A. I just met the attorney general.

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

A. Yeah. That was her attitude.

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

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

Q. Okay.

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

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

A. No, sir.

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

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

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

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

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

Q. Say that again.

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

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

A. I did, sir.

Q. And without getting into what they told you, you walked away from that conversation after explaining to the ethics hotline at the State Bar of Texas what you wanted to do, you felt like you had a blessing from the State Bar of Texas to do exactly what you do, right?

A. Told me, Congratulations on the job.

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

A. That's correct.

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

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

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

Q. Yes, sir. You anticipated my next – my next area of question.

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

A. I was – yes, I was still happy to be working for the attorney general.

Q. Got it.

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

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

MR. COGDELL: That's fine.

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

A. Yes, sir.

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

A. Yes, sir.

Q. I guess, Mr. Cammack, the – more important than the money was sort of the prestige or the opportunity or the resume, if you will, of getting to work for the AG's office on this particular matter?

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

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

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

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

Q. Okay.

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

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

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

A. I do, sir.

Q. And when you received this contract from Mr. Vassar, you think that is an offer – I mean, neither one of us are contract lawyers, but you think that's an offer. And by signing and sending it back, you think that's an acceptance?

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

Q. Right.

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

Q. Right.

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

Q. Gotcha.

And no one suggested to you during that month of September that they had their fingers crossed and you really didn't have an agreement? In other words, you went through that month believing you had a valid contract with the State of Texas to be an outside lawyer, right?

A. Yes, sir.

Q. Now, I think you told us that you, Mr. Cammack, attended a meeting with Nate Paul on September 4th, right?

A. Yes, sir, I did.

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

A. Yes, sir.

Q. Let me back up.

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

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

A. Yes, sir.

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

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

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

A. He asked me that, yes, sir.

Q. And when is the first time you had a recollection of doing that? Before you met with Paul or after you met with Paul?

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

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

A. Yes, sir.

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

A. No, sir.

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

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

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

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

Q. Okay. So nothing about this, I guess, I'm – I'm stumbling into – nothing about this was off-putting to you? You didn't think that there was – in fact, you thought this was – this case just keeps getting better and better for me, right?

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

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

A. Yes, sir.

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

A. Yes, sir.

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

A. No, sir. He was not there.

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

A. Yes, sir.

Q. And I wasn't there, but as I understand it, Mr. Paul showed you – made a pretty convincing presentation utilizing a computer diving into the metadata, which at least convinced you that this probably happened or this might have happened, right?

A. I was convinced –

Q. You were convinced?

A. – there was something there.

Q. Okay.

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

Q. How computer literate are you, Mr. Cammack? And that's a – that's a vague question. Do you know much about metadata?

A. No. I've – I've never really worked with metadata in that way.

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

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

Q. Okay.

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

Q. And you leave there, I think, and go meet with Ken Paxton at his office here in Austin the same day.

A. Yes, sir, that's correct.

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

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

A. I told him I was – it was – I was convinced, like it was convincing what I was shown. And he agreed with that.

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

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

A. I said, It was – it was convincing. It was persuasive, and he – he agreed with that. He said he –

Q. Paxton agreed with you, right?

A. Yes, sir.

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

A. No. He – he never indicated that it was a baseless –

Q. You believed, recognizing that you don't know what's in his head, but you believed that he believed the same thing that you believed, right?

A. Yes, sir.

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

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

Q. Is that the same day?

A. The same day.

Q. Okay. So –

A. He did say that.

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

A. It would just be the original document.

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

A. Yes, sir, that was my understanding.

Q. And the words of General Paxton to you, I think, were along the lines of, If you can find me a wet-ink copy of this search warrant, that's all I need. game's over, right?

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

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

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

Q. Okay.

A. – to figure out.

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

A. With respect to the ultimate –

Q. Yes, sir.

A. – my conclusions –

Q. Yes, sir.

A. – about what I thought happened?

Q. Yes, sir.

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

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

I mean, there was never any suggestion of you engaging in any sort of impropriety or a request for any sort of impropriety on the part of General Paxton. Do you agree with me?

A. I agree with that.

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

Do you remember that?

A. I do.

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

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

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

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

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

At the time that you first met with Mr. Paul and Mr. Wynne, do you believe they gave you at least some type of evidence for you to begin an investigation in good faith based upon?

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

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

A. That's right.

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

A. Yes, sir.

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

A. Yes, sir.

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

A. That is correct.

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

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

A. Can I explain that?

Q. Yes, sir.

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

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

A. Yes, sir.

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

PRESIDING OFFICER: Members, we will stand at ease until 3:30, so a 25-minute break.

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

AFTER RECESS

PRESIDING OFFICER: You may resume, Mr. Cogdell.

MR. COGDELL: Thank you.

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

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

THE WITNESS: Yes, sir.

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

Recall – do I recall that correctly?

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

Q. Okay. Do you remember back during this time, that is back in September of 2020, that happening; that is Mr. Paxton being critical of Mr. Penley and Mr. Maxwell believing that – or stating that they didn't do any work?

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

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

A. Yes, sir.

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

A. Yes, sir.

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

A. Yes, sir.

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

A. Yes, but more proficient in Westlaw.

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

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

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

A. I believe so.

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

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

THE WITNESS: Yes, sir.

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

THE WITNESS: Yes, sir.

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

MR. COGDELL: I want to show you –

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

MR. COGDELL: Yes.

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

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

PRESIDING OFFICER: Any objection, Mr. Hardin?

MR. HARDIN: Judge, if I may, Your Honor, just a second. If I may, please.

PRESIDING OFFICER: Take your time.

MR. HARDIN: No objection.

PRESIDING OFFICER: No objection. Admit into evidence AG Exhibit 1047.

(AG Exhibit 1047 admitted)

MR. COGDELL: All right, Erick. If you can kind of blow up the top. And, again, I'm using you as a – as my ventriloquist right now because I don't think you've ever seen this, or tell me if you have.

Q. (BY MR. COGDELL) Have you ever seen this before?

A. No, sir.

MR. COGDELL: Erick, blow up the top of it, which says obviously the – the style of the case, which is Contego Information Management.

Q. (BY MR. COGDELL) Are you familiar with that name, Contego Information Management?

A. Yes, sir.

Q. And that is one of the entities, is it not, Mr. Cammack, that Mr. Nate Paul was complaining that an illegal search may have potentially occurred at – at that place right there, Contego, right?

A. Yes, sir.

MR. COGDELL: Now, if you will go to the second page, Erick, of 1047. Go back to the first page. My bad.

Q. (BY MR. COGDELL) And on the first page, it – it shows, does it not, that Judge Mark Lane is the judge in this case, right? Upper left-hand corner, Mr. Cammack.

A. Yes, sir.

Q. That – that's obviously public information. And that Mr. Gupta with the U.S. Attorney's Office is representing the Government, right?

A. Yes, sir.

Q. So the – the whole world can see that based on anybody that has a PACER account has access to that sort of information, right?

MR. COGDELL: Now, if you can go to the second page, Erick, and what that shows – give us the top half of that page.

Q. (BY MR. COGDELL) And what we see, do we not, Mr. Cammack, is there's a motion for leave to disclose a sealed search warrant that was filed on September 5th, right?

A. Yes, sir.

Q. And an order granting that motion for leave to disclose a sealed search warrant, right?

A. Yes, sir.

Q. So that would allow – and that was granted on the 5th. And then it is closed again on the 17th, where someone files an order – someone files a motion to extend the sealing, right?

A. Yes, sir.

Q. But for those, whatever that is, 12 days, that search warrant would have been – the warrant, not the probable cause affidavit – they probably understand by now, but I know you do; there's a difference between the search warrant and the search warrant affidavit, right?

A. That's right.

Q. But the search warrant would have been visible via PACER for those 12 days back in September. Again, anybody with a PACER account could have logged in and looked at that, at least during those 12 days. Agree with me?

A. It was – it was not sealed during those 12 days.

Q. Fair enough.

Now, when you were working on this matter, did you ever see, Mr. Cammack, any evidence that Mr. Penley or Mr. Maxwell had done anything in terms of investigating the same complaints that you were investigating? Meaning did you see any reports, any memoranda, any conclusion, any – anything?

A. No, sir.

Q. It is possible, is it not – let – let's say that I want to investigate whether or not a given prosecutor might have at least been accused in a pleading of doing something improper. You or I can get on PACER and enter that person's name and pull up every case that lawyer has ever been assigned – assigned to, right?

A. Yes, sir.

Q. And they can do the same to us as well, right?

A. That's correct.

Q. But if we wanted to investigate whether or not a given prosecutor was doing something, we could look at their history, or at least their history that's visible on PACER, right?

A. That's right.

Q. Same with the judge, correct?

A. That's – it should be public record.

Q. Now, let me be – let me be Captain Obvious because it's a cape I wear a lot. Every single search warrant that is a bad search warrant was signed by a judge somewhere, wasn't it?

A. Theoretically speaking, it – yes.

Q. Okay. Well, I guess my point is if someone is arguing, Well, a judge signed it, therefore, it must be good; well, if it's a search warrant that was executed, chances are a judge signed it. That doesn't necessarily make it a good search warrant. It's just a – one more search warrant that one more judge signed. Agree with me?

A. I agree with that.

Q. I think we heard you testify that Mr. Wynne, during, I guess, the latter part of September, stated that Penley had reached out to him out of the clear blue and asked for documents. Do you recall that?

A. Yes, sir. That's what I was told.

Q. Do you know when, Mr. Cammack, ballpark, that was?

A. It would have been I believe the fourth – sometime in the fourth week of September 2020.

Q. Okay. So if you were hired on September 4th, you had been working on this case for several weeks, or this investigation for several weeks, by the time you heard that. Agree with me?

A. So approximately three weeks.

Q. Okay. Now, let's get into the time. Mr. – Mr. Hardin had you walk through sort of the frequency of contact that you had with Mr. Paxton during this, and it's about a month. That's probably the easiest way to describe it, is about 30 days, right?

A. Yes, sir.

Q. And Mr. Hardin had you describe your contacts with Agent Paxton. And I think you said, I don't know, 15 to 20 times, something like that, right?

A. Yes, I did say that.

Q. And during that month or so period, you saw him a grand total of how many times face-to-face? Two or three?

A. Well, I can – I can tell you the days. So the 26th was one time.

Q. Okay.

A. November – I mean, I'm sorry, September 4th was the second time.

Q. Right.

A. And then there was the time at the end of September at Nate Paul's house.

Q. That's three.

A. And then there was another time when I drove out to meet with him and Brent Webster.

Q. That's four.

A. And then there was another time when we met at the Starbucks.

Q. That's five, right?

A. That's five times.

Q. So let – let's use as a demarcation, artificial or not, I'm going to call it when the stuff hit the fan, and that is September 30th or October 1st. Okay?

A. Yes, sir.

Q. So before the stuff hit the fan, and we're going to get to there, you had seen him a grand total of three times; that is Mr. Paxton, right?

A. Two times.

Q. Two times. Okay.

Now, you said, I think, in reference to a question by Mr. Hardin that you had talked to him 7 to 10 times on the phone, something like that?

A. Yes, sir.

Q. And there were some occasional texts as well, right?

A. Yes, sir.

Q. Would you agree with me, generally speaking, Mr. Cammack, that those phone calls are generally short, to-the-point calls?

A. Yes, sir.

Q. Do any of them stand out in your memory for one reason or another?

That's not – that's not meant to be a trick question. That's just an open-ended question.

A. I'm just thinking about what stands out in my mind about the conversations.

Q. Okay. Let me keep going. And if it comes to you, we'll come back to it. Fair?

A. Okay.

Q. Would you agree with me, Mr. Cammack, that Mr. Paxton has – General Paxton, whatever we want to call him, has a, let's say, unique style of communication? I'm sure it's not exclusive to him, but what I mean by that is when he talks to you, he – he reaches out to you and you're, generally accessible, right?

A. Yes, sir.

Q. But the reverse isn't always true. When you need him, it ain't always – he doesn't pick up the phone as quickly as you pick up the phone?

A. I would agree with that.

Q. Okay. And you had three or four of these occasions where you were saying, Look, Mr. Paxton, or, Look, General Paxton, I need an e-mail address, and I need some identification, or I need a badge or something, right?

A. Yes, sir.

Q. And the response that you get is, more or less, Yeah, yeah, yeah. I'm working on it. Yeah, yeah, yeah, right?

A. Yeah, I mean every time that's – that was kind of the –

Q. Fair enough.

A. – response that I got.

Q. And – and you would also agree with me that just about every time you're in the presence of General Paxton, he's either on the phone some of the time or on the phone all of the time? Is that – is that fair?

A. The first two times that I met with him, he was not on the phone.

Q. And those were the – the interview, right?

A. The interview, and then the second time that I went there.

Q. Yes, sir.

A. And then after that, he was on the phone quite a bit of time.

Q. He's – I mean, in your mind, I think, not unlike perhaps others, he's kind of notorious for being on the phone when you need the man's attention. That's just how he rolls. Agree with me?

A. I mean, I didn't – I didn't know him before all of this.

Q. Okay. I'm just talking about your experience with him.

A. I just figured he was busy.

Q. And he is, as far as you know, right?

Now, let's get to – speaking of busy, let's get to that point in time, Mr. Cammack, when you were asking for a signed contract, and you told Michael Wynne you hadn't gotten the signed contract. And I think that was the night before. And then you roll into Mr. Paul's office the next morning, leaving at 5:00 or thereabouts. And lo and behold, there is a signed contract on the desk of – or at Nate Paul's office, right?

A. Yes, sir.

Q. Do you know whether or not, Mr. Cammack, that on that date that Mr. Paxton was out of town? Do you know one way or the other if he was?

A. No, sir.

Q. Okay. Would you agree with me that based upon your observations of the man, he traveled frequently, agree?

A. There was at least one other time that, yes, sir, that he said he was traveling.

Q. Okay. So let's jump to the second. And, again, I'm going to be quick running through these. But we've talked generally speaking about the first referral that you received from the Travis County DA's Office, right? And that is the complaint about the search warrant, correct?

A. Yes, sir.

Q. Not too long after you're involved, you get this second complaint, right?

A. Yes, sir.

Q. And that complaint is referred to you directly. It is mailed to your office, right?

MR. COGDELL: Somebody find that for me, a copy of it, the second complaint.

THE WITNESS: I believe it was e-mailed to me from Mr. Clemmer.

Q. (BY MR. COGDELL) Okay. Whether it was e-mailed or mailed, my mistake.

A. Yes, sir.

Q. It was sent to you directly? Agree with me?

A. Yes, sir.

Q. And if someone were to come in here and state that Travis County DA's Office had no idea who you were or what you were doing and you were just some sort of ghost out there in space; you would disagree with that, would you not?

A. That would be a falsehood.

Q. And, in fact, Mr. Clemmer knew exactly who you were and where to find you, right?

A. Yes, sir.

Q. And can you – can you estimate for us, Mr. Cammack, how many touches – for lack of a better description, how many touches you had with employees of the Travis County DA's Office? And when I say "touches," I mean, interfaces, e-mails, phone calls, personal visits. How many – how many touches are we talking about?

A. Well – and there's no disrespect to the folks over there. I just don't remember everyone's name.

Q. Of course not. I'm not giving you that pop quiz. I'm just asking you to estimate it, of course.

A. So I'm just – I spoke with one individual who referred me to Don Clemmer. And then I think there was another woman named Amy maybe. Amy Meredith maybe.

Q. Okay.

A. Then I got referred to a woman named Bailey.

Q. Well, now, we're up to four, right?

A. I think we're up to four. And then from there, there were multiple –

Q. Repeat visits?

A. Well, just back and forth on – in the e-mail exchange about the subpoenas. And then five or six times there, like with Mrs. Molnar. And then – and then I got that other referral from Mr. Clemmer directly.

Q. So if we are counting each subpoena as a touch, we've got 35 or 40 subpoenas?

A. Well, I sent them in a – on the application, just multiple per – you know, just sent them out. There were several e-mails to their office.

Q. Several – I'm interrupting you. I'm sorry. I'm sorry. I apologize.

But there were several tranches of subpoenas sent to the Travis County DA's Office?

A. Yes, sir, I agree with that.

Q. And – and there were several people you communicated with, right?

A. Yes, sir.

Q. Some were staff and some were lawyers, right?

A. Yes, sir.

Q. And – and at least in your mind, Mr. Cammack, they were well aware of who you were and what you were doing, right?

A. Yes, sir.

Q. And you certainly never tried to hide that fact from anybody? When you were working with the Travis County DA's Office, you told them who you were. You told them your job description. You told them what you need. It's not like you were hiding, right?

A. I was not hiding.

Q. The second complaint is different, Mr. Cammack, in kind, is it not, from the first complaint, meaning, the first complaint is –

MR. COGDELL: May I approach, Your Honor?

PRESIDING OFFICER: Yes.

MR. COGDELL: Just to satisfy you, and it's in, Mr. Hardin, as 124, AG 124.

Q. (BY MR. COGDELL) And, again, it's not – not a trick question. That is the copy of the second complaint, correct?

A. Yes, sir, that's the second referral.

Q. So, again –

PRESIDING OFFICER: I'm sorry, Mr. Cammack. I really need for you to speak louder when you're answering because I know –

THE WITNESS: Yes, Judge, that's the second referral.

Q. (BY MR. COGDELL) And, again, like the point I made before you saw the document, although I don't think there was a dispute about you, that was sent to you directly with your name on it, with your address on it. Clearly they know who you are, right?

A. Yes, sir.

Q. Okay. Now, the first complaint again focused on the potential illegality of the search warrants. The second complaint focused on an alleged fraud concerning people trying to steal – my words, not the complaint – Nate Paul's property too cheaply, right?

A. Yes, sir.

Q. And I believe, correct me if I'm wrong, but you utilized the resources of the Travis County DA's Office to issue search warrants – or I'm sorry, grand jury subpoenas for the first complaint, correct?

A. Yes, sir.

Q. And you did the same thing with the second complaint, meaning part of the thing that you did to investigate it was send out grand jury subpoenas to try to obtain information, correct?

A. Yes, sir.

Q. Now, I think I heard you say, Mr. Cammack, correct me if I'm wrong, that you were not keeping General Paxton apprised of the names of the individuals that you had issued the – the grand jury subpoenas before, right?

A. I never spoke with him about like who specifically I was issuing subpoenas for, but that's not to say that I – I don't know if – I don't remember if I has sent a – forwarded an e-mail list or something like that.

Q. Fair enough.

It's possible that you sent him on one or more occasion a list of folks that – or some sort of detail on names, right?

A. That's possible.

Q. Not certain one way or the other if it happened, but it's certainly possible?

A. As I am sitting here right now, I don't recall that.

Q. Fair enough.

But you didn't, in any conversation, as far as you can recall, Mr. Cammack, get gran – get so granular with General Paxton about the names of the people that were being subpoenaed that you said, Look, Joe Smith on this date, Bob Hunt on that date, Travis Smith on the other? That didn't happen, right?

A. No, sir.

Q. And I assume it is a safe bet to say that if you sent General Paxton an e-mail containing a list with names on it, you don't know one way or the other whether or not he opened that e-mail and read through it and assimilated or understood what was entered or not? Agree with me?

A. I'm sorry. Could you just rephrase that one for me?

Q. That's a \$500 question. I don't know why I asked it that way.

You don't know if he ever opened up any e-mail you sent to him and read it or not, right?

A. That's right. I don't know.

Q. Okay. Now, in the – thank you.

In the investigation of the second complaint, did you think your marching orders from General Paxton had changed? Meaning, if I recall your testimony correctly, Mr. Cammack, in the first referral he told you to go get the truth, find out the truth or whatever, right?

Were you – I assume you were operating under the same belief system that General Paxton wanted you to do the same thing in the second complaint, correct?

A. That was my belief and my understanding.

Q. And at any point, Mr. Cammack, that you were dealing with Ken Paxton, did he ever ask you to misrepresent anything?

A. No.

Q. Did he ever ask you to, for lack of a better description, lie, cheat, or steal?

A. Lie, cheat, or steal?

Q. Yes, sir.

A. No, sir.

Q. And I'm including that in a broad sense, not in the literal sense.

But also in the broad sense, not the literal sense, Mr. Cammack, never asked you to hide, secrete, destroy? Never asked you to hide any record, conceal anything you did, dispose of anything that you obtained? There was never any suggestion of that, I don't think, was there?

A. No, sir.

Q. Now, there was the time when the stuff hit the fan, right?

A. Yes, sir.

Q. And that was October 1st?

A. I believe it was October 1st, whatever day that I got a cease and desist letter from Mr. Penley.

Q. Okay. And, again, whether it's the 1st, or 2nd, 30th, whatever, you get the cease and desist letter. And what was your reaction when you – when you got that? What was your thought?

A. I mean, I was shocked. I was confused and felt like a rug had been pulled out from under me. And –

Q. I heard shocked and confused, and then I didn't hear the last thing that you said.

A. I just felt like the rug had been pulled out from under me.

Q. Okay.

A. It just seemed that it came out of nowhere.

Q. And it really did come out of nowhere, if I'm understanding your – your story, right?

A. It did come out of nowhere. I had never spoken with Mr. Penley over the course of those three and a half, four weeks.

Q. And after Mr. Penley sent you that letter, Mr. Mateer sent you another letter, right?

A. That's correct.

Q. And this is the – and he's basically saying, This is unauthorized. You're performing illegal activity, whatever.

This is the very same Jeff Mateer whose office you sat in interviewing for the job that you took, right?

A. That's correct.

Q. If I'm recalling it correctly, Mr. Cammack, when you got the first letter from the Penley letter, you responded very professionally, very appropriately, very succinctly. What – he sends you this cease and desist letter. And what do you reply back?

A. I think I told him that I would just stand down and – something along those lines.

Q. Unlike some other people that you might have heard of, you didn't get volcanic on him? You didn't pick up the phone and slur a bunch of invectives or worse at him, right?

A. No. That would have been unprofessional.

Q. And – and to be fair to you, Mr. Cammack, all you were trying to do was do a job, do it well, do it professionally, right?

A. Yes, sir.

Q. Then it gets even worse because the press starts blowing up, right?

A. Yes, sir.

Q. And speaking for you, you are a five-year lawyer. And you have authors, writers, people in the press that you've never spoken to, that you've never communicated with, that you've never heard of just saying horrible things about you, right?

A. There were a lot of articles written, and I read a couple of them and then chose just to put that out of my scope of view, just move on with my life.

Q. That was probably a wise decision. But it went into really needless detail about disagreements that you had with your family and just blowing everything out of proportion. And it was a nightmare for you, simply put, was it not?

A. It had nothing to do with anything involving this. It was just a bunch of trash. I'm sorry.

Q. That's all right.

And it was – if you understand the timeline – or I guess if I understand the timeline, I'm asking you if you understand it the same way, Mr. Cammack, that by this point, the so-called whistleblowers had gone to the FBI, and that's when all of this volcanic eruption occurred, right?

A. I'm sorry. Could you repeat?

Q. Sure.

When the negative press started coming out, it was after the time, at least insofar as what the articles were claiming, that several individuals that used to be with the attorney general's office had gone and made a complaint with the FBI or made the so-called whistleblower complaint. Is that consistent with your memory?

A. I remember reading, I think, about that.

Q. And after this eruption, that is when you drive to Nate Paul's house, right?

A. Yes, sir.

Q. And, I mean, it's just a surreal time, fairly put, for you and for everybody else, right?

A. Yes, sir.

Q. You go to his house. You had never been to his house before. You're hoping to resolve whatever issues are outstanding.

Oh, by the way, you would like to get paid for your work, right?

A. Right.

Q. And everybody is kind of standing around shell-shocked. When I say "everybody," I mean you, Mr. – Mr. Wynne, your – your friend or whatever, Mr. – Mr. Paul and Mr. Paxton, right?

A. That's what – that's who was at that meeting.

Q. And, I mean, again, without engaging in hyperbole, it's kind of like everybody is sitting around with PTSD; just like what the hell was that, right?

A. Right.

Q. You were asked to continue the good fight, keep working. And in your own mind, you say, No. I – I'm done with that.

A. No.

Q. Right?

A. That's right, I was done.

Q. Okay. And then you have another occasion that you detailed for Mr. Hardin where Mr. – thank you – Mr. Webster and – and Mr. Paxton asked you to come to Austin. You come to Austin. And it's just as weird as the time before.

You don't go into the AG's office. You go over to Starbucks. Brent Webster says, 15 grand ain't nothing. I had to eat 40 grand. And you're thinking, That's not going to put, you know, Post Toasties in my – in my bowl here. I don't really care.

My words, not yours, right?

A. That happened.

Q. Okay. And to this day, you've never been paid anything, right?

A. Zero dollars.

Q. Okay. And the reward that you have gotten is not really a good reward, right?

A. I don't – I mean, I don't – I haven't received any benefit from any of this.

Q. Let me – let me – let me apologize for that situation.

A. Thank you.

Q. That should have never happened.

A. Thanks.

Q. That should have never happened.

All of that having been said, Mr. Cammack, it is still true, is it not, that what Ken Paxton asked you to do: Find the truth?

A. That was – that's what he told me when we first met. He just wanted to find out the truth about this first referral.

Q. And that's what you were trying to do?

A. Yes, sir, that's correct.

MR. COGDELL: I pass the witness.

PRESIDING OFFICER: Mr. Hardin, redirect?

MR. HARDIN: No, Your Honor.

PRESIDING OFFICER: Are both of you –

MR. COGDELL: He can be excused.

PRESIDING OFFICER: Can I excuse the witness?

MR. COGDELL: Yes.

PRESIDING OFFICER: You may be. Thank you, sir.

(Witness left the Senate chamber)

PRESIDING OFFICER: Call your next witness.

MR. DONNELLY: Thank you, Mr. President. The House calls Joe Brown.

PRESIDING OFFICER: Bailiff, please bring in Joe Brown.

(Witness entered the Senate chamber)

PRESIDING OFFICER: This way.

Mr. Brown, if you'll raise your right hand.

(Witness was sworn by Presiding Officer)

PRESIDING OFFICER: Thank you.

Please have a seat. And as they will instruct you, talk as close into the mic as you can get. Thank you.

MR. DONNELLY: May I proceed, Mr. President?

PRESIDING OFFICER: Yes, you may.

MR. DONNELLY: Thank you.

JOSEPH DAVID BROWN,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DONNELLY:

Q. Sir, please introduce yourself to the honorable members of the Senate.

A. Joseph David Brown. I go by "Joe."

Q. Mr. Brown, how are you currently employed?

A. I have a private law practice in Sherman.

Q. Could you please summarize for us, albeit briefly, your history as an attorney, your jobs, positions you've held?

A. I graduated from SMU Law School in 1985. I started with a civil law firm in Dallas, about 100 lawyers, Cowles & Thompson. I did that work for about five years. Returned to my hometown. Ran for district attorney in 2000 in Grayson County. Was elected. Spent 17 years as the district attorney in Grayson County. And then I was appointed as the Eastern District United States Attorney in 2018.

Q. Was that a presidential appointment, senate confirmation?

A. Nominated by the senators of Texas and presidentially appointed and senate approved.

Q. And which – under which administration were you appointed?

A. I was appointed by President Trump.

Q. I'll ask you, sir, at some point were you contacted by or on behalf of Attorney General Ken Paxton?

A. Yes, sir.

Q. Can you tell us the substance of that?

A. I received a call in late August of 2020 from a friend in McKinney who was a mutual friend of the attorney general. He asked – told me that Attorney General Paxton would like to visit with me, if I would be willing to, about a potential criminal special investigation.

Q. Did you meet with the then – excuse me, with Mr. Paxton?

A. Within the hour, I received a call from Attorney General Paxton. He introduced himself. We visited a little bit. And he asked me if I would come to Austin to visit about a matter that he had.

He did not give much detail at that point. I knew it was criminal and it was a special investigation. But I didn't know the role really. And he said he would explain that to me if I came to Austin.

Q. Did you go to Austin?

A. I – I came to Austin on August 27th of 2020.

Q. Did you meet personally with Mr. Paxton?

A. I did in his office, about 45 minutes. And I met about 15 minutes with Jeff Mateer.

Q. Can you give us a summary – I'll ask you, did he provide you some information concerning this potential complaint?

A. Are – are you asking me to –

Q. Well, I'm asking you, did he give you information about the complaint?

A. Attorney General Paxton told me about the complaint, yes.

Q. And if you could, in just a few words, tell me what the substance of the report was.

A. Well, I didn't know what role I would be playing, whether I was going to be an independent prosecutor or under the authority of the attorney general, so we talked about that. But he told – he told me it involved a guy that was – had a warrant executed, and he believed the warrant could have been possibly executed unlawfully. So we continued to visit about that and – and flesh that out.

Q. On the information that he provided you, just off the top of your head, did you have any – well, let me – let me retract that.

Did he – did you ask of him whether or not he had individuals within his own office who might be able to investigate this matter?

A. Yes. We talked about the fact – I remember him talking about that it involved potentially a phone line cut on some execution of a search warrant and the warrant affidavit being changed. And, you know, I – I learned during that meeting that it was involving the FBI and the Securities Board and DPS, and the investigation would be involving that.

So, yes, we – we talked about that. And he said he could not get the people in his office to do anything about it. And we talked a little bit more about that. And he talked about the Ranger – the retired ranger that worked for him that wouldn't do anything about it.

Q. Let me stop you there.

Did you ask him a question after he told you that his own people weren't getting work done on it?

A. Yeah. I said, Why don't you fire them?

Q. What was his response?

A. It was complicated, and it just didn't work that way.

Q. Fair enough.

Did he advise you whether or not there were any other people in the race, whether you had competition?

A. He told me that there was another lawyer, a young lawyer that he was considering, but that he didn't have the credentials that I did. And so I assumed that if I wanted that, that he would choose me to do that.

Q. You said that he had identified, if I'm correct, the FBI, the State Securities Board, and DPS; is that accurate?

A. I remember those entities.

Q. Did those raise any concerns for you, just that first question?

A. Now, as we're talking –

Q. Let me stop you there just so I don't get an objection. The answer to the question is yes, correct?

A. Yes.

Q. Did you relay those concerns to Mr. Paxton? And if so, what did you say?

A. Yes. I was aware of the fact that his indictment involved those three agencies. And I said, I have some concern about the fact that it would be involving – that I would be under your authority in investigating the same agencies that were involved in your indictment. As we talked about it, I eventually – you know, I'm having to process this during this meeting and learn all of this, and the red flags are going off.

So eventually I say, My preference is that I would write a report and be able to evaluate these conflicts before I would commit to any level of prosecution. And he said, We have people that can prosecute the case. That would be fine.

Q. From your recollection, did he appear affected by these concerns that you raised? Did he indicate that it was a problem?

MR. COGDELL: I'm sorry, conjecture and speculation as to whether or not he was affected.

MR. DONNELLY: Your Honor –

PRESIDING OFFICER: Sustained.

Go ahead.

Q. (BY MR. DONNELLY) From what you observed, sir, did you have any personal observations for how you believed he took that news?

MR. COGDELL: Same objection.

THE WITNESS: He –

MR. DONNELLY: Your Honor, if I may, we're talking about a lay witness opinion. This individual was in the room with him and spoke directly with Mr. Paxton and can testify as to what he observed.

PRESIDING OFFICER: I will sustain. I think you can phrase it better, so try one more time.

MR. DONNELLY: Sounds like a challenge, Your Honor. And I'm up for it, I hope.

Q. (BY MR. DONNELLY) You told him these concerns that you raised; is that correct?

What did you observe, if anything?

A. He – he told me – when I said, I'm concerned about these, he said, I understand. I'm not worried about that. I just want to find the truth.

Q. Fair enough.

Did he tell you – excuse me.

Did he indicate to you whether the individual involved was a donor?

A. I did not learn he was a donor until I went to talk to Jeff Mateer.

Q. Did you learn from Mr. Paxton that he had any other relationship with this individual?

A. No. I – I had no idea when I left the attorney general that there was anything other than a guy that he was – that was wronged, and I was unclear on why it was going to a special prosecutor, other than what he had told me.

Q. So let's fast-forward. At some point do you speak with Mr. Vassar about a potential contract?

A. Within a few days, he made contact – Ryan Vassar made contact with me by e-mail and eventually gave me a contract. It didn't have any specific terms. It was just a general contract. And we exchanged e-mails about the scope and some details of the contract.

Q. What was your purpose in defining the scope?

A. I – I repeated what I had told to the attorney general, that – that because of my concerns about the conflicts, I would commit to investigating, to writing a report, and would not commit to prosecution until I had been able to evaluate the conflicts further.

Q. Was there an hourly rate that was addressed?

A. The hourly rate was – I can't remember. It was – it didn't come from me. It was suggested with the contract by Mr. Vassar.

Q. Would a rate of \$300 an hour be accurate?

A. That was the rate that was – was given to me.

Q. Did you have any concerns about that rate?

A. I was – had just been – I was in two months out from the U.S. Attorney's Office, and just starting this was giving me an opportunity to stay involved in something relevant. I mean, the attorney general is asking me to help with an investigation, so it intrigued me, so I didn't – I wasn't worried about the money.

Q. You were prepared to do any sort of investigation if you cleared conflicts for \$300 an hour; is that accurate?

A. What was described to me, yes. I mean, I knew I could – if I needed to, you know, get out of it, I could.

Q. Were you prepared to secure any insurance that was necessary as provided by the contract?

A. Well, the insurance thing didn't come up until – when I get the contract it says you have to have malpractice insurance. And I was two months out of the U.S. Attorney's Office, so I did not have it. But, you know, it was not – that was not what kept me from doing it.

Q. Did you, as a matter of fact, indicate to anybody that you were willing to get insurance within 30 days?

A. I would have gotten insurance if that was necessary. I thought it was something they could waive.

Q. And did you explain that to Mr. Vassar?

A. Yes.

Q. Did you feel in your opinion that that in any way stood in the way of you getting the job, if you were to be chosen?

A. Yeah. That would never –

MR. COGDELL: Excuse me, Mr. Brown. Objection. Conjecture and speculation. He doesn't know if it was in his way or not.

PRESIDING OFFICER: You also can speak up, Mr. Cogdell, when you speak. Sustained.

You can rephrase that.

Q. (BY MR. DONNELLY) Did you get a response when you indicated that you could get insurance within 30 days?

A. We e-mailed, and he said it was something that he thought they could take care of, or words to that effect.

Q. Very good.

After you have raised concerns to the general, Paxton, after you've indicated that you wanted to limit the scope of your work so that you could make sure that those conflicts and concerns were taken care of, after you've indicated that you would work for \$300 an hour and get insurance, were you chosen?

A. No. I followed up a couple of times with e-mails, and it just – nothing happened after that.

Q. Are you familiar with federal filings of the process of – of performing federal filings as it relates to search warrants?

A. Yes.

Q. You ran an entire office of assistant United States attorneys, correct?

A. Yes. I mean, I wasn't on the front line of the search warrants, but I certainly am familiar.

Q. Fair enough.

Are you familiar, sir, that when an application for a search warrant is filed, there's an application with an accompanying affidavit?

A. Correct.

Q. And then there's a search warrant order; is that accurate?

A. Correct.

Q. Okay. And what we would call the application and the warrant; is that fair?

A. Right.

MR. DONNELLY: Ms. Manela, if you would please pull up AG 1047.

I apologize, Your Honor. We didn't have a digital copy so we're putting it on the ELMO.

Q. (BY MR. DONNELLY) If you could look at line number 1, please. Would you agree with me that on August 16th, 2019, there's a seal – there's a motion to seal the search warrant application and the search warrant?

A. That's what's reflected.

Q. And the search warrant application again contains the application and the affidavit; is that accurate?

A. And the proposed warrant.

Q. Okay. If we could go to line number 6 on the second page, please. At the top would you agree with me here that it indicates that there's a motion for leave to disclose the search warrant – excuse me, the sealed search warrant, correct?

A. That's the entry.

Q. Would you agree with me that there's nothing on that entry that indicates that there is a motion for leave to disclose the sealed search warrant application, which would include the affidavit?

A. There's nothing that mentions the application.

Q. Very good. Sir, are you familiar with OPR as it relates to federal government?

A. Yes.

Q. Could you tell us what those initials stand for, please?

A. The Office of Professional Responsibility.

Q. Do all assistant United States attorneys who enter on duty, at least during your time, are they made aware of the Office of Professional Responsibility and their jurisdiction to investigate complaints regarding United States attorneys?

MR. COGDELL: Objection. Conjecture and speculation.

MR. DONNELLY: I'm asking from his direct knowledge, Your Honor.

MR. COGDELL: No. You asked for recall.

PRESIDING OFFICER: Overruled.

Q. (BY MR. DONNELLY) Please answer the question.

A. Assistant United States attorneys are familiar with what the OPR is and what their jurisdiction is, yes.

Q. If there was a complaint regarding an AUSA and the conduct in any one of their investigations, would the Office of Professional Responsibility be charged with investigating them?

MR. COGDELL: Objection. Conjecture and speculation.

PRESIDING OFFICER: Overruled.

Q. (BY MR. DONNELLY) Please, sir.

A. That's one agency that could.

Q. As a former United States attorney, presidentially appointed, are you aware, if there is an OPR investigation ongoing, whether the United States Attorney's Office where that employee who is complained of works has any jurisdiction over the matter or if it is entirely within Office of Professional Responsibility?

MR. COGDELL: I'm sorry. Objection. Vague. I don't understand the question.

MR. DONNELLY: Your Honor, if I may, I think it's more important if the witness understands it.

PRESIDING OFFICER: Overruled.

You may answer.

THE WITNESS: I – I'm not sure I do, so –

Q. (BY MR. DONNELLY) That answers Mr. Cogdell's question.

Would it be fair to say – or let me ask you this: In your experience as a presidentially appointed United States attorney, if somebody within your office, an AUSA within your office was being investigated by the Office of Professional Responsibility, would your office, the office in which they worked, have any sort of responsibility for the investigation or would it be entirely OPR?

A. No. My understanding goes to OPR out of Washington, D.C., and they keep it separate.

Q. So the – the office where the AUSA works has no responsibility for that, correct?

A. That was my experience.

Q. Are you familiar with OIG?

A. Yes, the Office of Inspector General.

Q. Similarly, based on your experience, working as a presidentially appointed United States attorney, are AUSAs within your office made aware of and trained on the Office of Inspector General and their jurisdiction?

A. They're certainly aware of it. What the level of training on it is, it doesn't take very long before they know that there's oversight organizations within the different areas of the Department of Justice.

Q. If there's a complaint for an agent within the Department of Justice, not an AUSA anymore, but an agent, would the Office of Inspector General have oversight and jurisdiction?

A. It's my understanding they do. That's the investigating – that's who investigates the investigators.

Q. Same question. Investigates the investigators, and it is taken out of the hands of the regional or local United States Attorney's Office; is that correct?

A. That's my understanding.

Q. Thank you, sir.

MR. DONNELLY: Pass the witness.

PRESIDING OFFICER: Thank you, Mr. Donnelly.
Mr. Cogdell.

CROSS-EXAMINATION

BY MR. COGDELL:

Q. Hi, Mr. Brown.

A. Good afternoon.

Q. I think we met?

A. We have.

Q. Okay. In – in Sherman?

A. The courtroom in Sherman, yes, sir.

Q. A lovely courtroom, lovely judge. Nice to see you again.

When you were meeting with Mr. Mateer, Mr. Brown, did he tell you that this is a bogus investigation and it shouldn't be investigated?

A. No, sir.

Q. Did he, that is Mr. Mateer, give any indication to you that the investigation or that the – that the job that you were applying for was – was unnecessary?

A. No. I sensed a little – I sensed something, but he never said anything directly, other than he was glad that I was being considered because I would tell the attorney general the truth.

Q. Okay. And the same with Mr. Vassar. When you were communicating with – with Mr. Vassar about the details of the contracts, did – did he suggest in any shape, form, or fashion that the job that you were applying for was unneeded, unnecessary, a sham, anything of the sort?

A. No.

Q. And I hear you, Mr. Brown, on the troubling fact, potentially troubling fact, that these are the same agencies or some of the same agencies that had charged Mr. Paxton with the State Securities fraud case, which, by the way, do you know of your own personal knowledge if that thing is still pending after eight years?

MR. DONNELLY: Objection, Your Honor, as to the relevance as it relates to this witness.

PRESIDING OFFICER: Overruled.

Q. (BY MR. COGDELL) Are you aware, Joe, that that case is still pending?

A. The case against the attorney general?

Q. Yes, sir.

A. Yes, I'm aware of that.

Q. Okay. That was what was potentially troubling to you, right?

A. That was part of it.

Q. Yes, sir, but not – the allegations or the claim, or whatever, that the FBI or these different agencies had potentially engaged in misconduct, you were still willing to investigate it, right?

A. I left it open that that could happen. I was willing to.

Q. And you are the former United States Attorney for the Eastern District, right?

A. Yes, sir.

Q. In fact, I think – and somebody said that you – the other applicant wasn't as qualified as you. Probably true because there are very few people in the Eastern District that, on paper at least, would be more qualified than the former DA from Grayson County and the Eastern District United States Attorney, right?

A. I – that's your words.

Q. Okay. In any event, you're a very qualified person. You weren't chosen, but you did make two or three calls trying to follow up to see if you could get the job. Am I recalling that correctly?

A. I was willing to do the job. And I didn't know what happened, yes.

MR. COGDELL: Thank you. Fair enough. Thank you, Joe. Nice to see you.

MR. DONNELLY: No redirect, Your Honor.

PRESIDING OFFICER: Are both parties finished with the witness?

MR. COGDELL: No problem.

MR. DONNELLY: Excused, Your Honor.

PRESIDING OFFICER: Okay. You're excused, Mr. Brown. Thank you, sir.

(Witness left the Senate chamber)

PRESIDING OFFICER: The next witness?

MS. EPLEY: Thank you, Mr. President. The House calls Kendall Garrison.

PRESIDING OFFICER: Bailiff, please bring in Kendall Garrison.

(Witness entered the Senate chamber)

PRESIDING OFFICER: Mr. Garrison, if you'll raise your right hand.

(Witness was sworn by Presiding Officer)

PRESIDING OFFICER: Please be seated. And speak as closely into the microphone as you can. Thank you.

Ms. Epley, your witness.

MS. EPLEY: Thank you. May I proceed?

KENDALL GARRISON,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. EPLEY:

Q. Please introduce yourself to the ladies and gentlemen of the Senate.

A. Hi. My name is Kendall Garrison.

Q. Mr. Garrison, could you speak up a little for me? It's a big room.

A. My name is Kendall Garrison.

Q. Thank you. And where do you work?

A. Amplify Credit Union.

Q. What is your role at Amplify Credit Union?

A. I'm president and chief executive officer.

Q. As you might have heard, I want to get through this a little quickly so I'm going to jump right in.

I'm going to turn your attention to 2020. During that time frame, were you familiar with Nate Paul or World Class Holdings?

A. Yes.

Q. How so?

A. Mr. Paul and World Class Holdings obtained loans from Amplify Credit Union.

Q. Okay. And what was the status of those loans in the summer of 2020?

A. In the summer of 2020, we had issued a demand letter inasmuch as those loans were delinquent and were working their way toward foreclosure.

Q. Okay. Did your – in the course of your employment, and does your staff create records specific to Amplify, their banking, and their foreclosures?

A. Yes.

Q. Have you provided those to the House?

A. I have.

Q. Would it surprise you to know that we have provided copies to the defense?

A. It would not surprise me.

Q. Okay. Did you provide a business record affidavit for those documents?

A. Yes.

MS. EPLEY: And for the Senate, for Mr. President, that's been on record for over 14 days, the business records affidavit. And as such I've provided a copy to defense. And I have a copy for the court.

Mr. President, you'll notice I provided you an external document. I'll refer to that in a moment. In the meantime, the – Exhibit 657 has been pre-admitted.

Q. (BY MS. EPLEY) Mr. Garrison, I would like to talk to you a little bit about those records. Do you remember three loans in particular related to Nate Paul in the summer of 2020?

A. I do.

Q. And I would like to move you forward to the end of July, early August of that year. What was the status at that point of those loans?

A. Those three loans had been posted for foreclosure.

Q. And when you say "posted for foreclosure," what does that mean?

A. That means a – we had requested a substitute trustee, and we had filed notice with the various counties on where those three properties were located, that we intended to foreclose on those on the first Tuesday of August.

Q. Was Nate Paul aware of your intent to file and proceed with foreclosure?

A. He was aware.

Q. Is documentation consistent with that provided in Exhibit 657?

A. Yes.

Q. Now, after providing notice to Nate Paul, does he immediately file a bankruptcy?

A. He does not.

Q. And just so that we're all aware, does the filing of a bankruptcy create a legal automatic stay foreclosing the ability to move forward with the foreclosure, for example?

A. The filing of a bankruptcy does create a stay.

Q. Would we call that a nuclear option, though, for Mr. Paul?

MR. LITTLE: Objection. Leading. Argumentative.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) Does Mr. Paul make an effort to prevent foreclosure and avoid bankruptcy?

MR. LITTLE: Objection. Calls for speculation as to Mr. Paul's intent.

MS. EPLEY: If he knows, Your Honor, which he does.

PRESIDING OFFICER: I'll overrule it. He can answer the question.

THE WITNESS: I'm sorry. Can you repeat the question?

Q. (BY MS. EPLEY) Yes, sir.

So at the end of July, early August of 2020, does Mr. Paul make any efforts to avoid foreclosure and also avoid bankruptcy?

A. He had discussions with our staff, and his counsel had discussions with ours about options to avoid foreclosure.

Q. Yes, sir.

MS. EPLEY: Stacey, if you would for me, would you pull up Exhibit 657, specifically .190?

Q. (BY MS. EPLEY) Can you see that – excuse me. Can you see that, Mr. Garrison?

A. It's small, but I can see it. It's more legible now. Thank you.

Q. And what does this appear to be?

MR. LITTLE: Hang on a second. We don't have anything on our monitor.

PRESIDING OFFICER: Hold on one moment.

Ms. Epley, you said it was admitted. We do not have that on our sheet as being previously admitted. Did I mishear you?

MS. EPLEY: It is possible, Your Honor. And I'm happy to lay a predicate right now. This is easily correctable.

MR. LITTLE: Mr. President, I can't see anything. It's not on my screen. I don't know if the jury can see it. I hope you can. But I don't have anything on my monitor. Hopefully everybody can see it.

MS. EPLEY: And, Your Honor –

PRESIDING OFFICER: Hold on one second.

Is it up now? Do you have it?

MR. LITTLE: No, it is not.

PRESIDING OFFICER: Okay. Hold on.

Do the jurors have it? I have it. Can we have – Damian, if you can take a look. And we'll just pause there for a second.

MS. EPLEY: Your Honor, can I ask that this not count towards my time?

PRESIDING OFFICER: Yes, ma'am. It won't count towards your time.

MS. EPLEY: Thank you.

PRESIDING OFFICER: Jurors, are your monitors black now?

THE JURY: Yes.

PRESIDING OFFICER: Okay. They're all black now, Damian.

MR. LITTLE: It's up now, Mr. President.

PRESIDING OFFICER: All right.

MS. EPLEY: Your Honor – or, Mr. President, for the record, I want to ensure, I'm getting confirmation that 657 was pre-admitted by agreement with defense. If, however, you would like me to lay a predicate, I can do that quickly.

MR. LITTLE: That's not necessary. No objection.

PRESIDING OFFICER: Okay. We just didn't have it on our list.

MS. EPLEY: Thank you, Your Honor.

PRESIDING OFFICER: Go ahead, and I will be sure you get a minute back.

MS. EPLEY: Thank you. Thank you.

Q. (BY MS. EPLEY) Now, Mr. Garrison, I'm going to draw your attention back to Exhibit 657 at page 190. Does this appear to be an e-mail from Nate Paul?

A. It does.

Q. And what's the date?

A. The date is August the 3rd of 2020. Monday, August 3rd.

Q. Now, the senators and people viewing at home can read, so I want to move you directly to the link embedded in that e-mail. Do you know what that is?

A. I do.

Q. And what is it?

A. This was a link to an attorney general's opinion that we referred to internally as "the midnight opinion."

Q. Yes, sir. We refer to it the same. And I think the senators are familiar with the foreclosure letter or the midnight letter.

Let me ask you: What was the impact of receiving that at Amplify Bank?

A. We had lots of discussions internally and with our counsel on how to proceed. This – this was highly unusual. And I am in my 44th year of banking, and this is the first time I've seen something of this nature.

As a direct result –

MR. LITTLE: I object to the narrative.

PRESIDING OFFICER: Sustained.

MS. EPLEY: That's okay. I'd be happy to break it up.

Q. (BY MS. EPLEY) You mentioned that it's the first time you'd seen something like this. But to be fair, because I'm sure Mr. Little will ask, wasn't it in the middle of COVID?

A. It was.

Q. So that's kind of unprecedented time anyway, correct?

A. In many ways.

Q. So other than COVID, what was surprising about this?

A. It was surprising to see a ruling issued on a Sunday night or Sunday morning, I believe, maybe it was Monday morning, that essentially prohibited foreclosures in the state of Texas.

Q. What's the impact of that for Amplify and for your resources and assets?

A. We had no choice, other than to pull those bankruptcy filings – I'm sorry, those foreclosure filings.

Q. Thank you. We've heard that no foreclosures in Texas were stopped because of the foreclosure letter. Is that your experience?

MR. LITTLE: Objection. Leading.

MS. EPLEY: We'll come back –

PRESIDING OFFICER: Sustained.
Reask.

MS. EPLEY: Yes, Mr. President.

In that case I provided defense a copy of Exhibit 676. They received a copy of this over the weekend. It is external to the business record you already have. And I'll approach the Court.

PRESIDING OFFICER: Is there any objection, Mr. Little?

MR. LITTLE: To 676?

PRESIDING OFFICER: Yes.

MR. LITTLE: No objection.

PRESIDING OFFICER: Please enter 676 into evidence.

(HBOM Exhibit 676 admitted)

Q. (BY MS. EPLEY) And, Mr. Garrison, what is this?

A. This is an e-mail from Anh Nguyen to Brian Elliott, who was the in-house counsel for World Class.

Q. You mentioned a moment ago that you had changed your course in regards to the foreclosure; is that right?

A. That's correct.

Q. What – what did you choose to do?

A. We chose to withdraw those foreclosure notices and not proceed with foreclosure on that Tuesday, the – the 4th of August.

Q. On all three properties tied to Nate Paul?

A. Correct.

Q. What was the value of their bank's assets in regards to those properties?

A. We had –

MR. LITTLE: Objection. Vague.

PRESIDING OFFICER: Overruled.

THE WITNESS: We had loans outstanding to the World Class entities with Mr. Paul as a guarantor to the tune of about \$11 and a half million.

Q. (BY MS. EPLEY) And were you receiving payments on that note?

A. We were not.

Q. Hence the foreclosure, correct?

A. Correct.

Q. And by forestalling or delaying that foreclosure, did it help make you money or cost you money?

A. It was a cost to us.

Q. After delaying the foreclosure, did the bank sell the properties?

A. Can you ask that question again?

Q. I sure can.

So on August 4th, the properties were going to be foreclosed but were not, correct?

A. Correct.

Q. Did you maintain control of those notes?

A. We did maintain control of those notes for some period of time after that.

Q. Okay. And then ultimately what happened?

A. Ultimately on – I believe the date was September the 9th, we sold those three loans and assigned the deeds of trust to a third-party buyer.

Q. And just to be clear, because of allegations made by Nate Paul's side of things, did you sell those at a great deficit? Did you lose money?

A. We did not. We essentially sold the loans at par, and we received our past due interest and some attorney's fees as I recall.

Q. So in regards to your dynamic with Nate Paul and foreclosures in August of 2020, who benefited from the foreclosure letter?

A. Nate Paul.

MR. LITTLE: Objection. Calls for speculation.

PRESIDING OFFICER: Overruled.

MS. EPLEY: Thank you.

Q. (BY MS. EPLEY) I don't think we heard you. Can you repeat that?

A. Nate Paul and the World Class entities.

MS. EPLEY: Pass the witness.

PRESIDING OFFICER: Mr. Little.

MR. LITTLE: Mr. President, thank you.

PRESIDING OFFICER: Counsel, can we have just a moment?

MR. LITTLE: Please.

PRESIDING OFFICER: Ms. Epley, could you come up?

Mr. Little.

MR. LITTLE: I'm happy to. Can I ask the witness to step down?

(Witness steps down)

(At the bench, off the record)

PRESIDING OFFICER: Jurors, if you can take your seats again, we are ready to resume.

MR. LITTLE: Mr. President, if I may.

PRESIDING OFFICER: Yes.

CROSS-EXAMINATION

BY MR. LITTLE:

Q. All right. Mr. Garrison, in front of you I think somewhere, did you get a thick pile of papers like I did from Ms. Epley? Is it in front of you over there somewhere?

A. No. No, I don't have any documentation before me at this moment.

Q. I don't like working in 2-inch piles of paper, okay. I'm going to show you exactly what happened. We're going to go document by document. Okay?

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

PRESIDING OFFICER: Yes, you may.

MS. EPLEY: Your Honor, may I approach as well?

(At the bench, off the record)

PRESIDING OFFICER: You can start the clock again. It was a brief pause.

Mr. Little.

Thank you for helping to clarify, Ms. Epley.

Q. (BY MR. LITTLE) Now, Mr. Garrison, interesting times during COVID as a banker, yeah?

A. Without a doubt.

Q. I'm sure your clients had – your customers took out PPP loans, yes?

A. They did.

Q. And you were probably working that all from March forward, yes?

A. We were.

Q. With major clients of the bank, I'm sure, true?

A. Yes.

Q. You had loans in workout from customers who couldn't – or customers who couldn't transact as much business probably as they wanted to, true?

A. No.

Q. You didn't have any loans in workout during COVID?

A. Three.

Q. Three? Three total for the bank?

A. Yes, sir.

Q. All right. We're going to go one by one through them here in just a minute.

A. Yes.

Q. Are you familiar with the CARES Act that – that prompted the PPP loans?

MS. EPLEY: Objection, Your Honor – Mr. President. Relevance.

MR. LITTLE: It's about to get real relevant.

PRESIDING OFFICER: I'm willing to let that question in. Overruled.

Q. (BY MR. LITTLE) Okay. Are you familiar with the CARES Act?

A. I am familiar inasmuch as I know it exists. I did not read it in its entirety.

Q. There was an eviction moratorium, wasn't there?

MS. EPLEY: Objection. Providing facts not in evidence. He said he's not familiar with it.

PRESIDING OFFICER: Sustained.

Q. (BY MR. LITTLE) Let me try again. Did you know there was an eviction moratorium under the CARES Act?

A. Yes.

Q. Did you know there was a foreclosure moratorium under the CARES Act?

A. Yes.

Q. Did you know that it went until July 30th of 2020?

A. I did not.

Q. As the president or CEO of your bank – you're president or CEO or both?

A. Both.

Q. As the president and CEO of the bank, or Amplify Credit Union, why don't you tell the ladies and gentlemen of the jury when the foreclosure moratorium ended under the CARES Act?

MS. EPLEY: Objection. Relevance.

PRESIDING OFFICER: Overruled.

Q. (BY MR. LITTLE) If you would.

A. I don't know.

Q. You don't know. Okay.

A. No.

Q. Amplify wasn't Nate Paul's senior lender or anything, was it, that three months?

MS. EPLEY: Objection. Speculation.

PRESIDING OFFICER: Sustained.

Q. (BY MR. LITTLE) Was Nate Paul – was Amplify Nate Paul's senior lender?

MS. EPLEY: Objection. Speculation.

Q. (BY MR. LITTLE) If you know.

PRESIDING OFFICER: He asked the question. Overruled.

You can answer.

THE WITNESS: We were with respect to these three properties.

Q. (BY MR. LITTLE) Three special purpose entities that Mr. Paul set up, true?

A. Yes.

Q. Okay. I want you to take a look at what's been marked as Exhibit AG 1031.

MR. LITTLE: And, Your Honor, at this time we move for admission in bulk of Exhibits AG 1031 through 1044?

PRESIDING OFFICER: Any objection?

MS. EPLEY: Your Honor, I don't know. He has not provided me a copy.

MR. LITTLE: I handed it to you, didn't I? The big stack right there.

MS. EPLEY: Well, I don't know.

MR. LITTLE: It's got a sticky note. It's purple. That's the ticket.

MS. EPLEY: I stand corrected.

Your Honor – or, Mr. President, I think they're an exact duplicate of what I've already provided. No objection.

MR. LITTLE: Not quite. These are actually in chronological order. But no objection, right?

PRESIDING OFFICER: No objection, Ms. Epley?

MS. EPLEY: No objection, Mr. President.

MR. LITTLE: Mr. Arroyo, if you would –

PRESIDING OFFICER: Hold on one second.

MR. LITTLE: Sorry.

PRESIDING OFFICER: Let me put it into evidence.

AG 1031 through 1044 please – AG 1031 through 1044, please admit into evidence

(AG Exhibits 1031 through 1044 admitted)

MR. LITTLE: Mr. Arroyo, if you would, AG Exhibit 1031.

Q. (BY MR. LITTLE) Your lawyers are Streusand, Landon, Ozburn & Lemmon, correct?

A. Yes.

Q. And Steve Lemmon is a partner in that law firm, correct?

A. His name is on the letterhead so one would presume.

Q. Yeah. And he was actually the lawyer representing the receiver in a separate Nate Paul case, correct?

MS. EPLEY: Objection. Speculation and relevance.

PRESIDING OFFICER: Overruled.

THE WITNESS: I don't know.

Q. (BY MR. LITTLE) You don't know, hmm.
Okay. What's the date of this item here?

A. The date is May 27th of 2020.

Q. Okay. And what is this document?

A. This is a notice of default and demand for payment.

Q. Okay. May – at least as of May 27, 2020, the bank had hired – I'm referring to Amplify Credit Union as "the bank." Is that okay with you?

A. Perfectly fine.

Q. Great. The bank had hired an attorney. And it had hired an attorney to make a demand on WC Alamo Industrial Center LP, a Nate Paul entity, true?

A. In this case, yes.

MR. LITTLE: Mr. Arroyo, Exhibit 1032, please.

Q. (BY MR. LITTLE) Same thing with regard to WC 707 Cesar Chavez, yes?

A. Yes.

MR. LITTLE: AG 1033, Mr. Arroyo.

Q. (BY MR. LITTLE) Same thing with regard to WC Custer Creek Center Property, LLC, correct?

A. Yes.

Q. All three of those entities are in default at the bank as of May 27 of 2020, right?

A. Yes.

Q. So you posted them for foreclosure in July of 2020, right?

A. We would have had to post those –

MR. LITTLE: I object. Nonresponsive.

PRESIDING OFFICER: Sustained.

Answer the question.

Q. (BY MR. LITTLE) So – so you posted them for foreclosure in July 2020, right?

A. Yes.

Q. No. You never did, did you?

MS. EPLEY: I object to relevance, Your Honor.

Q. (BY MR. LITTLE) Did your bank post –

MS. EPLEY: I would ask –

PRESIDING OFFICER: Well, overruled.

Q. (BY MR. LITTLE) Did your bank post these three properties for foreclosure in July of 2020?

MS. EPLEY: Objection. Relevance.

PRESIDING OFFICER: Overruled.

THE WITNESS: Can you ask the question again?

Q. (BY MR. LITTLE) Let me try for the fourth time.

Did your bank post these three properties for foreclosure in July of 2020? Yes or no.

A. I don't know when we posted them for foreclosure, but they were posted for foreclosure.

Q. That wasn't my question. And I believe the answer to my question is you don't know, right?

A. If that's my only choice, then I don't know when we posted them for foreclosure.

Q. They weren't posted for foreclosure in July of 2020 because there was a foreclosure moratorium under the CARES Act, true?

A. If – I am not aware of that – how long that moratorium was actually in place. But if you want to foreclose on a property, you have to file a foreclosure, I believe, 21 days before the scheduled foreclosure date.

Q. That's right.

A. So filing is not a foreclosure. It is the notice of intent to foreclose on the first Tuesday of every month, as foreclosures take place in Texas.

Q. And surely the bank wanted to get its money back through foreclosure as fast as possible, right?

MS. EPLEY: Objection. Argumentative.

PRESIDING OFFICER: Sustained.

Q. (BY MR. LITTLE) Did the bank want to get its money back as fast as possible through foreclosure?

A. We wanted to receive repayment by whatever means necessary.

Q. Very good.

MR. LITTLE: Mr. Arroyo, Exhibit AG 1034, if you would.

Q. (BY MR. LITTLE) Now, this is an affidavit of posting of a property for foreclosure, right?

A. It appears to be, yes.

Q. And the date of this is July 10 of 2020, yes?

A. Yes.

Q. And the entity that's being foreclosed upon is WC Custer Creek Center Property, LLC, yes?

A. Yes.

Q. And that's in Plano, Texas, my neck of the woods, Collin County, Texas, right?

A. Yes.

Q. So you posted this one on August 10th for August foreclosure, yes?

A. It appears to be that, yes.

Q. Your testimony on direct was you posted all three of them for August foreclosure, correct?

A. That is my recollection.

Q. But that's not right, is it?

Let's take a look at what is marked as Exhibit AG 1035. This is an e-mail from Nate Paul to some people at the bank, yes?

A. It is.

Q. And Nate Paul says, I am writing to confirm you are aware of the attached announcement.

Ms. Epley went through that with you, correct? Correct?

A. Can you ask that once again, please?

Q. Ms. Epley went through this e-mail with you, correct?

A. Yes. And I saw the e-mail at the time.

Q. The last sentence of that first paragraph, it says, In light of foregoing, please confirm before 5:00 p.m. today that you will not be attempting to proceed with a foreclosure tomorrow.

A foreclosure tomorrow, not three, true?

That's what Nate Paul says in this e-mail, right?

A. He does use the words "a foreclosure."

Q. And Anh Nguyen responds the next day. That's House Board of Managers Exhibit 676, that was on the screen earlier. And she says, Brian, it is – she's writing to Brian Elliott at World Class.

It is our position that the restrictions cited in the unsigned, informal guidance would not apply to our particular foreclosure sales. However, as a courtesy to borrowers and per your/their request, Amplify is willing to postpone the foreclosure sale to September 1, 2020.

Right?

A. I don't have that document on my screen, so I can't confirm or deny that's what it says.

Q. Would you like to look at my copy?

A. Sure.

MS. EPLEY: Mr. President, the House is willing to concede that the e-mail written by them, his client, is in the singular.

MR. LITTLE: It's a little late for your concessions. I would like the witness to answer my question, if I could, Mr. President.

PRESIDING OFFICER: Let him read it, and then you can repeat the question.

MR. LITTLE: Thank you.

THE WITNESS: He does use the word "the."

MR. LITTLE: Mr. Arroyo, Exhibit AG 1036, please.

Q. (BY MR. LITTLE) You didn't even notice the substitute trustee sale for WC 707 Cesar Chavez until August 7, after the AG's opinion was issued, correct? Correct?

A. I have a different recollection of those events.

Q. Well, that's why we have documents, right?

A. I believe this was the second posting –

Q. Oh, really?

A. – to make it for the September sale.

Q. Do you have a document with you perhaps, or in that massive pile of documents somewhere, where your bank posted the other two properties for foreclosure in August?

A. I do not.

Q. It seems kind of importantish, isn't it?
You don't have that, do you?

A. I do not have a document of that nature before me.

Q. Well, in any event we know for sure that there's an August 7 posting of that after the foreclosure sale, yes?

A. It appears to be a notice regarding a substitute trustee sale, yes.

MR. LITTLE: Exhibit AG 1037, if you would, Mr. Arroyo.

Q. (BY MR. LITTLE) WC Alamo Industrial Center also posted on August 7 of 2020, after the opinion was issued, true?

A. Yes.

MR. LITTLE: Exhibit AG 1038, if you would.

Q. (BY MR. LITTLE) A separate notice regarding substitute trustee sale, August 7 of 2020, for WC Alamo, true?

A. Yes.

Q. After the opinion, yes?

A. Yes.

Q. And just to be clear for the ladies and gentlemen of the jury, and for the media who is gathering information on this, you told the media you had all three properties posted for foreclosure in August of 2020. And we read about it in the newspaper, true?

A. Yes.

MS. EPLEY: Facts not in evidence. Objection.

Q. (BY MR. LITTLE) But you don't have –

MS. EPLEY: Objection.

PRESIDING OFFICER: What is your objection?

MS. EPLEY: Facts not in evidence. Relevance. And counsel is testifying.

MR. LITTLE: He just said yes.

PRESIDING OFFICER: Sustain the objection.

Q. (BY MR. LITTLE) You told the media you had all three properties posted for foreclosure in August of 2020, correct?

A. I don't recall my exact words, but I did tell the media that we had those – that we had World Class properties posted for foreclosure, yes.

Q. You don't have a document to prove the other two, do you?

A. No.

Q. I'll show you what is marked as Exhibit AG 1039. This is the affidavit of posting for WC 707 Cesar Chavez, correct?

A. Yes.

MR. LITTLE: Exhibit AG 1040, if you would, Mr. Arroyo. We're going fast, but I think you can keep up.

Q. (BY MR. LITTLE) Mr. Garrison, wasn't – we're in August 10 of 2020. It says, Notice regarding substitute trustee sale. This is for WC Custer Creek, true?

A. Yes.

Q. You re-noticed it for the next month; is that right?

A. Yes.

Q. Tell the ladies and gentlemen of the jury, were any foreclosures being stopped in Collin County, Texas, at this time?

A. I wouldn't have knowledge of that.

Q. You don't know, do you?

A. No.

Q. So when you testified on direct that for whatever reason this opinion disrupted the business of foreclosing these properties at the bank, you don't really know whether Collin County stopped doing any foreclosures at all, do you?

MS. EPLEY: Objection. Asked and answered as to Collin County.

PRESIDING OFFICER: Overruled.

Q. (BY MR. LITTLE) You don't know, right?

A. I only have knowledge of what Amplify Credit Union did in response to the midnight opinion.

Q. That really wasn't my question. So let me try again.

Do you know whether Collin County was doing foreclosures at this period of time or not?

A. I do not.

MR. LITTLE: Mr. Arroyo, Exhibit AG 1041, if you would.

Q. (BY MR. LITTLE) And this is your affidavit of posting of WC Custer Creek Center Property for foreclosure on August 10 of 2020, correct?

A. Yes.

Q. Now, you sold all three notes, right?

A. We did.

Q. So you didn't have to foreclose any of the three properties, correct?

A. Ultimately we did not have to foreclose on any of the three properties.

Q. And you didn't have to foreclose any of them because your bank lost zero dollars. You sold all three notes, and your bank lost zero dollars as a result of whatever this informal legal guidance was, correct?

A. That is correct. We ultimately sold those notes.

Q. And you didn't lose a single dollar? Just tell the jury.

A. We did not.

Q. Why – well, let's put our heads together.

How did all three notes get sold at the same time? Doesn't that seem coincidental?

A. It was not a coincidence at all.

Q. It wasn't a coincidence because Bryan Hardeman – it's a man who his name has – may or may not have come up in this trial at some point. He put together three special purpose entities, and he had his agents come and buy these notes from your bank. Yes?

A. I have no idea. I know that the notes were purchased. I do not know who formed the special purpose entities. I only know who I interacted with.

Q. Isn't it true that all three of these notes were sold to special purpose entities of Bryan Hardeman?

A. I don't know.

Q. Isn't it true this is the same Bryan Hardeman who is the subject of the bid rigging investigation in Travis County District Attorney's Office Referral No. 2, and the same man who sent Ken Paxton a picture of –

MS. EPLEY: Objection, Your Honor –

MR. LITTLE: I'm sorry –

(Simultaneous crosstalk)

MS. EPLEY: – Mr. President, no, absolutely not.

Facts not in evidence. And absolutely staining someone who is not here without any basis.

MR. LITTLE: I wasn't quite finished, but –

PRESIDING OFFICER: Sustained.

MR. LITTLE: Mr. President?

PRESIDING OFFICER: Sustained.

MR. LITTLE: very well.

Q. (BY MR. LITTLE) Do you know who Bryan Hardeman is?

A. I do not.

Q. Who did you interact with on the sale of these three notes?

A. Justin Bayne.

Q. Justin Bayne, okay.

So I guess what we would need to do if we wanted to see if there was any connection between Justin Bayne and Bryan Hardeman, we could probably just Google Justin Bayne and Bryan Hardeman, right?

MS. EPLEY: Objection, Mr. President.

PRESIDING OFFICER: Sustained.

MS. EPLEY: Thank you.

MR. LITTLE: If you would, Mr. Arroyo, Exhibit AG 1042, please.

Q. (BY MR. LITTLE) You sold that note to somebody called Alamo Lanark, right?

A. Yes.

Q. Justin Bayne entity, B-A-Y-N-E, true?

A. Yes.

Q. Didn't lose a dime, yes?

A. I'm sorry, say again.

Q. The bank didn't lose a dime, right?

A. Right.

MR. LITTLE: Exhibit AG 1043, if you would, Mr. Arroyo.

Q. (BY MR. LITTLE) You sold this note to something called Cesar or Cesar Rainy Street, LLC, right?

A. Yes.

Q. The bank didn't lose a dime, right?

A. Right.

Q. Justin Bayne entity, B-A-Y-N-E, right?

A. Yes.

MR. LITTLE: Exhibit AG 1044, please, Mr. Arroyo.

Q. (BY MR. LITTLE) You sold this note to something called Spring Custer LLC. And the bank didn't lose a dime, right?

A. Yes.

Q. Justin Bayne entity, B-A-Y-N-E, right?

A. Yes.

Q. You've been in banking 44 years. Did I hear that?

A. Yes.

Q. That's a long time, right?

A. It is.

Q. If somebody wanted to, I don't know, foreclose on a piece of property themselves and wipe out the existing owner's equity, this is probably a good place to start, isn't it?

MS. EPLEY: Objection, Your Honor. The default has to occur first. He's implying things that aren't relevant.

PRESIDING OFFICER: Sustained.

MR. LITTLE: No further questions.

PRESIDING OFFICER: Redirect, Ms. Epley?

MS. EPLEY: No, Mr. President.

PRESIDING OFFICER: Do both of you excuse the witness?

Mr. Little, excuse the witness?

MR. LITTLE: He is, Mr. President.

PRESIDING OFFICER: Okay. You're excused. Thank you, sir.

MR. LITTLE: And I believe this was the last noticed witness of the day, if I'm not mistaken.

(Witness left the Senate chamber)

MS. EPLEY: That's inaccurate.

MR. LITTLE: I am mistaken.

PRESIDING OFFICER: Ms. Epley, who are you calling? Or Mr. DeGuerin. I'm not sure who is calling the witness.

MR. DeGUERIN: Yes, Your Honor. The House Board of Managers calls Darren McCarty.

PRESIDING OFFICER: Bailiff, if you'll bring in Darren McCarty.

Bailiff, hold – just hold the witness outside for a moment.

Mr. Buzbee and Mr. DeGuerin, I understand that both sides have agreed to exhibits, I guess, that was earlier today, this morning.

MR. BUZBEE: That is correct, Your Honor.

PRESIDING OFFICER: And we're going to read the exhibits into the record now, correct, Mr. DeGuerin?

MR. DeGUERIN: Yes.

PRESIDING OFFICER: Both of you have agreed?

Okay. You may read these exhibit numbers.

MR. HOLLER: I'm going to start –

PRESIDING OFFICER: Turn on the microphone. It's right behind the laptop there. There you go.

MR. HOLLER: I'm going to start with the House Board of Managers' exhibits first, Judge.

PRESIDING OFFICER: And read through them relatively slowly. Don't race through them.

MR. HOLLER: Yes, Judge.

House Board of Managers 55, 62, 77, 85, 86, 91, 92, 94, 324, 346, 657, 677, 678, 680, 681, 682, 683, 684, 685, 693, and 694.

And, Judge –

PRESIDING OFFICER: You may continue.

MR. HOLLER: And, Judge, Attorney General Number – Exhibit Numbers 17, 33, 42, 47, 48, 84, 85, 141, 151, 155, 161, 165, 219, 223, 305, 307, 332 through 354, 371, 398 through 422, 428, and 429.

PRESIDING OFFICER: Thank you, sir.

Mr. DeGuerin, hold on one moment.

You may bring in the witness now.

(Witness entered the Senate chamber)

PRESIDING OFFICER: Please step over there, Mr. McCarty. Raise your right hand.

(Witness was sworn by Presiding Officer)

PRESIDING OFFICER: Please be seated.

And is that stack of papers there from the last witness?

MR. DeGUERIN: It must be.

PRESIDING OFFICER: Okay. Let me pick those up.

And as closely as you can speak into the microphone. You might want to raise that. You're a little taller. Just a little bit. There you go.

Mr. DeGuerin, your witness.

DARREN MCCARTY,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DeGUERIN:

Q. Mr. McCarty, we've had trouble with the sound in here, so please get close to the microphone.

A. Absolutely.

Q. And tell the senators your name, please.

A. My name is Darren McCarty.

Q. And what – what is your occupation?

A. I'm a lawyer.

Q. Give us the benefit of a brief statement of your training and experience.

A. After law school, I clerked for Karen Williams on the United States Federal Court of Appeals, the Fourth Circuit. After that, I went to work for Gibson, Dunn & Crutcher in Dallas. I spent – I did do a couple of stints at smaller firms and sort of finished my original stint in private practice at Alston & Bird's Dallas office, actually helped found that office. And then after that, I came to the attorney general's office.

Q. What year did you come to the – month and year did you come to the attorney general's office?

A. I believe it was maybe late April or early May of '17.

Q. And how did you get that job?

A. Jeff Mateer. He was the first assistant at the time, was somebody that I had known – I had met actually working as an intern for Congressman Dick Armey in DC when we were both quite young. I think I was 17 or 18 years old. And I think Jeff was a couple of years older than that.

We lost touch over time, but got reacquainted because we were both doing pro bono work on religious freedom cases. And, you know, sort of kept up our friendship, et cetera. And when he took the job here, he initially approached me. I initially declined because I just had a lot of things going on at the time. I – I couldn't move to Austin. But then eventually, maybe six, eight months later, recontacted him, or he recontacted me, something like that.

Q. When did you first meet Ken Paxton?

A. When I was interviewing.

Q. And did General Paxton interview you himself?

A. He did.

Q. Okay. It may not matter, but are you a RINO, a Republican in Name Only?

A. Well, no. I wouldn't say that. I think I started out when I was in eighth grade of my own volition hanging door hangers for Ronald Reagan and was a youth delegate to the Republican National Convention.

I took a semester off of college to help staff a congressional campaign. It was actually the last campaign of Republican against Jim Wright before he stepped down from his Congressional office. And then, you know, I continued working sort of in politics while I was at the University of Texas.

I think I was the press secretary for the University Republicans. And, you know, that's what I've done for a long time.

MR. DeGUERIN: Okay. Could we have the organizational chart up, please?

Q. (BY MR. DeGUERIN) I want to put on the screen in front of you and in front of the senators the organizational chart of the Office of the Attorney General. Highlighted to the far right of the chart is your name and photograph.

What was your role in the year of 2020 in the attorney general's office?

A. I was a deputy attorney general for civil litigation. In that – with – in that role, I oversaw all of the civil litigation for the office. I think it was 12 divisions, roughly 325 attorneys, and I think total personnel somewhere north of 600.

Q. Among those duties, among those responsibilities, was the charitable trust division within your purview?

A. Yes. It was the financial litigation and charitable trust division.

Q. And briefly what is the attorney general's role statutorily with regard to charitable trusts, charitable foundations?

A. Very briefly, the attorney general sort of has broad powers to protect the public interest in charity.

Q. The public interest in a charity, does that sometime include protecting a charity from attacks from without?

A. Absolutely.

Q. And does it sometimes include protecting a charity from itself, from mismanagement?

A. Yeah. From breaches of fiduciary duties, some sort of mismanagement, yes.

Q. Is there a requirement under Texas law that when a lawsuit involving a charity occurs, that the attorney general is to get notice of that lawsuit?

A. Yes.

Q. What does the attorney general do then? What does your charitable trust division do then when given notice?

A. They look at the lawsuit, and, you know, do – do some investigation to determine whether the charity is qualified to protect itself and is protecting itself. In other words, if there's some sort of management – mismanagement issue with the charity or there's some inability to legally represent itself, the charity in the litigation, that might be a place where the attorney general's office steps in to protect – again, to protect the charity.

Q. Give us a rough estimate of how many charitable trusts exist in the state of Texas, if you know.

A. I do not. Quite a number.

Q. Is it in the hundreds of thousands?

A. That would not surprise me.

Q. Okay.

A. Yes.

Q. And give us a rough estimate, if you will, of how many times the attorney general's office in, let's say a year, involves itself in some way in a charitable trust litigation.

A. It's a handful.

Q. It's a handful?

A. At most.

Q. Okay.

A. So it may be, you know – again, it may be a management problem. Sometimes charitable trusts, you know, are falling into a state where they sort of can't be self-sustaining anymore, et cetera, and so, you know, the AG's office will get involved. But it's not a – it's not a common occurrence.

Q. How – what – what procedure does the attorney general's office go through to determine whether to involve itself in litigation involving a charitable trust?

A. Well, first, the financial litigation and charitable trust division, as it was organized then, they have a group obviously within that that looks at charitable trusts. So they analyze the situation. They make – the staff attorney will make a recommendation, I think initially to the head of the charitable trust group within the division, as to whether to intervene or not. And then that's sort of – if it's nonintervention, typically it sort of stops at the division level. It won't necessarily come up to me unless they think it's a close call and they would need someone in my role's advice.

If that's not the case and they believe that they should intervene in the case – in the case, then there would be an executive approval memorandum, and that would be signed off on – that would be signed off by the division chief. It would be signed off by me. I believe it would have been signed off by the Deputy First Assistant Attorney General and also by the first assistant.

Q. I want to ask you some questions about the Mitte Foundation and some litigation involving the Mitte Foundation and Nate Paul or World Class Holdings. You're familiar now with that litigation, aren't you?

A. Of course, yes.

Q. We – we do not have an agreement on Exhibit 54, but I'm going – going to hand you Exhibit 54.

MR. DeGUERIN: And ask that it be introduced once he identifies it, Your Honor.

THE WITNESS: Thank you.

PRESIDING OFFICER: Any objection from the –

MR. BUZBEE: No, Your Honor. We'll allow this.

PRESIDING OFFICER: We'll admit Exhibit 054 into evidence.

(HBOM Exhibit 54 admitted)

MR. DeGUERIN: Will you pull that up, please?

Q. (BY MR. DeGUERIN) I want to direct your attention to the first paragraph of this memo. First, what is the memo?

A. This looks like a memorandum that recommends – I shouldn't say it looks like. It is a recommendation by –

Q. Keep your voice up and get close to the microphone.

A. I'm sorry. I was busy trying to read this. This appears to be the memorandum that –

PRESIDING OFFICER: I'm sorry. It is on the screen, if that's easier for you.

THE WITNESS: Okay. That is easier. Thank you.

This is the memorandum that declined to involve – for the AG's office to become involved with the Mitte Foundation. So this would have been prepared at the division level and highly unlikely that it would have come to me initially.

Q. (BY MR. DeGUERIN) All right. I want to draw your attention to the first paragraph. And I'll just read it as you look at it, if you'll highlight that first paragraph.

I recommend waiving the attorney general's interest in this matter regarding a private real estate company's breach of fiduciary duties to its investors, one of which is a charitable trust, the Mitte Foundation.

Did I read that correctly?

A. You did.

Q. And that's a memoranda recommending to waive the attorney general's interest?

A. That's correct.

Q. On the second side of that letter, if you'll go to the second page, I want to highlight the paragraph in the middle. In my opinion, starting there.

A. I see that.

Q. This office does not have a role in this matter. The trust is zealously represented by counsel. Counsel stated that once the receiver sells the 1st and Trinity LP and WC 3rd and Congress LP, the trust will likely make a massive return on its investment.

Did I read that correctly?

A. You did.

Q. And, finally, at the bottom: I recommend the attorney general file a waiver for the following reasons: The trust is represented by counsel, the trust's assets are diversified, and the litigation will not critically impact the trust's 2020 distributions.

Is that right?

A. Yes, that's what mine reads.

Q. So following this, did the attorney general waive filing any – waive interfering in this lawsuit?

A. Yes. We did not intervene in January or around that time frame in 2020.

MR. DeGUERIN: Pull up Exhibit 55, please. I believe this is agreed, entered by agreement.

Q. (BY MR. DeGUERIN) It's – this is the attorney general's waiver, isn't it, filed in the lawsuit styled The Mitte Foundation against WC and Trinity, so forth, the World Class – or Nate Paul's organizations?

A. That's correct.

Q. I want to highlight at the bottom of that first page of the waiver: If any pleading is filed herein that adds additional parties or causes of action, then that would constitute new or an additional proceeding, and then the attorney general might intervene.

Correct?

A. That's correct.

Q. Did any new – new parties, additional parties, or additional causes of actions ever get filed in that case?

A. I certainly don't recall any new parties, and I was not aware of any additional causes of action.

Q. Did General Paxton order that an intervention be made?

A. Well, yes.

Q. Let me ask you this, this way.

A. Yeah.

Q. Did you have a conversation with General Paxton in which he expressed his request or order that the intervention be made?

A. Yes, I did. So General Paxton eventually came to me. And this was my first involvement with this case, substantive involvement, right. There are 34,000 matters.

Q. Okay. So let me get into it this way.

Was this on your radar screen at first?

A. No.

Q. How did it get on your radar screen?

A. It got on my radar screen because General Paxton particularly wanted to intervene in this matter. I think – I don't think my first discussion about this matter – matter was with General Paxton. I think it was probably with Jeff Mateer. But at some point soon thereafter, I had a meeting with General Paxton, and he expressed a high level of interest in some – you know, some insistence that we should intervene in this matter.

Q. In your experience, had General Paxton ever expressed interest in any – any litigation involving charitable trusts that the attorney general was involved in?

MR. BUZBEE: Objection, Your Honor.

Q. (BY MR. DeGUERIN) Attorney general was involved in.

MR. BUZBEE: That's – that's speculation.

PRESIDING OFFICER: Sustained.

Q. (BY MR. DeGUERIN) Had there been any other – any other litigation involving charitable – charitable trusts that you had any conversations with Paxton – General Paxton about?

A. I did not.

Q. I'm sorry, I didn't hear you.

A. There were – there were not, no. I had no other conversations about any other charitable trust.

Q. But did you – what was your thought about General Paxton getting involved in this litigation?

A. I did think it was unusual at the time.

Q. You – I'm sorry?

A. I did believe that was unusual at the time. And that's probably all I thought about it at the time. We had so much going on in my divisions at that time with COVID and the Google lawsuit, et cetera. I did not spend a great deal of time thinking about it, other than sort of a mental note that that was a little bit – that was out of the ordinary.

Q. All right. So at any rate, did the attorney general's office file an intervention in that lawsuit?

A. We did.

Q. At the time it was filed, do you rely on advice from your staff of attorneys that generally handled – have hands-on handling of the litigation for advice?

A. Of course. I always had advice from them.

MR. DeGUERIN: If we could have the organizational chart again, please.

Q. (BY MR. DeGUERIN) Down the list of people under you, there is a Josh Godbey. Joshua Godbey, who is he?

MR. BUZBEE: Your Honor, I'm sorry. Sorry, Mr. DeGuerin. Our screen shows the previous document. I'm not sure why that is.

MR. DeGUERIN: I think you've got a glitch over there.

MR. BUZBEE: Clearly.

PRESIDING OFFICER: We have the correct –

MR. BUZBEE: I can tell the court reporter does, but for some reason our table has something completely different. And I'm not trying to take away your time. I'm not trying to take the man's time.

PRESIDING OFFICER: We'll pause. Pause the clock for a moment.

MR. BUZBEE: It's just our table that keeps doing this. I'm not suggesting a conspiracy, Your Honor. I'm just saying it's happening.

PRESIDING OFFICER: Are the rest of the tables of your attorneys have the right screen?

Damian will come to the rescue.

MR. BUZBEE: Okay.

MR. DeGUERIN: It looks like the senators have the right one. I would request an extra 15 minutes for this delay.

MR. BUZBEE: I bet you can negotiate him down to one.

PRESIDING OFFICER: We've given you six more minutes today, plus we saved you five, so your 11 minutes should be good.

Mr. DeGuerin. Mr. DeGuerin.

(At the bench, off the record)

PRESIDING OFFICER: Members, we're going to take a – this is the last witness of the day, but there's still more questions in cross. So let's take just a quick 10-minute break here, not our normal longer break, and then we may be finished by – a little earlier this evening. So 10 minutes. Come back at 20 minutes before the hour of 6:00.

(Recess from 5:30 p.m. to 5:46 p.m.)

AFTER RECESS

PRESIDING OFFICER: Mr. DeGuerin, before you start, I think we had one correction on the exhibits list I was told about. There was one mistake. These are the exhibits that both sides agreed to.

If you would come up and just correct that mistake. Oh, you're going to do it? Okay.

MS. GRAHAM: Yes, Mr. President. It was incorrectly and inadvertently represented that we agreed to the following exhibits. The following exhibits have not been agreed to for preadmission: AG Exhibit 334, 335, 336, 337, and 345.

PRESIDING OFFICER: Thank you.

Mr. DeGuerin, you may continue.

MR. DeGUERIN: Thank you.

Q. (BY MR. DeGUERIN) All right. I started to ask you about Joshua – or Josh Godbey, who is shown on the organizational chart as being several levels below you. Who is Josh Godbey?

A. Josh Godbey?

Q. Yep.

A. Josh Godbey was the division chief for financial litigation and charitable trusts. Actually he was not several levels below me. He reported directly to me and David Hacker, who was the – my associate deputy attorney general for civil litigation.

Q. Okay. And I ask you about that because I wanted to ask you whether in deciding any intervention in a charitable trust litigation, do you rely on advice that you get from your – the people in the trenches, the ones that work on it?

A. I certainly seek and – and consider that advice, yes.

Q. Well, with the Mitte litigation, was Mr. Godbey opposed to an intervention?

A. He did not believe an intervention was necessary.

Q. And yet you intervened. Why?

A. We intervened because the attorney general, Attorney General Paxton, you know, believed that it was –

Q. I'm not asking what he believed.

A. Okay. Certainly.

Q. Did he tell you to intervene?

A. He told – yes. General Paxton told me that we should intervene in the litigation because the Mitte Foundation was wasting a lot of money on unnecessary litigation, and that the – and that the Mitte Foundation had had management problems in the past, although those are pretty far in the past, I think, at that point, and that it didn't make sense for this lawsuit to continue and go forward, and that we needed to try to intervene and see what we could do to bring it to a conclusion.

Q. Well, was – was one of the reasons that the Mitte Foundation was wasting money on attorney's fees?

A. Well, they were locked in a very, very contentious litigation with the World Class limited partnerships that were headed by Nate Paul.

Q. Is it true that in the type of lawsuit that the Mitte Foundation originally brought, if they were successful, the Mitte Foundation would recover their attorney's fees?

A. I don't know actually.

Q. Okay. At any rate, we've previously seen that there were, I think, two people that wrote the waiver menu – not menu – the waiver memo, a woman named Henderson and a woman named Day. They're not even on this chart. Were they – were they down – further down from the hierarchy?

A. Yes.

Q. Okay. So when General Paxton asked that you intervene, did you do so against the advice of Josh Godbey and your – who you relied on for advice?

MR. BUZBEE: Objection, Your Honor. This is – calls for hearsay from people that haven't testified.

PRESIDING OFFICER: Sustained.

Q. (BY MR. DeGUERIN) Okay. I want you to describe for the senators, please, the level of interest that General Paxton took in the Mitte Foundation litigation.

MR. BUZBEE: Objection, Your Honor. Speculation.

Q. (BY MR. DeGUERIN) As you observed.

PRESIDING OFFICER: Sustained.

And reask.

MR. DeGUERIN: Well, let me – I was trying to cure the objection by saying that you observed.

PRESIDING OFFICER: Yes.

Q. (BY MR. DeGUERIN) Describe for the senators the level of interest that General Paxton took in this litigation as expressed to you by General Paxton himself.

MR. BUZBEE: Again, Your Honor, I – if he wants to tell us what General Paxton may have said to him, I – I won't object to that. But just telling us what was in his mind, he cannot do that.

MR. DeGUERIN: I think that's what I asked.

MR. BUZBEE: Objection. Speculation.

MR. DeGUERIN: As expressed to him by General Paxton.

PRESIDING OFFICER: I think that's what you asked. Overruled.

Q. (BY MR. DeGUERIN) You may answer. A. General Paxton expressed sort of more interest in the Mitte Foundation litigation than almost anything else that my divisions were interested in. There was a certain urgency and almost anxiety around what we were doing in the Mitte Foundation lawsuit, you know, to the extent that, you know, at times I was – I got calls.

You know, I got a – I remember a call very early in the morning one time. I got pulled out of an important teleconference that I was in to talk about the Mitte Foundation. That was highly unusual. That really didn't happen with any frequency about – about anything.

And, you know, General Paxton wanted to be kept abreast of any developments in the Mitte Foundation lawsuit.

Q. Was there other major litigation going on that you were supervising?

A. Well, at the time –

Q. That's a yes or no. Was there other major litigation?

A. Well, yes. Absolutely.

Q. What was the Google investigation and litigation?

A. So I had been tasked to lead the Google antitrust investigation that was being conducted by a number of states. So it was a multistate investigation. I believe 48 states at that point. Only Alabama and California had not joined. And we were investigating Google search function, antitrust potential violations, and the Google AdTech antitrust violations.

Texas was really the lead on the AdTech issues. So I sort of had a day job that was overseeing the divisions, the civil divisions.

And then in addition to that, I was trying to provide a leadership role for all the states on those investigations. And, you know, of course, both of those investigations, probably most of the people know, resulted in significant lawsuits, filed not only by Texas, but filed lawsuits by the federal government and even in Europe.

Q. So in a nutshell, was the Google litigation major – a major involvement of the attorney general's office? Yes or no.

A. Absolutely, yes.

Q. And compare the significance of the Google litigation with the significance of the Mitte Foundation against Nate Paul litigation.

A. Well, the Google litigation, of course, has – had the potential to impact virtually every Texas and U.S. citizen and frankly citizens across the world. The Mitte Foundation litigation, as I understood it, was, you know, a – a dispute that Texas, in my view, did not have a – any significant interest in. And, you know, I believe that the Mitte Foundation was being – especially when I got involved with it, I believe the foundation was being zealously represented.

Q. Okay. And that's one of the criteria for intervening or not intervening. If everything is going smoothly with the foundation, they're zealously represented, correct?

A. Yes.

Q. All right. So I think you mentioned being interrupted. As an example of General Paxton's interest in the Mitte litigation as opposed to anything else, was there an occasion when you were interrupted during an important Google conference?

A. Yes.

Q. Yes or no?

A. Yes.

Q. Okay. What was that occasion?

A. I recall – yeah, I recall that I was on a telephone conference with an international economist of some reputation, trying to interview that economist to decide whether he would be a good fit to work on the Google investigation at that time and possible litigation. And General Paxton sort of opened my door. And I put it on mute. And he said, Hey, can you come down to my office?

And I explained roughly what I was doing. And I said, Should I break this off and come down?

He said, Yes.

So I did.

And I went to his office and we had a discussion about the Mitte Foundation.

Q. Did that seem unusual to you that he would pull you away from an important conference on the major litigation over Google to talk about the Mitte Foundation litigation?

A. I don't recall another time when General Paxton interrupted a conversation or discussion with anyone else I was having to pull me away.

Q. Let's talk about some of the things that you were requested to do. Did there come a time when you received and you were on the e-mail chain of complaints from Nate Paul about how the attorney general's office was handling the Mitte Foundation litigation?

A. Yes. After I had –

Q. Okay. That's the answer to that. Then I'll ask you about it.

A. Okay.

Q. So –

A. I'm a lawyer. I'm a bad witness. I'll try to be better. I'm sorry.

Q. Lawyers are some of the worst witnesses, yes, I agree.

So what happened with the – the e-mails that the office and you were copied and particularly Josh Godbey was getting from Nate Paul?

A. Yes. So we – we got a few communications, I don't remember how many, from Nate Paul, and I think one was either from Nate Paul or from Michael Wynne copying Nate Paul or something like that, vigorously complaining in really sort of a demeaning fashion about our work in the Mitte Foundation lawsuit, and demanding that we do more in the lawsuit, sort of taking this – taking a tone of directing us –

Q. Let me stop you there.

A. Uh-huh.

Q. So you said it was the e-mails were taking the tone of Nate Paul directing you, the attorney general's office?

MR. BUZBEE: Your Honor, I object. We have the e-mails and we can look at them, but – but this is misrepresenting what the e-mails say, and I object to it.

MR. DeGUERIN: Well, let's –

PRESIDING OFFICER: Sustained.

MR. DeGUERIN: – let's look at the e-mails. I agree.

House Managers 86. It's in by agreement, if you can pull that up.

Q. (BY MR. DeGUERIN) Let's start – let's start on the second page of that, at the bottom of the second page of the e-mail from Nate Paul to Josh Godbey in the attorney general's office. I'll just read that first line.

Josh, I am following up to my previous e-mails for the fourth time. Your decision to not even respond to my e-mails has only amplified my concerns about your bias towards helping the Mitte Foundation.

Do you see that?

A. I do see that.

Q. First, is it – is it proper for a litigant who's represented by counsel to contact the lawyer for the – one of the other litigants? Is it or not?

A. It's – it's certainly not something that's – it's certainly something that's generally not done, that is correct.

Q. All right. A little bit above that, a little bit later, July the 2nd: Josh, I need to hear from you. You are delaying this and it is unacceptable.

Is that the kind of tone that you're used to receiving from a litigant?

A. Absolutely not.

Q. The first page of that exhibit. Sunday, July the 5th, from Nate Paul. Josh Godbey: Josh, you have exhibited highly unprofessional behavior.

Do you see that?

A. I do.

Q. And above that: Josh, I just wanted to make sure your office is aware that you never responded to any of the e-mails below.

First, what's your testimony about whether it would be proper for Joshua Godbey to respond to Nate Paul's e-mails?

A. That was something that we would not – not typically have done.

Q. So what was your thought about what was going on here and how Nate Paul was treating the Office of Attorney General?

A. Well, I thought his tone was demeaning and demanding and wholly inappropriate, because thinking about this, the way this is structured and the way our – our involvement with charitable trusts is – is structured is we are making the decisions about what is in the public interest of the charity, not somebody who's working against the charity in a lawsuit.

Q. Now, while this is going on, what's your contact with General Paxton about what you're doing in the Mitte Foundation lawsuit?

A. I was having fairly regular conversations with General Paxton about –

Q. And what was he asking?

A. He was asking, you know, about ideas for how we could really get to a point where we could terminate the litigation. And, you know, I think he is looking for a creative way to do that. You know, what – and I don't mean creative in the sense of outside, you know, legal means, but a creative way for us to – our involvement to accelerate the termination of the lawsuit. And –

Q. Well, let's talk about that for a second.

A. Yeah.

Q. To accelerate termination of the lawsuit. In essence, was the lawsuit, the Mitte Foundation suing Nate Paul because they're claiming that he was cheating them?

A. Yes.

Q. And so –

A. In so many – in so many words, yes.

Q. Well, I was trying to shorten the description of it a little bit.

And so if that's the fact, if they're suing Nate Paul for trying to cheat them, what's the public interest in the Mitte Foundation litigation for the attorney general to take? Which side are you supposed to take?

A. Well, we're clearly supposed to take the side of the foundation.

Q. And what was General Paxton's direction to you?

A. General Paxton was highly critical of the Mitte Foundation's litigation efforts, and he characterized those to me as being overly zealous and wasteful.

Q. Okay. Were you – did you become aware during this time that there had been a settlement of the lawsuit previously by mediation between Nate Paul's interest and the Mitte Foundation?

A. Yes.

Q. What was that settlement? What was the amount, dollar amount, of that settlement, if you remember?

A. It's testing my memory a little bit. But I believe that Nate Paul's entities had agreed to pay the Mitte Foundation 10 and a half million dollars to buy out their interest in the World Class properties.

Q. And did he – did he pay it?

A. No. The World Class – World Class did not pay it and breached – therefore, breached the settlement agreement.

Q. And that was a settlement agreement now after mediation?

A. After a mediation, yes.

I – can I pause there? I actually don't remember whether it was the result of a mediation, but it was certainly the result of some negotiation.

Q. Fair enough.

Did General Paxton press you to move for a second mediation? I know you don't know whether it was second or first, but did he press you to move for a mediation?

A. Yes.

Q. Now, was Mr. Godbey supposed to be handling this?

A. Mr. Godbey had sort of taken front-line responsibility for this prior to my involvement, yes.

Q. And after these e-mails where Nate Paul was criticizing Josh Godbey and his handling of it, what did General Paxton tell you to do?

A. Well, on more than one occasion he asked me to be directly involved.

Q. Is that unusual?

A. Incredibly unusual for someone in my role at that time, yes.

Q. Explain why that's incredibly unusual.

A. Well, as I said before, we had 12 divisions, we had 325 lawyers, and we had 34,000 open matters. So for someone in my position to have direct involvement in any particular litigation, what was just highly abnormal, and so my – in my experience during the two years I was in that position, there were only a very few limited examples of when I was directly involved in litigation.

Q. Okay.

A. Very few.

Q. So ordinarily would it be handled by somebody down the chain?

A. Yes. I might be advising if there were a problem or it was significantly important, but not important enough for me to be indirectly. But for me to appear and be personally involved was highly unusual.

Q. So did there come a time when General Paxton ordered you to appear in a hearing?

A. He did call me very early one morning. I want to say it was sometime around 7:30 and asked me to appear at a Mitte Foundation World Class hearing in Travis County District Court that morning.

Q. Now, not to diminish the importance of a Travis County District Court, but educate the senators on whether the appearance of a deputy attorney general in district court in Harris – in Travis County would be unusual.

A. I only did that one other time during the course of my role, and that was when Google contested our right to get information under a confidential information demand issued by our antitrust division.

Q. But in this case, in this case involving the Mitte Foundation lawsuit trying to get – or suing Nate Paul for fraud or cheating him, would it – what's the – what's the unusual thing about having a deputy attorney general appear there?

A. Well, I think in retrospect it sends – it certainly sends a message of interest from the attorney general's office that's highly unusual. And also, you know, that – as I recall, that hearing was going to be a very long hearing. I think it was scheduled for a very long period of time. And, you know, obviously there were a number of things going on at the AG's office, and we concentrated on the Google matter.

But, you know, the COVID matters were hot and heavy, I think, still at that point. You know, there were mask mandate issues. And there were also – you know, we were getting calls and concerns from major cities about potentially releasing people from jail that had been accused of violent felonies. I mean, you know, there were times –

Q. Okay. Let me – let me stop you there.

A. Yeah.

Q. So what you're saying is you had a lot of other stuff on your plate?

A. Yes, particularly at that time.

Q. And you get a call at 7:30 in the morning from General Paxton asking you to appear in Travis County District Court on motions that might last all day?

A. My recollection is that they were – it was to be a lengthy hearing, yes.

Q. Were you prepared?

A. I was not prepared at all.

Q. And what did you say to him?

A. I said it didn't make any sense for me to do it because I wasn't prepared and because of the time and all of the other things I had scheduled that day.

Q. And what did he say to you?

A. He said, Well, then, I'll do it.

Q. He'll do it? General Paxton will himself go to district court in Travis County to order – to argue a motion?

A. Yes, that's what he told me.

Q. What did you think about that?

A. Well, I talked him out of it.

Q. What?

A. I talked him out of it.

Q. Again –

A. What I thought about it was that it was a terrible thing for him to do.

Q. And why?

A. Because he was the attorney general of Texas. He never appeared in court, not once, not a single time, and, you know, as a representative, right, as a lawyer, I should say. Let's put it that way.

And for him to make an appearance in that type of hearing sends a very odd message. And it didn't seem appropriate for our office to have that sort of level involvement in a case like this at all.

Q. Okay. I don't want to get too far in the weeds of all of the stuff that happened in the Mitte Foundation litigation, but was there an occasion where General Paxton told you to go to a mediation – a virtual mediation, but told you to go to a mediation?

A. Yes.

Q. And did – what did General Paxton tell you to do as far as trying to get the Mitte Foundation to accept less than they had accepted before?

A. Well, General Paxton asked me to attend the mediation on behalf of the State and work to get a settlement from the case for – you know, to essentially terminate the litigation.

Q. What do you mean by "terminate the litigation"?

A. Well, via settlement. Terminate the litigation via settlement. And so we worked – we worked hard. We actually filed a motion to stay the proceedings in favor of mediation.

Q. Let me ask you that. As I said, I don't want to get in the weeds of what happened. The motion to – the motion to stay the proceedings, the mediation, pressure during the mediation, in retrospect and knowing what you know now, was that in the public interest of the Mitte Foundation for the attorney general, Paxton, to take that position? Yes or no?

A. Knowing what I know now, no.

Q. Why not?

A. Because it – our involvement in the Mitte Foundation litigation added complications for the Mitte Foundation. And we stayed – and briefly – and I was pretty adamant that we needed to do it quickly if we were going to stay the proceedings. But, you know, it stayed the proceedings for a period of time. I think that the Mitte Foundation saw it as fairly heavy-handed. And it just, you know –

Q. Let me ask you –

A. – knowing now what I know, no, I don't think that we were helping the Mitte Foundation in any way.

Q. Say that again. You were not helping?

A. We were not helping.

Q. Wasn't that what the attorney general's office is supposed to do?

A. We are supposed to protect the interest, the public interest in charitable trusts.

MR. BUZBEE: Objection. Leading.

MR. DeGUERIN: That is leading. I'll rephrase it.

Q. (BY MR. DeGUERIN) What did General Paxton tell you to do, whose side to take in the mediation?

A. Well, he told me to contact Sheena Paul, who is Nate's – Nate Paul's sister and work with her to, you know, sort of develop a strategy for the mediation. Or not a strategy. I mean, I don't know if he said the word "strategy," so I don't want to be – I want to be careful about what was actually said.

But he told me to call her, try to understand their position. And, you know, I think he said sort of dramatically, I just want all of this to end.

Q. General Paxton said he wanted all of this to end?

A. That's correct.

Q. Was that in the best interest of the Mitte Foundation or the public interest in it?

A. Well, it –

Q. Yes or no.

A. Can I explain?

Q. You can, but I would like to get a yes or no to that.

Was that in the best interest of the Mitte Foundation or the public interest in it, or was it in the best interest of Nate Paul?

A. Well, I – every – understanding everything that was going on and the fact that the Mitte Foundation thought that there was far more return on this investment available than what – that I think even the 10 and a half million dollar settlement that had breached before, no, because it was clear that we were not going to settle for 10 and a half million. We – the Mitte Foundation was not going to settle for 10 and a half million dollars.

I'm sorry. They were not going to get 10 and a half million dollars because the World Class entities were not going to offer it. And they thought that they could get more than 10 and a half through litigation. And so no, no, we were not helping the Mitte Foundation.

Q. Did the – did the mediation fail?

A. It did.

Q. And so after that, and getting forward now to the end of September, what did you learn about the attorney general's office involvement in other matters of – that involved Nate Paul?

MR. BUZBEE: Objection. This answer calls for information based on hearsay.

PRESIDING OFFICER: Sustained.

Q. (BY MR. DeGUERIN) On September the 29th, did you get a call?

A. Well, on September 29th, I was called to a meeting.

Q. Where?

A. In Jeff Mateer's office.

Q. Without going into what was said, the previous – one of the previous witnesses today was a young lawyer named Brandon Cammack.

Did you learn anything about him, yes or no, that day? I'm not asking you what you learned.

A. Yes.

Q. And did you learn or see subpoenas, grand jury subpoenas, that had been issued to players in the Mitte Foundation case?

A. I saw a grand – a criminal grand jury subpoena that had been issued to a bank.

Q. What was your reaction to that?

A. I was stunned.

Q. What do you mean? Explain it.

A. I saw a criminal grand jury subpoena directed to a bank that was clearly seeking information that would have aided World Class Nate Paul's efforts against the Mitte Foundation.

Q. Why is that bad?

A. Well, it's lawyer – one thing is it's Lawyer Ethics 101. So that was the first thing that came to my mind. We are weaponizing the criminal process to aid a civil litigant, and that is a big no-no.

Q. So as far as the Mitte Foundation was concerned, and now you learning about these grand jury subpoenas issued to players in the Mitte Foundation lawsuit, what was your opinion about what had happened to the Mitte Foundation as a result of the Attorney General Paxton's request or demand that you become involved?

A. I believe that the attorney general's offices involvement in the Mitte Foundation litigation was unethical, against our statutes, and I suspected – I highly suspected corrupt.

Q. What did you do as a result – by the way, did you attend a meeting, a conference between a number of the deputies of – the top deputies of the attorney general's office?

A. I did.

Q. And did you trade information?

A. Yes.

Q. Did you learn things that you had not known about before?

A. Several.

Q. And did it concern you?

A. Deeply.

Q. What did you do with regard to the Mitte Foundation litigation as a result of what you learned?

A. Within 24 hours, I don't remember exactly how quickly, I ordered Mr. Godbey, the head of the charitable trust financial litigation division, to dismiss our intervention in the lawsuit.

MR. DeGUERIN: House Managers Exhibit 92 is in evidence by agreement.

Q. (BY MR. DeGUERIN) This is an e-mail from you dated September the 30th, 2020. It's to Josh Godbey, Rachel Obaldo – I don't believe we've heard her name before – with copies to Mateer and to Bangert.

What did you order done?

A. Please immediately withdraw from and cease all representation, investigation, or participation concerning the Mitte Foundation that may in any way whatsoever relate to World Class, its related entities, or Nate Paul.

Q. You let your voice trail off.

A. I'm sorry. It may have been the microphone. I can read it quickly.

Please immediately withdraw from and cease all representation, investigation, or participation concerning the Mitte Foundation that may in any way whatsoever relate to World Class, its related entities, or Nate Paul.

Q. And why did you do that?

A. I did it because I believed at that point that the AG's office intervention into the Mitte Foundation was unfounded, and as I said, I believed, unethical. And I believed it was actually attacking a charitable trust as opposed to defending the public interest of a charitable trust.

I believed I had an ethical duty under our rules because we had now used the criminal justice system essentially against the Mitte Foundation. And, you know, frankly, my name, my colleagues' names, including Jeff Mateer and Josh Godbey, I think Ryan Bangert, and now my recollection is refreshed, Rachel Obaldo, importantly the attorney general's name, and maybe most importantly the State of Texas' name, had been used and invoked improperly, clearly improperly, against the Mitte Foundation that was a public – that was a public charity.

Q. Were you one of the seven deputies that went to the FBI?

A. Yes, I was.

Q. Why, briefly, did you go to the FBI? First, did you want to?

A. Absolutely not.

Q. And did you decide to be one of the seven that went to report to the FBI?

A. Yes.

Q. Why?

A. Because I believed that the attorney general's office had been – and its resources, and I'm sure those in this room understand that the Texas attorney general's office is one of the most powerful in the nation and incredibly important for a number of reasons.

And I believe that it had been turned over by Attorney General Paxton to a private citizen to do his bidding, and it was acting against the interest of the State of Texas. And in my own experience with the Mitte Foundation, I believe acting against another citizen, a charitable trust and all of its beneficiaries, and the State of Texas,

and that the criminal process that had been initiated that I just learned of was potentially immediately endangering the public, the Mitte Foundation, and potentially others.

Q. Did you and the others ask General Paxton to meet with you after that? Just yes or no.

A. Jeff Mateer – Jeff Mateer I recall sent General Paxton a text asking him to meet with us.

Q. And did he meet with you?

A. He did not.

Q. I want to talk very briefly about any retaliation against you for being one of the persons that went to the FBI.

Were you retaliated against?

A. Well, yes. Not – frankly – and I want to make this clear. I don't believe I suffered the level of retaliation that some of my colleagues did. However, you know, I remember the first thing that I – was sort of stunning to me was that I saw a press release released by our office, not by General Paxton or his campaign, but by our comms office, a press release that said officials in his office were being criminally investigated for impeding, I guess – you know, impeding an investigation or something of that nature, which was sort of shocking, and I suppose, supposed to be intimidating.

Q. Was that true or not?

A. I am not aware of a criminal – I was never made aware of any sort of criminal investigation of any of my colleagues, no.

Q. Were you called a rogue employee?

A. Absolutely.

Q. Do you believe you were a rogue employee?

A. No. I believe that I was doing what I had to do, as unpleasant as it was. And it was quite unpleasant.

MR. DeGUERIN: Pass the witness, Your Honor.

PRESIDING OFFICER: Mr. Buzbee.

CROSS-EXAMINATION

BY MR. BUZBEE:

Q. Are you represented by a lawyer?

A. Yes, sir.

Q. Is it Johnny Sutton? Let me guess: It is Johnny Sutton?

A. Yes.

Q. And how much have you paid him so far?

A. I have not paid Mr. Sutton anything.

Q. So just like all the other ones of you, Johnny Sutton has been working on your behalf, spending his days here with all of you guys for free?

A. I don't know.

Q. You don't even know what you owe him, do you?

A. No, I don't know what I owe Mr. Sutton.

Q. What's his hourly rate? Do you even know that?

A. No. We have never entered into a fee agreement.

Q. So what – so just so we're clear, you don't know what you owe him? You don't know what the agreement is? And you don't even know what his hourly rate is; is that right?

A. I'm not sure I owe him anything, but I don't know.

Q. You – you say under oath you don't owe him anything?

A. I don't know that I do, no.

Q. Johnny Sutton, who is standing there to my left, according to you under oath could very well possibly work – be working for free?

A. He could be working pro bono, correct.

Q. You don't know?

A. I have not asked him. Mr. Sutton did a significant amount of work for us rather immediately. I knew Mr. Sutton, and I called him at the last minute before we went to the FBI.

Q. The question was you don't know, do you?

A. Rather –

Q. You don't know what you owe him or what his rate is? That was the question. You don't know?

A. Yes, that's correct. I don't know.

Q. What you do know is that Jeff Mateer attempted to have the attorney general's office set aside \$50,000 for that man right there, Johnny Sutton; isn't that right?

A. I don't know that Mr. Mateer attempted to do that.

Q. You didn't know about that?

A. I knew that there was a discussion about it, but I don't know that Mr. Mateer attempted to do that, no.

Q. He sent an e-mail to the controller. He sent an e-mail to Lacey Mase. You didn't know any of that?

A. I did not.

Q. Hmm. Now, I just want to make sure we're clear. You don't know – you don't have any personal knowledge about any house repairs of General Paxton, do you?

A. I do not.

Q. You don't have any personal knowledge about a job for Laura Olson, do you?

A. I do not.

Q. You don't have any personal knowledge about whether Nate Paul donated \$25,000 two years before all of these events that we're talking about, right?

A. I think I do know that, but I'm not –

Q. The thing about campaign donations, if anybody wants to see who is giving money to what candidate, all they have to do is get on the Texas Ethics Commission's website and they can figure that out pretty quick, right?

A. And I think I did that, yes.

Q. And it's not secret, is it?

A. No.

Q. Okay. You don't know anything about late night legal advice at least – or legal guidance. You didn't have a role in that, did you not?

A. Well, I certainly didn't at the time, no.

Q. Okay. I'm just talking about what you knew.

A. Yeah.

Q. You didn't know anything about whether there was any foreclosure stopped, right?

A. Not at the time, no.

Q. You don't know anything about some secret meeting in an alleyway in the dark of night between Nate Paul and young Drew Wicker, right?

A. No, I don't.

Q. That sounds ridiculous, does it not?

A. Not necessarily.

Q. Did you know this guy Maxwell, this Texas Ranger, this guy that's in the Ranger Hall of Fame? Do you know what I'm talking about?

A. Absolutely.

Q. Did you know that he told these people when he was interviewed that there had been a secret meeting in an alleyway in the dark of night where a folder was handed over from Drew Wicker to Nate Paul? Did you know he had said that?

A. No, I didn't.

MR. DeGUERIN: Objection. Cross-examination by what someone else might have said is not proper.

PRESIDING OFFICER: Sustained.

Q. (BY MR. BUZBEE) He said he heard that from five or six people. Did you tell him that?

A. I did not tell him that, no.

Q. Okay. And you didn't have any role whatsoever in the retention of outside counsel at the AG's office, did you?

I'm talking about specifically Mr. Cammack.

A. Oh, that retention of outside counsel, no.

Q. Okay. So that just kind of forecloses. It sounds like what you were involved in was the Mitte Foundation intervention as it relates to this proceeding, true?

A. I think that's largely yes.

Q. Yes. So when we talk about personal knowledge – and you know what 602 personal knowledge is under the rules, do you not?

A. Reasonably well.

Q. Yeah. You're not supposed to testify about things unless you have personal knowledge. That's Rule 602 of the Rules of Evidence, right?

A. I'll take you at your word it's 602. I don't remember the number, but, yeah.

Q. I had a federal judge that made me learn the numbers so they're burned in my brain.

So let's talk about what you actually have personal knowledge of.

You know, Mr. DeGuerin has been telling us – using the words "ordered," "demanded." Remember him using those words?

A. He may – he may – I'm not sure, but he may have.

Q. I mean, we know General Paxton. We call him General Paxton, but he's not in the military, is he?

A. No.

Q. Okay. He doesn't go around barking orders, does he?

A. I would not say he barks orders.

Q. You know, this guy, if anybody has ever dealt with him, knows that he's pretty low key, pretty laid back, right?

A. That's a hard description for me to use.

Q. But he's not some right wing crazy authoritarian walking around in locked step, is he?

A. Well, that's – that's a hard – that's a hard way to say it.

Q. I can give you an easier way to say it.

A. Yeah.

Q. He's not the kind of guy that screams at people and tells them, You go do this. You go do that. He doesn't do that?

A. Well, I can't answer yes to that because I have heard him do that before.

Q. Okay. Now, let's focus –

MR. BUZBEE: Erick, could you put up Article I?

Q. (BY MR. BUZBEE) Since you're here to talk about the Mitte Foundation intervention, it's titled Protection of Charitable Organizations, right?

A. Am I – I'm reading it, yes.

Q. Yeah. I mean, you've read this before, have you not?

A. I have read this before, yes.

Q. Sure. And you knew you were here to testify and that most of your testimony would probably relate to this article, right?

A. Well, the Mitte Foundation, yes.

Q. Sure. The very first sentence, Protection – I guess I should say the second sentence. Protection of charitable organization there, that's not even correct, is it? Because that's not what the role of the attorney general's office is, is it?

A. Well, we're – we're tasked with protecting the public interest in charity.

Q. Protecting the public interest in charity; isn't that right?

A. That's right.

Q. Not protecting charities, right?

A. There's some overlap there.

Q. Some overlap. But that's not what the AG's role is, is it?

A. Well, that's right. I mean, we are not obligated to protect charitable trusts generally as – you know, if they are protecting themselves, for instance.

Q. Now, we'll come back to that. But let's look at – are you – how – I know you were several levels up the chain of command over Joshua Godbey, but it was Godbey who was in charge of the charitable trust area, true?

A. There was – there was a division at that time called financial litigation and charitable trust, and that was under Josh Godbey.

Q. Okay. And you, of course, are familiar with the role of the AG's office and charitable trusts?

A. I am generally familiar with that role, yes.

Q. You told me it's highly unusual – I think you told Mr. DeGuerin it's highly unusual for the AG's office to get involved with charitable trusts, right?

A. It – I mean, it's highly unusual. I don't think I used that term. I think I used the term that it was something that we did, but it was not – I mean, it was not a – a huge volume of work that we did, but that we did intervene in a – some number of cases every year.

Q. Okay. Because it sounded like – and I thought we all – it sounded to me like you were making the case that this was incredibly unusual for the AG's office to get involved in any litigation involving charities. That's not true at all, is it?

A. No.

Q. Okay.

A. The AG's office from time to time would be involved in litigation involving a charity.

Q. Because the AG's office gets complaints every year about charities, does it not?

A. Well, it gets complaints, and it also gets notified of lawsuits.

Q. Sir, if you – I'm on a time clock, and if you could just answer my question, I would really appreciate it. Can you do that for me? Just answer it, okay?

A. Okay.

Q. Is it true that the AG's office gets many complaints every year about charities?

A. I'm – I'm having trouble answering that.

Q. I'll help you.

MR. BUZBEE: Erick, pull up 429, AG 429.

Q. (BY MR. BUZBEE) Somebody prepared a PowerPoint about the AG's role with regard to charities. Do you see the first page?

A. Yeah, I was involved in preparing this.

Q. Right. It says, Protect the public interest in charity. Do you see that?

A. I do.

MR. BUZBEE: Now, turn the next page, Erick.

Q. (BY MR. BUZBEE) One of the questions Mr. DeGuerin asked you was how many charities or foundations that were in Texas. Do you remember that?

A. Yes.

Q. Now, we know what the numbers are, don't we? The first bullet point.

A. Yes.

Q. It's right there in black and white. As of December 2019 –

A. Yes.

Q. – over 102,000 charities, and about 7,500 private foundations, right?

A. That's what it says, yes.

Q. All right. Okay. It even provides the gross assets. Do you see that?

A. Yes.

MR. BUZBEE: Next page, Erick. Erick, can you – is this straight? There we go.

Q. (BY MR. BUZBEE) And if we wondered – if the jurors wondered how active the AG's office was, in fact, how active it was with regard to charities, it's right there in black and white, right? These are the number of complaints received in Fiscal Year '18, '19, and 2020, right?

A. Yes.

Q. So now we know –

A. As I see it here, yes.

Q. Yeah. Now we know, right? Right?

A. Now we know how many, yes.

Q. Okay. So let's go – and you know, of course, that the Mitte Foundation had a sordid history, true?

A. They had – I know that they had – we had been involved with an investigation of some nature of the Mitte Foundation, I believe, in the late double Os.

Q. Yeah. I mean, let's be – let's all be clear. Not only had the AG's office been involved with the Mitte Foundation, the AG's office had, in fact, sued the Mitte Foundation; isn't that right?

A. I'll take your word for it, but I don't –

Q. You don't need to take my word.

MR. BUZBEE: Exhibit 223, Erick.

Q. (BY MR. BUZBEE) Do you know what an original petition is?

A. Yes.

Q. That's a lawsuit, right?

A. It is.

Q. That's a lawsuit where Greg Abbott was the attorney general, right?

A. It appears to be, yes.

Q. And Greg Abbott sued the Mitte Foundation. Do you see that?

A. I do.

Q. And have you ever looked at this lawsuit before in all of the allegations made by the AG's office against the Mitte Foundation?

A. I cannot recall whether I looked at the specific petition or not.

MR. BUZBEE: Page 4, Erick.

Q. (BY MR. BUZBEE) In case any of our jurors wanted to see the long and sordid history of the Mitte Foundation, it's right there in black and white, prepared by the Office of the Attorney General. Do you see that?

A. Well, I see the allegations here, yes.

Q. Well, you wouldn't think that the AG's office would just make allegations with no proof, would you?

A. I'm not suggesting that. I – I just – I had no personal involvement in this. I have no personal knowledge.

Q. right. And you know, of course, that this lawsuit that Greg Abbott's office filed when he was the AG led to a settlement and a consent decree?

A. I believe – all I know about it, if you want to know, is that I believe one or more officers or board members of the Mitte Foundation were removed for some sort of violations.

MR. BUZBEE: Now, let's move forward in time to June of 2020. Erick, bring up AG 42.

Q. (BY MR. BUZBEE) What's supposed to happen is that when a charity is involved in litigation, a notice is to be sent to the AG's office so it can do its job; is that right?

A. So that it can assess whether it should become involved.

Q. Whether it's within the public's interest to intervene or get involved, right?

A. I – I don't know if there is a more specific analysis, but that would certainly be a consideration, yes.

Q. One thing you know is that on at least two occasions, the Mitte Foundation failed to send timely notice to the Office of Attorney General. You know that, don't you?

A. I don't.

Q. You don't even know that?

A. No, I don't.

Q. Okay. What we have here, AG Exhibit 42, is a notice letter sent from some of Nate Paul's entities regarding some – what they claim to be changes in the litigation. Do you see that?

A. Is it possible to blow it up just a little bit?

MR. BUZBEE: Erick, bring up the body of the letter. Thank you.

THE WITNESS: Thank you.

Okay. I'm sorry, if you can reask.

Q. (BY MR. BUZBEE) The point is notice was sent by Nate Paul's organizations informing the AG's office of the litigation, and also that at least from their point of view there had been some sort of change in the circumstance.

A. Okay. I didn't see the letter, but I assume this letter is from Nate Paul's organization.

Q. Yes, sir.

A. Okay.

Q. Okay.

A. I see that.

Q. All right. And you know, of course, that the AG's office was provided with a very lengthy memo laying out not only the past problems with Mitte Foundation, but also current problems with the Mitte Foundation, true?

A. I did see that memo, yes.

Q. This was a very lengthy and detailed memo, was it not?

A. It was a lengthy and detailed memo.

Q. And if our jurors want to see what the justification was for the AG deciding to intervene into this Mitte Foundation litigation, they could look at AG 33.

MR. BUZBEE: Would you put it on the screen?

Q. (BY MR. BUZBEE) You've seen this memo before, have you not?

A. Did you want me to answer? Was there a question before this or –

Q. No. This is the question.

A. Okay.

Q. You've seen this memo before, have you not?

A. I have seen this memo before, yes.

Q. This memo is – and it goes on and on, page after page, does it not?

A. I don't know how many pages. It looks like there's six pages.

Q. Well, it's got a lot of attachments too. Look over here, sir.

A. Gotcha.

Q. Okay.

A. All right.

Q. And this is something that you looked at before you signed off on intervention in the Mitte Foundation case, right?

A. Likely.

Q. Okay. And let's get to that.

MR. BUZBEE: Erick, bring up AG Exhibit 151.

Q. (BY MR. BUZBEE) You had told us about this bureaucratic procedure where this person signs, and it goes to the next person, and then the next person up the chain of command, right?

A. Well, I wouldn't characterize it that way, but there is a procedure by which several people approve an intervention into a charitable lawsuit.

Q. And that's what we're looking at here, true?

A. That is correct. Related to the Mitte Foundation, yes.

Q. Right. And we can see that Mary Henderson signed off?

A. Yes.

Q. And that was the same Mary Henderson that previously had – had been part of a memo saying that we're – we maybe shouldn't get involved, six months prior?

A. Yes.

Q. Okay. And then we see that one of your subordinates, Joshua Godbey, signed off, right?

A. That is correct.

Q. And then we see that you signed off, right?

A. Indeed – yes, I did.

Q. And then we see that your boss signed off, right?

A. Mr. Mateer, yes.

Q. And each of you signed off on an official government document because you felt at the time that it was in the best interest to do so; isn't that right?

A. Based on what I have been told at the time, I believe that we – there was a colorable reason to intervene, yes.

Q. Let's make sure we understand what you just said to us all. You said "colorable reason"?

A. Yes.

Q. That's lawyer words, right?

A. Well, I – I don't know. I think everybody understands that.

Q. You felt like – just you. Let's just focus on you, because I've asked some of these other folks.

A. Yes.

Q. You felt like intervention was justified based on what you knew; isn't that right?

A. Based on what I – based on my conversations with the attorney general, I believed that it was important for us to intervene in the Mitte Foundation litigation and that he had colorable reasons to do so that I had no reason to question at the time.

Q. Let me make sure I get it so we can be clear. If you didn't think it was justified, you wouldn't have done it, right?

A. If I – yes. If I had believed at this time that the office would be acting against the Mitte Foundation, I would never have signed off on the intervention.

Q. Mr. McCarty, I don't mean to be short with you, but I only have a short amount of time. And I know you like to speak in paragraphs, but could you just answer my question directly.

You believed that it was justified. That's why you signed off, right?

A. No.

Q. You believed that the information you had justified you signing off at that point in time, right?

A. All – I would not have made that decision on my own.

Q. Okay. And we see that there's one, two, three – four different people that made that decision, don't we?

A. There were four people who signed off on this matter.

Q. How long did it take you to decide to sign off? Can you tell us?

A. It's hard for me to say how long it took for me to sign off. In other words, from the – from the time I first learned of this until I ultimately signed off, I don't remember how long it was.

MR. BUZBEE: Let's look. Exhibit 305, Erick.

Q. (BY MR. BUZBEE) Do you see on here that on June 6th at 4:52, do you see that e-mail that you were sent from Josh Godbey?

A. Yes.

Q. And do you see at the top where you had signed off by 5:26?

A. Well –

Q. Thirty-five minutes.

A. Well, the – the difference between receiving a document and making the decision to sign off, it doesn't mean that I – I mean, clearly there were conversations prior to receiving it.

Q. Not only did you sign off on the Mitte intervention, you also signed off on a memo authorizing an investigation of the Mitte Foundation, didn't you?

A. That's correct.

MR. BUZBEE: Let's look at that, Erick. AG Exhibit 155.

Q. (BY MR. BUZBEE) And I think it's important, sir, as we're pulling that up to think about what – what you were doing then versus what you decided to do once you lawyered up, okay. That's why I'm looking at this stuff back in time.

A. I –

Q. AG –

A. I don't – I'm sorry. If that's a question, I have a response, but it may not be a question.

Q. Okay. AG 155. This is – this is where you, along with four – four other individuals, approved an investigation of the Mitte Foundation; isn't that right?

A. Yes, we approved this.

Q. Okay. Now, let's focus on Nate Paul a little bit. Nate Paul was a major pain in the rear end, was he not?

MR. BUZBEE: Take the document down so our witness is not distracted.

THE WITNESS: I'm sorry. I'm just trying to – I'm sorry. Could you repeat your question quickly?

Q. (BY MR. BUZBEE) Yes, sir. Nate Paul was a major pain in the rear end, wasn't he?

A. I don't know if I would describe him that way.

Q. Did you ever meet him?

A. I have met him, yes.

Q. Was he aggressive?

A. I think he was somewhat aggressive at the time.

Q. Condescending sometimes?

A. I think that's a fair characterization.

Q. Demanding?

A. Well, clearly demanding.

Q. Yeah. We – we look at AG 219.

He – he began to accuse the AG's office literally within 30 to 40 days of wrongdoing with regard to the Mitte Foundation, didn't he?

A. Yes. I – I think that's a fair characterization.

Q. And he – he claimed that the AG's office had a conflict of interest, right?

A. Josh Godbey, I believe.

Q. He claimed that the AG's office wasn't doing its job, right?

A. In – in so many words.

Q. He claimed that the AG's office was biased in favor of the Mitte Foundation, right?

A. I – I don't recall, but he could have.

MR. BUZBEE: Let's look, Erick. Go to – go to the fourth page.

Pull it up, Erick. Fourth page, paragraph – second paragraph from the top.

Q. (BY MR. BUZBEE) Just so we're clear, I mean, this is – this is within 30 – 35, 40 days of the – of the intervention, and he is saying that Josh Godbey is grossly negligent and also that he has a lack of openness and clear bias. Do you see that language?

It's the last sentence, second paragraph.

A. Ah. Yes, I see that.

Q. So this – this Nate Paul, who supposedly was given the keys to the AG's office, is accusing the AG's office of being biased, grossly negligent, right?

A. Yes, he is.

Q. He also was raising this issue that there was somebody who was married to the receiver in the Mitte Foundation who worked at the AG's office, right?

A. There was some sort of familial relationship that he was upset about. I don't remember the specifics.

Q. He was very upset that no one had ever told him that an individual who worked in the AG's office was married to the receiver in the case, right? Did I get that right?

A. That – that sounds – that sounds familiar. I don't remember the details, but that sounds familiar.

Q. Did anybody ever disclose that to him, that, you know what, just FYI, we're intervening. We're not taking sides, but we do have somebody who is working in our office for one of the parties in the case, or married to somebody working for one of the parties in the case?

A. The receiver?

Q. Yes, sir.

A. Well, that wouldn't have been one of the parties, but to your question about whether Nate Paul was informed of that relationship, I'm not aware that he was.

Q. By the AG's office?

A. Well, I'm not aware that he was.

Q. Hmm. And he sent e-mail after e-mail after e-mail to Josh Godbey that you saw where he made allegation after allegation after allegation against the AG's office; isn't that right?

A. He made allegations and he made demands and he, you know, sort of demeaned our –

Q. Yeah. He –

A. – professionalism.

Q. He was just aggressive and mean spirited and accusing you guys of all kinds of things, wasn't he?

A. He was certainly aggressive. I don't know about mean spirited, but he certainly made accusations too.

Q. I mean, when somebody calls you grossly negligent and clearly biased, that's not very nice, is it?

A. Well, I'm a lawyer so I'm used to that.

Q. That happens to you a lot?

A. Well, not to me personally.

MR. BUZBEE: Okay. Let's look – just so we can close this loop, Erick, 165, please.

Q. (BY MR. BUZBEE) He claimed – or his lawyer claimed directly to you that the Office of the Attorney General had a clear – all right, let me make it clear – a significant conflict of interest.

A. Can I see where you're looking?

MR. BUZBEE: Yeah. Erick, bring up the first and second paragraphs of Michael Wynne's letter – or e-mail to Darren McCarty in September 2020.

Q. (BY MR. BUZBEE) He's accusing the AG's office of a conflict of interest, isn't he?

A. He is. He is, yes. I mean – yes.

Q. He's saying –

A. He's not accusing us. He's stating it, yes.

Q. He's saying that the OAG's office employs an individual who's married to the receiver, right?

A. I see that.

Q. And he's raising all kinds of Cain about that, too, isn't he?

A. Well, he's certainly stating it, yes.

Q. Did you know he ultimately threatened a lawsuit against the office for this very reason?

A. I remember that we received a communication I believe after I had reported to the FBI that was putting us on notice of claims against the office, as I recall.

Q. You were telling us that you had conversations with Sheena Paul?

A. I did.

Q. Sheena Paul was Nate Paul's sister?

A. And lawyer.

Q. And also his lawyer?

A. That's correct.

Q. But you also had conversations with the lawyers from Mitte Foundation, too, didn't you?

A. I did.

Q. Yeah. So when you suggested – you weren't trying to suggest, I'm sure, that you were only talking to Nate Paul's lawyers. You were talking to the lawyers for the Mitte Foundation, too, weren't you?

A. I was.

Q. Okay. You never were told by Ken Paxton take a side, were you?

A. I was told by Ken Paxton to expedite the termination of the litigation, if possible.

Q. Listen to my question so we can all go home.

You were never told by Ken Paxton pick a side or pick Nate Paul's side, were you?

A. He never used those words with me.

Q. Of course not.

And you – do you remember that the – when the news broke and the – or the news was about to break in *The Texas Tribune* being in a meeting, and you were getting a call from the Tribune lawyer – I'm sorry, the Tribune reporter and they wanted you to make a comment about the Mitte Foundation intervention?

A. I believe that I received an e-mail.

Q. Yeah. You received an e-mail. And the allegation against you was that you had threatened the Mitte Foundation?

A. I do recall that, yes.

Q. They – they claimed that – that you had told them there would be trouble if the Mitte Foundation didn't settle, right?

A. Yes.

Q. That's what they were going to say in the newspaper, right?

A. Yes.

Q. And you knew that was absolutely false, didn't you?

A. I believed that to be false, yes.

Q. I mean, the newspaper was getting ready to report that you, Darren McCarty, had been making threats against the Mitte Foundation on behalf of Nate Paul, right?

A. No.

Q. You had been making threats against the Mitte Foundation if they didn't settle the case?

A. I believe that was – I believe that was what they intended to report, something of that nature.

Q. Totally false, isn't it?

A. I never threatened the Mitte Foundation.

Q. That was totally false, right?

A. That I made a threat?

Q. Yeah.

A. Yeah, that was false.

Q. But they were going to run with that if you didn't respond. They told you that, didn't they?

A. They did.

Q. Now let's make sure we're clear about this. If you didn't respond, the Texas Tribune was going to write a story where they claimed that you threatened the Mitte Foundation with trouble if they did not settle the case. That's what they were going to report, weren't they?

A. Well, that's – that's what they were telling me at the time, as – as I recall. I know there's an e-mail that has the words in black and white, but it was something of that nature.

Q. And they were – they kept after you for you to comment, didn't they?

A. Well, I don't think they kept after me. I think they just sent it once.

Q. Yeah, but that upset you pretty good, didn't it?

A. Yes, it bothered me.

Q. Yeah, you were animated about that, weren't you?

A. I was – I was bothered, without question.

Q. And you wanted to make it clear that you never said that; never said that, right?

A. That I never threatened the Mitte Foundation.

Q. Because you never did, did you?

A. I did not threaten the Mitte Foundation.

Q. Let me ask you finally, were you –

MR. BUZBEE: Let's look at AG 1020. The last bullet point.

I just want to know – we've been trying to figure out who was all involved in this. Bring that up the last bullet point. AG 1020.

Q. (BY MR. BUZBEE) Were you part of the group after y'all went to the FBI that were also planning on cooking up bar complaints against your boss, Ken Paxton? Were you part of that group?

A. I don't have any recollection of that.

Q. That would be really wrong to be cooking things up because you felt like you had been somehow mistreated, right?

A. I never considered retaliating against Ken Paxton.

Q. Yeah. I mean cooking – I mean, think about that. "Cooking something up," that sounds like we're just going to make this foolishness up so we can try to protect ourselves, right?

A. I have – I was not a participant in that conversation, and I have no idea of the context.

Q. You would never –

A. I have no personal knowledge.

Q. You would never even say that, would you?

You would never say, Let's cook up an FBI complaint. Let's cook up a bar complaint. Let's cook up a lot of foolishness because I think we're about to be fired.

You would never do that, would you? Would you do that?

A. Would I make a false complaint? No.

Q. Okay.

MR. BUZBEE: Your Honor, thank you very much. Pass the witness.

PRESIDING OFFICER: Redirect, Mr. DeGuerin?

REDIRECT EXAMINATION

BY MR. DeGUERIN:

Q. Very briefly. Mr. Buzbee asked you – I think the answer was that there was a colorable reason to intervene, a colorable reason to intervene.

What is the real reason you approved the intervention?

A. Because Attorney General Paxton, who was the elected official, thought it was very important to intervene. And his reasons for that intervention were, one, that the Mitte Foundation had had past problems that the office had been involved with, and sort of, I guess, colored the Mitte Foundation's trustworthiness or something like that.

And, secondly, that the Mitte Foundation was wasting money in a lawsuit that it shouldn't waste.

Q. And that's what Ken Paxton told you, right?

A. That is correct.

Q. But you found out that wasn't true, didn't you?

A. Yes. I found – I found no evidence that the Mitte Foundation was being improperly managed or run. And I – and I saw no reason to believe that the Mitte Foundation was somehow improvidently pursuing this lawsuit.

Q. So in the end, do you believe Ken Paxton was telling you to act in the best interest of the Mitte Foundation or the public interest in the Mitte Foundation?

A. No.

Q. Yes or no?

A. No.

Q. What?

A. No, I do not.

MR. DeGUERIN: Would you bring up Article I, please?

Q. (BY MR. DeGUERIN) Specifically, Paxton caused employees of his office to intervene in a lawsuit brought by the Roy F. and JoAnn Cole Mitte Foundation against several corporate entities controlled by Nate Paul. Paxton harmed the Mitte Foundation in an effort to benefit Paul; is that true?

A. I believe that to be true, yes.

Q. What?

A. I believe that to be true, yes.

MR. DeGUERIN: No further questions.

PRESIDING OFFICER: Recross.

RECROSS-EXAMINATION

BY MR. BUZBEE:

Q. Tell us how the Mitte Foundation was harmed.

A. I believe the – I believe the Mitte Foundation was harmed in these ways: I believe, number one, the Mitte Foundation was threatened with an investigation by our office. I believe the Mitte Foundation –

Q. Wait a minute. Let's take them one by one.

A. Sure.

Q. They were threatened. How does that harm them? That doesn't harm them. You're the one that signed off on the investigation, didn't you?

MR. DeGUERIN: I object to Mr. Buzbee cutting off the witness when he was responding to the question.

MR. BUZBEE: I would like to take them one by one, Your Honor.

MR. DeGUERIN: I – I don't care whether he'd like to take it one by one. He was responding to the question.

PRESIDING OFFICER: I'll sustain. You can take it one by one, sir.

A. They were threatened with an investigation. We intervened in a lawsuit that complicated the Mitte Foundation's litigation. I have no doubt, incurred fees. It delayed the Mitte Foundation's lawsuit by some amount of time, and then potentially pressured them improperly, related to their – related to their litigation with the Mitte Foundation.

And ultimately, and most importantly for me, I guess or the straw that broke the camel's back, was that we – our office under the – under the color – well, I shouldn't say the color of our office. Under the authority of our office, we had used the criminal justice system to prejudice the Mitte Foundation's interest in the lawsuit.

Q. (BY MR. BUZBEE) Wait a minute, sir. We're talking – we're talking about Article I. We're not talking about Cammack. We're not talking about a subpoena to a bank. I'm just trying to figure out in Article I –

A. Okay.

Q. – how did an intervention – you think they may have spent it more on fees. That's what you say, maybe, right?

A. Well, I believe that they undoubtedly did. They had to respond to our motions, and we were involved in the foundation lawsuit, and that was a complicating factor.

Q. Maybe. You don't know that. Let's be clear –

A. I think I do.

Q. Since we're in court, you don't know that, do you?

A. Well, I think I do know that.

Q. All right. Tell me what their fees were, with or without the intervention.

A. I didn't give a number and I don't have a number.

Q. Okay. So you can't provide any testimony, any evidence whatsoever, or how the fees were more because of a three-month intervention; is that right?

A. I just said they were more. I didn't say how much more.

Q. Yeah. They could have been less for all you know.

A. I can't agree with that.

Q. You don't – I mean, you don't know is the point?

A. I think I do know.

Q. And so – and what was the other thing you said? They were threatened with an investigation?

A. They were threatened with an investigation.

Q. They weren't threatened, sir. You signed off on a memo authorizing an investigation, remember?

A. I do.

MR. DeGUERIN: I object to Mr. Buzbee arguing with the witness, Your Honor.

PRESIDING OFFICER: Overruled.

Q. (BY MR. BUZBEE) You personally signed off on a memo authorizing an investigation, didn't you?

A. Well, yes.

MR. BUZBEE: Objection. Nonresponsive.

THE WITNESS: Okay.

PRESIDING OFFICER: Sustained.

Q. (BY MR. BUZBEE) You personally –

A. I said, Yes.

PRESIDING OFFICER: What did you just say to the Court?

THE WITNESS: I said, yes, I signed off on a memo. I thought that was responsive to your question.

Q. (BY MR. BUZBEE) No, you started your answer with "well." And you were going into another paragraph. I'm just asking you very specific questions. You personally signed off and authorized an investigation of the Mitte Foundation, didn't you?

A. I did.

Q. Along with your boss, correct?

A. Yes.

Q. Along with your subordinate, correct?

A. Yes.

Q. Along with his subordinate's subordinate, correct?

A. I don't think so.

Q. There was one other person below Josh Godbey in the chain of command. She signed off as well, Mary Henderson. Remember that name?

A. I do.

Q. Okay. Four different people from the AG's office signed off on a memo to investigate the Mitte Foundation; isn't that right?

A. That's correct.

Q. Okay. And we know that the problems with the Mitte Foundation weren't just back in Greg Abbott's tenure at the office. They were more recent, weren't they?

A. I believe there was something in 2019.

Q. What was that in 2019? Do you remember?

A. I don't recall. I don't remember, no.

Q. Do you not remember the – the CEO – what was the name, the CEO having to be replaced because of misconduct?

MR. DeGUERIN: I believe this is outside the scope of the redirect, Your Honor. And I object.

MR. BUZBEE: It's actually not, Your Honor. We talked right about this in the cross.

PRESIDING OFFICER: Overruled.

MR. BUZBEE: Thank you.

Q. (BY MR. BUZBEE) Do you not remember that?

A. I remember that there was something in 2019 concerning a member of the board or the foundation, but I don't remember –

MR. BUZBEE: Erick –

THE WITNESS: – the specifics.

MR. BUZBEE: – bring up AG 33. Go to the second page real fast.

MR. DeGUERIN: Your Honor, objection. Again, there – this is clearly outside the scope of what my redirect was. I covered two very brief areas. Nothing about any 2019 investigation.

MR. BUZBEE: Again, Your Honor, he came back up here and tried to get the – despite the documents in the case, elicited from this witness something that's 180 degrees different than the documents. And so I'm entitled to show that his testimony doesn't match the historical record. And that's what I'm trying to do, hopefully in five minutes.

PRESIDING OFFICER: Overruled.

MR. BUZBEE: All right, Erick. Bring up the paragraph 1, financial status of Mitte Foundation.

Q. (BY MR. BUZBEE) What we see here is the justification. After Greg Abbott had already had intervention with the AG's office, this is more recent information. Do you see that?

A. This is the memo that – that Nate Paul's organization sent to us. Is that what this is?

Q. That's what it is. That's what you reviewed before you signed off on the intervention.

A. I – I'm not trying to be argumentative. All I'm trying to understand is what document I'm looking at.

Q. This is something that you – you would have been – of everybody in this courtroom, you would have seen this document before anybody. You understand that, right?

You saw this document back in June of 2020, right?

A. That sounds right, yes.

Q. Okay. And it lays out in detail all of the financial issues with regard to the Mitte Foundation, including its negative cash flow of \$440,000, right?

A. I see what it says here.

Q. It talks about forms not being filed in a timely fashion. Do you see that?

A. I see that it says that.

Q. It talks about the assets of the Mitte Foundation is about 15 million. Do you see that at the bottom bullet point?

A. I see that it sees that.

Q. And one of the concerns could have been from the AG's office, why is a foundation in the grand scheme of things, not a very large foundation, why is it engaged in investing into land deals? That could have been one of the questions raised, right?

A. It wasn't.

Q. Hmm?

A. It was not one of the questions raised.

Q. We've heard the testimony.

And let's go to the next page.

And it continues with the legal fees that have been incurred and questions about how much the receiver is being paid and how much the lawyers are being paid and what the fee arrangements are. Do you remember all of that?

A. I certainly remember that Nate Paul's organization made these statements and these allegations, yes.

Q. And so if the jurors want to see – despite your testimony, despite what you say now, if they want to see in the documents the reason and justification for the intervention, they need only look right here; isn't that right?

A. Utterly incorrect.

Q. Uh-huh. Did you make it a practice when – as a lawyer or at the AG's office to sign a document that says one thing but actually you had hidden reasons? Because that's what you're saying. I mean, let's be clear what you're saying.

You're saying, Hey, ladies and gentlemen, I signed something to authorize an intervention, but I really didn't mean it. I had other reasons for it.

That's what you're telling us all, isn't it?

A. Absolutely not.

MR. BUZBEE: I pass the witness, Your Honor.

THE WITNESS: There's –

MR. DeGUERIN: No further questions.

We have a housekeeping matter that we would like to approach about.

PRESIDING OFFICER: Can we excuse the witness?

MR. DeGUERIN: Yes.

PRESIDING OFFICER: You may be excused.

Both parties come up. You said you had a housekeeping matter.

(At the bench, off the record)

(Proceedings adjourned at 7:13 p.m.)

