

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

SEVENTH DAY

(Wednesday, September 13, 2023)

APPEARANCES

Mr. Rusty Hardin, Ms. Lara Hudgins Hollingsworth, Ms. Jennifer Brevorka, Ms. Megan Moore, Mr. Daniel Dutko, Ms. Leah M. Graham, Mr. Armstead Lewis, Ms. Aisha Dennis, Mr. Dick DeGuerin, Mr. Mark White III, Ms. Harriet O'Neill, Ms. Erin M. Epley, Mr. Mark E. Donnelly, Ms. Terese Buess, Ms. Donna Cameron, Mr. Ross Garber, 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

(9:01 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: Bailiff, please bring in the jury.

(Senate members enter the Senate chamber)

PRESIDING OFFICER: Will our Senator come up to lead us in prayer? Senator Flores today.

SENATOR FLORES: Thank you, Mr. President and Members.

Let us pray. Heavenly Father, we come to you this morning thankful to know the Holy Spirit surrounds us, for where two or more are gathered in your honor, you are present in our midst. Time and time again you continue to love us as your imperfect children.

Lord, I ask you to forgive us our failures and sins, and through your Son we are truly forgiven and washed clean in your kingdom.

Lord, we thank you, for you, God alone, are the way, the truth, and the life everlasting.

Father, we come to you this morning with beating hearts. May we not dismiss the gravity of our actions we have here today and may we seek your wisdom, discernment, patience, and just understanding.

Father, we ask you to clear and calm our minds to be ever present here so we may have pure intent in our decision making. Amen.

PRESIDING OFFICER: Thank you, Senator.

You-all may be seated.

To both parties, there was the thought that we may have to meet this morning. Did y'all work out whatever y'all were going to work out on exhibits last night?

MR. HILTON: Your Honor, we're still working through some of those issues. We didn't get exhibits from them until this morning, and so we still have some questions that we're working through. I think what we've discussed is that we can address those at the first break, or at least that's what we're working towards.

PRESIDING OFFICER: All right. Thank you.

Members, the time clock, the House has five hours, 17 minutes, two seconds remaining, with all time that we gave back yesterday added already into that. Respondent has nine hours, 57 minutes, and 27 seconds remaining.

I want to remind the jurors that no phones are to be used on the floor, even during breaks. There may have been a little misunderstanding of that. If you are on a break and you need to make a call, you need to leave the chamber. No phones should be used behind the brass rail or in the court setting during – during the time we're in session.

Mr. DeGuerin, are you up first this morning?

MR. DeGUERIN: No, Your Honor. Mr. Donnelly.

PRESIDING OFFICER: Okay. Mr. Donnelly?

MS. GRAHAM: Mr. President, we call Laura Olson to the stand.

PRESIDING OFFICER: Laura Olson? The bailiff will bring Laura Olson.

MR. COGDELL: Judge, we need to approach one second.

PRESIDING OFFICER: Yes.

Hold on, Bailiff. One second.

Please come up.

(Conference at the bench off the record)

PRESIDING OFFICER: Members, so you're clear on the rules and the agreement that we made with both parties before the trial, that witnesses must be given 24-hour notice. And Ms. Olson was put on the list at 3:53 yesterday, so she would not be eligible until 3:53 today.

And the same thing applies: Either side can put on a witness on their list up till noon that they can call in the morning the next morning; but after that, it's when they put them on the list. The defense has someone on the list for later this afternoon, for example, that they can't call up until then if they choose to.

So with that, Mr. DeGuerin.

MR. DeGUERIN: Yes, Your Honor. Ms. Epley will call Ray Chester as the next witness.

PRESIDING OFFICER: Bailiff will bring in Ray Chester.

And, Members, the reason for that was so each side can prepare for a witness in time when they appear.

(Ray Chester entered the Senate chamber)

PRESIDING OFFICER: Mr. Chester, if you'll raise your right hand.

I do solemnly swear or affirm that the evidence I give upon this Senate of the Texas impeachment charges against Warren Keith 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 have a seat. And as we encourage everyone, be close to the mic as you can.

THE WITNESS: I'm sorry?

PRESIDING OFFICER: To be as close to the microphone as you can be when you speak. Thank you.

MS. EPLEY: May I proceed?

PRESIDING OFFICER: You may proceed, Ms. Epley.

MS. EPLEY: Thank you, Mr. President.

RAY CHESTER,

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. My name is Ray Chester.

Q. And, Mr. Chester, what do you do for a living?

A. I'm an attorney in private practice. I'm a partner at the Austin law firm of McGinnis Lochridge.

Q. Are you the same Ray Chester that we might have heard connected to the Mitte Foundation and issues with the Office of the Attorney General in 2020?

A. Yes. I've represented the Mitte Foundation since 2016.

Q. And where is the Mitte Foundation located?

A. Currently they're mainly located in Brownsville.

Q. Okay. What does the Mitte Foundation do?

A. Currently – well, they were started by Roy Mitte who grew up dirt poor in Brownsville and a self-made man. It's – it's actually a family foundation. It's not a public charity. They don't – they don't accept public donations. And for many years,

they mainly provided scholarships to needy students. And in recent years, they've shifted their focus back to Roy's hometown of Brownsville, and they've developed the Mitte Cultural District in Brownsville.

Q. Who runs the Mitte Foundation now?

A. Roy's grandson, R.J. Mitte. R.J. was born with cerebral palsy. You may know him as Walt Jr. from the TV show *Breaking Bad*. He's an accomplished actor. More importantly, he's an international spokesperson on disabilities and the rights of the disabled. He's worked with the United Nations, the State Department, United Cerebral Palsy Foundation, and he gives motivational speeches to students on anti-bullying and overcoming disabilities.

Q. Thank you, sir.

The Mitte Foundation has been disparaged somewhat over the last couple of days in regards to prior management. How long ago were those issues?

A. They were in the 2000s, and the Mitte Foundation received a clean bill of health in 2011 and has been squeaky clean ever since.

Q. Has management changed since that date?

A. Yes. The problems were Roy's son and R.J.'s dad –

Q. Let me interrupt you, Mr. Chester.

A. I'm sorry.

Q. I'm sorry. I'm on a time clock, and I expect they might ask you those questions.

A. Okay.

Q. What I'm trying to determine is, is there any rational basis given the change of management and the time frame for the Office of the Attorney General to use those issues to justify intervention?

MR. LITTLE: Objection –

A. None –

MR. LITTLE: Objection, Mr. President, calls for speculation and improper opinion by this witness without a predicate.

PRESIDING OFFICER: Overruled.

Q. (BY MS. EPLEY) You may answer the question.

A. None whatsoever.

Q. Let me turn your attention quickly then to the settlement from World Class Holdings that we've heard in detail. What was that settlement value?

A. We settled in July of 2019 for ten and a half million dollars.

Q. After the breach of contract, what did the Office of the Attorney General push you to settle for at mediation?

MR. LITTLE: Objection, hearsay.

PRESIDING OFFICER: Sustained.

MS. EPLEY: Your Honor, if I may. He was present at the interactions. It's an operative fact, and it's already in the record. There is no harm from the hearsay.

PRESIDING OFFICER: I ruled.

MR. LITTLE: And, Mr. President, to be clear, because this may come up again, all of these conversations would be privileged under Texas Rule of Evidence 408 as settlement discussions as well.

Q. (BY MS. EPLEY) Mr. Chester, would you or the Mitte Foundation have an opinion as to whether or not you're interested in waiving that privilege?

A. We are willing to waive that privilege.

Q. In that case, what would the results have been of you agreeing to settle at the mediation with Darren McCarty?

MR. LITTLE: Objection, calls for speculation and hearsay.

PRESIDING OFFICER: Overruled.

A. We would have received pennies on the dollar.

Q. (BY MS. EPLEY) Do you have an approximate value, or do you recall the number that you were pushed to accept?

A. The only firm offer was –

MR. LITTLE: Objection, Mr. President, hearsay.

MS. EPLEY: Your Honor, it's an admission by a party opponent. It was an action on behalf of Ken Paxton by the Office of the Attorney General, and it's integral to the facts of this case.

MR. LITTLE: And there are – there is no evidence of that, none.

MS. EPLEY: The evidence comes from the witness as it always does in trial.

PRESIDING OFFICER: One moment.

Overruled.

Q. (BY MS. EPLEY) Let me do it this way since relevant facts are already in the record for the Senate to consider.

What is the end result considering that you were able to proceed with litigation?

A. We are poised to wrap up the litigation. The partnership properties are under contract. Mitte stands to receive approximately \$23 million.

Q. And when you say "stands to receive," is that up to whether or not Nate Paul or World Class Holdings chooses to pay you?

A. No. Fortunately, we're not depending on that because that would be fruitless. We will be paid out of the sales proceeds.

Q. So the \$23 million will come out of the sale of the property itself without any decision-making on the part of Nate Paul or World Class Holdings?

A. Correct.

Q. Is that a delta of almost \$18 million in loss if you had taken prior deals?

MR. LITTLE: Objection, leading.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) What is the difference between those values and where you ended up?

A. It's going to be about \$17 million more than we were offered when the Attorney General was involved.

Q. Thank you.

MS. EPLEY: Pass the witness.

PRESIDING OFFICER: Mr. Little.

MR. LITTLE: Mr. President.

CROSS-EXAMINATION

BY MR. LITTLE:

Q. Mr. Chester, how much money did your client, the Mitte Foundation, invest with Nate Paul?

A. Three million – well, in these two projects, three million dollars. There were some other projects as well.

Q. Okay. But the three – the projects that are at issue in the litigation we are here to talk about, the Mitte Foundation invested three million dollars in charitable funds with Nate Paul, correct?

A. With family foundation funds, yes.

Q. Yes. And when we say "family foundation funds," those are funds that were committed by the family to the charity, true?

A. Yes.

Q. Okay. And of those three million dollars that were invested in this program with Nate Paul, which is – it's really a private equity real estate deal, right?

A. It's a limited partnership.

Q. Yeah, which we generally refer to as a private equity deal, right?

A. There's a slight nuance difference, but it's similar.

Q. Yeah, it's very similar. You – you're in business litigation, correct?

A. Yes.

Q. You've been in business litigation a long time, right?

A. Yes.

Q. How many years?

A. Well, I've – I've focused on commercial litigation about the last ten years. Before that I did other things.

Q. Okay. I just want to make sure that I can harmonize this for everybody. The Mitte Foundation invested three million dollars with Nate Paul, and they're going to get \$23 million back, right?

A. Right. We invested in 2010, 2011, yes, sir.

Q. Right. So who at the charity made the decision to invest charitable funds in a private equity real estate deal?

A. That would have been the board at the time.

Q. And how many years did you say you've been doing business litigation?

A. You know, full time, ten; off and on, my whole career.

Q. Okay. Have you ever seen a charity make a three million dollars investment in a private equity real estate deal before this?

A. Yes, sir.

Q. Yeah? Do you remember the circumstance?

A. No. And I don't think it was exactly three million, but I just don't think it's an uncommon occurrence. They actually had four successful investments with Mr. Paul before his troubles arose.

Q. I – I want to make sure that the jury heard that because I don't think I heard it very clearly. What did you just say?

A. I said that they had a total of six investments, and the first three they made money on. The fourth one he tried to swindle them. They still made money. And now there's two remaining.

Q. Okay. But the one that you're saying Nate Paul tried to swindle them on, that's the one they're going to make \$23 million – they're going to make – I'm sorry. You're shaking your head at me.

A. No, I – I may have misled you. The last two are the ones that they're going to make 23 million on. The fourth one was the one he tried to swindle them on.

Q. Okay. That has nothing to do with the litigation?

A. Not really, no.

Q. So the Mitte Foundations have been long-time – the Mitte Foundation has been a long-time investor with Nate Paul before having anything to do with the Attorney General; is that right?

A. Yes.

Q. Okay. During the pendency of your representation, has leadership of the Mitte Foundation changed?

A. Yes.

Q. And do you know a man named Dilum – Dilum Chandrasoma?

A. I do.

Q. And he is no longer with the foundation; is that right?

A. That's right.

Q. And what were the circumstances, Mr. Chester, under which he exited that –

A. He was –

Q. – foundation?

A. He was arrested in 2019 for a domestic incident. The charges were later dropped, but we immediately asked him to resign.

Q. He was accused of beating his wife and son, I think?

A. I don't know the details, but it was some type of domestic violence incident.

Q. Something like that?

A. Charges were dropped though.

Q. I see. On a – on an affidavit of nonprosecution I'm sure by his family, true?

A. I don't know, but we asked him to retire nonetheless.

Q. Now, by the time the AG's Office intervened in your pending action, your client had spent almost \$800,000 or so with you, true?

A. Right. Most of that after –

MS. EPLEY: Objection, Your Honor, relevance.

PRESIDING OFFICER: Overruled.

A. Right. Most of that after Mr. Paul defaulted on a settlement, yes.

Q. (BY MR. LITTLE) Okay. So just to be clear, your law firm charged – and I want to make sure that we have this in order. These are charitable funds that the foundation is paying you with, right?

A. Yes.

Q. And you had charged that client almost \$800,000, right?

A. At reduced rates –

MS. EPLEY: Objection, Your Honor.

A. – since it was a charity.

MS. EPLEY: I'm sorry. Objection, Your Honor, relevance. If I could take him on a brief voir dire, I would be able to establish why attorney's fees are irrelevant to any conversation here.

MR. LITTLE: Mr. President, we don't voir dire on relevance. The clear relevance of this is, this is how the Mitte Foundation uses its money. It's at issue on direct; it's at issue now.

PRESIDING OFFICER: Overruled.

MS. EPLEY: It is also recuperate –

PRESIDING OFFICER: Overruled.

Q. (BY MR. LITTLE) Okay. So you were charging, I believe, \$450 an hour to the foundation, right?

A. At that time, yes.

Q. And that's well below your rack rate of 625 at the time, right?

A. Might have been 715 at the time. But, yes, it was well below my normal rate.

Q. And what's your rate now?

A. My standard rate is 715.

Q. Okay. And you had already – by the point the OAG's office intervened in the dispute, you had already gone through a AAA arbitration, correct?

A. We were just getting going in a AAA arbitration.

Q. And I'm sorry, this is – you and I are both business litigators, so this may be a little inside baseball, but AAA is American Arbitration Association, yes?

A. Right.

Q. Yes. And so what had happened was, you on behalf of your client filed a AAA proceeding to arbitrate a dispute with Nate Paul's businesses, right?

A. Actually, Nate Paul filed it, but yes.

Q. But you had counterclaims, right?

A. Yes, we did.

Q. And you prevailed, right?

A. We won, yes.

Q. But to be fair, you never gave the Attorney General's Office notice of that proceeding as is required by law, true?

A. I believe the law requires notice of a lawsuit, and there was a lawsuit, and I was a little late giving them notice.

Q. You were probably close to a year late, right, something like that?

A. I –

Q. I'm not –

A. Yes. However, the lawsuit was dormant for most of that year, but yes.

Q. I'm not being accusatory. You – you just didn't know.

A. I didn't know.

Q. Yeah.

A. The judge – the judge told me – she was the former head of charitable trusts, and she said, Have you given the AG's Office notice? I'm like, Oh, my God, and so I sent it the next day.

Q. Of course, of course. So the pendency of the intervention by the Attorney General's Office, it lasted a total of about three months, right?

A. Approximately.

Q. Okay. Between us business litigators, three months is nothing in the life of business litigation, is it?

A. Well, this has been going on five years, so I recognize your point. But those were some crucial three months that cost us a lot of time and money.

Q. Well, I want to talk about what happened during that period of time. So at some point, the Office of the Attorney General intervened, and that's – well, why don't we just go ahead and pull it out so everybody has it in the record. I'm going to show you what's been previously marked as Exhibit AG 156.

MR. LITTLE: May I approach the witness, Your Honor?

PRESIDING OFFICER: Yes.

THE WITNESS: Am I doing okay with the microphone?

PRESIDING OFFICER: Very well.

MR. LITTLE: Now, if you would, Mr. Arroyo, Exhibit AG 156. Thank you.

Q. (BY MR. LITTLE) And, Mr. Chester, just tell the jury, when was this filed?

A. June 8th of 2020, ten days after the stay was lifted.

Q. Okay. Now I'm going to hand you a really big document.

A. Oh, my Lord.

Q. I know. That's what I said too.

Now, this is the transcript of the hearing on your motion for sanctions, okay?

A. Okay. Which – which one? We had about eight of those.

Q. You got a bunch of them, right?

This one is from June 25, 2020, 17 days after the AG's Office intervened.

A. Okay.

Q. It's marked as AG Exhibit 13.

PRESIDING OFFICER: Mr. Little, are you entering this into evidence?

MR. LITTLE: I am, Mr. President. This is AG Exhibit 13. We move for admission.

MS. EPLEY: No objection.

PRESIDING OFFICER: I was glad you say you didn't want to read it. We would have been here for awhile.

No objection, enter 0013 into evidence.

(AG Exhibit No. 13 was admitted)

MR. LITTLE: Thank you.

Q. (BY MR. LITTLE) Now, Mr. Chester, as a litigator, if the AG's Office were going to intervene to help Nate Paul, your motion for sanctions and the receiver's motion for contempt and sanctions is probably a pretty good time to do it, huh?

A. I couldn't comment on that.

Q. Well, why don't you hold –

A. I'm not – I'm not sure what you mean.

Q. This is 433 pages. Why don't you just hold this booger up for the jury, if you would. Hold it up for them so they can see it.

A. The transcript is only about a first third; the rest of it's exhibits, but –

Q. Yes. And this was a lengthy hearing. You argued, you introduced evidence, offered and admitted it, true?

A. Yes, sir. I did my best.

Q. It looks like you did. It looks you did a very good job. You won this hearing, right?

A. I believe so, yes.

Q. Did the Office of the Attorney General fight for Nate Paul on any of it?

A. Not in this hearing.

Q. They didn't try to keep them out of contempt; they didn't try to keep them out of discovery sanctions, did they?

A. Not in this hearing.

Q. At some point in time toward the end of the June – toward the end of June, so maybe about three weeks or so, two to three weeks after the intervention, you were contacted about doing a mediation by someone at the AG's Office, true?

A. I was contacted almost daily about that from – from the moment the intervention was filed.

Q. And to be clear for the jury who may or may not be civil litigators – I know some of them are – mediation is just a formal settlement conference presided over by a mediator, yes?

A. Right. This would have been our third one in this case.

Q. Yes. And so what the AG's Office was proposing was to have the parties, the Mitte Foundation and the Nate Paul entities, come together with a mediator to see if they could reach a settlement, true?

A. Yes. It would have been the third mediation, and we had already settled the case. But yes, sir, you are correct.

Q. Okay. And to be clear, one of – you could not settle the case, correct?

A. Explain, please.

Q. Yeah. You couldn't settle the case, and one of the reasons was your other SEC attorneys or – well, let me – let me try to back into this a little bit differently.

How many lawyers do you have at McGinnis Lochridge?

A. 70 or so.

Q. Do you have securities enforcement attorneys?

A. Securities enforcement attorneys, no, we do not.

Q. Okay. Do you have securities litigators at your firm?

A. You're – you're looking at him.

Q. I'm looking at him?

A. Yes, sir.

Q. You're a man of many talents, aren't you? So –

A. I know a little bit about everything and not a lot about anything.

Q. That's great. Speaks very highly of you.

So, Mr. Chester, at this point in time, one of the concerns that you had was back in 2019 when Nate Paul was raided, the SEC had someone involved in that raid, true?

A. That was – yes.

Q. And one of your concerns about settling the case by the Mitte Foundation against Nate Paul and his entities was that if the SEC sued Nate Paul and got a receiver appointed, that receiver might try to disgorge the settlement, yes?

A. We call that clawback, and that was a concern.

Q. Yes. And it was a concern that you had and a very good reason not to settle, true?

A. And I expressed that to the Attorney General's Office on multiple occasions, yes, sir.

Q. To whom at the Attorney General's Office?

A. Josh Godbey and Darren McCarty.

Q. And Darren McCarty was – well, you used a word to describe him in your testimony before the House, right?

A. That was –

Q. What word did you use?

A. That was indiscreet.

Q. What word did you use to describe him?

A. It begins with an A and it ends with an E and it has seven letters.

Q. Okay. But you don't have any evidence that Ken Paxton ordered him to be an a-hole to you, do you?

A. Other than what Mr. McCarty told me.

Q. Oh, other than what Mr. McCarty told you, no?

A. Right.

Q. Okay. To be clear, maybe Darren McCarty was just born that way, right?

A. Or maybe he was just doing what he was told.

Q. But you don't know either way, do you?

A. I don't know either way.

Q. I didn't think so.

At some point in time, bankruptcy entered the discussion in this litigation, true?

A. Mr. Paul filed bankruptcy five minutes before the deposition of his vice president of accounting, yes, sir.

Q. Okay. And what – just tell the ladies and gentlemen of the jury, what happens when you file a bankruptcy petition on behalf of an entity in litigation?

A. There's an automatic stay in all litigation involving that entity.

Q. Okay. I'm going to approach you with what has been mark as Exhibit AG 212. And while I'm up there, I'm going to give you AG 41, too to save time. Okay?

A. Okay.

MR. LITTLE: Mr. President, we move for admission of Exhibits AG 212 and 41.

PRESIDING OFFICER: 41 has been preadmitted, so it's on our books.

MR. LITTLE: Thank you, Mr. President.

PRESIDING OFFICER: 212, any objection?

MS. EPLEY: No, Your Honor. Like most exhibits, these match things we would produce on our own.

MR. LITTLE: Mr. Arroyo, if you would, Exhibit AG 212.

PRESIDING OFFICER: Please admit 212 into evidence.

(AG Exhibit No. 212 was admitted)

Q. (BY MR. LITTLE) Exhibit 212 is a letter from you, true?

A. Yes, sir.

Q. Okay. And you – you're writing to Elizabeth Deichmann. Who is Elizabeth Deichmann?

A. She was a court administrator for one of the judges in Travis County district court.

Q. Okay. And you're notifying her of removing a – a briefing deadline, I guess, as a result of a bankruptcy filing; is that right?

A. Yes. When – as we discussed, when the automatic stay kicks in and everything stops, but the judges don't necessarily know that, so it's customary to notify them.

Q. Okay. So I just want to be clear. For one of the months – one of the three months that the AG was intervened in this lawsuit, it was subject to the automatic stay, right?

A. Right, although we were litigating like crazy in bankruptcy court.

Q. Yeah. But AG wasn't part of that, true?

A. I don't believe so.

Q. They were a noticed party, but they weren't part of the litigation in bankruptcy court, true?

A. I don't believe they appeared in bankruptcy court.

Q. Okay. So to be fair, you're litigating with this guy on behalf of the Mitte Foundation all over the place, AAA, state district court, multiple – multiple lawsuits, bankruptcy court.

A. Eight appeals.

Q. Eight appeals. And all that's with charitable money, right?

A. Yes, sir.

Q. Okay.

A. Trying to get our charitable money back, yes, sir.

Q. And – I believe you. And it sounds like you're going to get over seven times the initial capital outlay back, right?

A. Long, hard fight, but yes, sir.

Q. Okay. And to be clear for the ladies and gentlemen of the jury, in the previous two months before that bankruptcy filing by Nate's entity – Nate Paul's entity in this litigation, the AG's Office was trying to foster a settlement between the parties, true?

A. Yeah, they were trying to force a settlement on us.

Q. When you say "force," they can't force you to do anything, can they?

A. They were applying pressure. They did not – they weren't successful, but they tried.

Q. They couldn't force you to do anything, could they?

A. I'll stand by my previous answer. They were trying, but they could not force us.

Q. I appreciate your answer, but I need an answer to my question.

A. Okay.

Q. The Office of the Attorney General could not force you to settle anything, true?

A. No. Just pressure us.

MR. LITTLE: No further questions.

PRESIDING OFFICER: Redirect?

MS. EPLEY: No, Mr. President. Thank you.

PRESIDING OFFICER: Are both sides excusing the witness?

MS. EPLEY: Yes, Your Honor.

MR. LITTLE: We release this witness.

PRESIDING OFFICER: Thank you.

THE WITNESS: Thank you, Mr. President.

MS. EPLEY: The House calls Andrew Wicker.

PRESIDING OFFICER: Bailiff, bring in Andrew Wicker.

(Andrew Wicker entered the Senate chamber)

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

I do solemnly swear or affirm that the evidence I give upon this hearing by the Senate of Texas of impeachment charges against Warren Keith Paxton, Jr. shall be the truth, the whole truth, nothing but the truth, so help me God?

THE WITNESS: I do.

PRESIDING OFFICER: Please be seated.

MS. EPLEY: May I proceed, Mr. President?

PRESIDING OFFICER: You may proceed.

MS. EPLEY: Thank you.

ANDREW JAMES WICKER,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. EPLEY:

Q. Please state your name for the record.

A. Andrew James Wicker.

Q. Mr. Wicker, it's a large room. Yeah.

A. Okay. Andrew James Wicker.

Q. Thank you. I appreciate it.

Tell us a little bit about your background. Where did you grow up? Where did you go to school?

A. I went to school at Prestonwood Christian Academy. That's where I graduated from high school. I grew up in Prosper, Texas, a little town north of Frisco, Texas, in north Dallas.

Q. Let me pause you for a moment.

A. Okay.

MS. EPLEY: Can y'all hear him well enough?

A. No? Okay. How about this?

Q. (BY MS. EPLEY) Thank you. Much better.

A. All right.

Q. Please, go ahead.

A. My name is Andrew James Wicker. I grew up in Prosper, Texas. I grew up going to school at Prestonwood Christian Academy which is where I graduated from high school. I then continued on to go to SMU for undergrad, and then I went on to a graduate degree at Georgetown University.

Q. Okay. Can you tell us a little bit about what activities you were involved in in college or in – while getting your master's?

A. In terms of my involvement in college, my first job was working for Don Huffines on his Senate campaign. And then I continued on to later be involved with founding the Young Americans for Freedom chapter at SMU where I served as vice president. And then I helped refound the College Republicans for SMU.

I ended up working with several student organizations on a 9-11 flag memorial and pro-life memorial. We had a tiff, I would say, with the administration. And so I got involved in politics in that way. And then I continued on to Georgetown and landed in D.C. for my graduation. And then I went to work for General Paxton.

Q. Okay. Do you recall approximately what time or the date that you went to work for Ken Paxton?

A. My employment with the OAG started September of 2019.

Q. How did you originally meet Mr. Paxton?

A. I had met General Paxton previously both as my state senator but also as the Attorney General at various Lincoln Reagan Day Dinners. In terms of my employment and the opportunity to start working for him, I met him through Marc Rylander who was a previous associate in North Texas in terms of my community. And I was recommended for the position by Marc Rylander to General Paxton. And that's whenever I met him at the Marriott Marquis in D.C., and I was hired.

Q. Okay. If Jeff Mateer was the first assistant, did Mr. Rylander have a nickname as well?

A. He was known commonly as the first friend.

Q. Okay. And through that connection, you end up working at the Office of the Attorney General in what role? What did you do?

A. My title was executive aide to the Texas Attorney General, and then I was also on the campaign staff as well.

Q. And what does an executive aide do?

A. My responsibilities expanded and contracted as – as I also had to assume scheduling responsibilities. We had two schedulers during my time there. Whenever we did not have a scheduler, I assumed those responsibilities. But my standard job responsibilities during – whenever I was performing the functions as an executive aide was to ensure that the General was going to his schedule on time, that he was prepared for those appointments, and that – and that he had all necessary documents and context to the – to the discussions that he was having for that day.

Q. That sounds like a great deal of access to the Attorney General; is that fair?

A. Yes.

Q. Approximately how much time did you spend with each other in any given day?

A. At least eight hours, normally closer to probably ten.

Q. And was that just weekdays or weekends as well?

A. That would include weekends.

Q. How often was Attorney General Ken Paxton in Houston – I mean, in Austin in 2020?

A. This was during COVID. So after probably the first three or four weeks of COVID setting in, he spent the majority of his time in Austin starting in probably about April, May time frame through the remainder of 2020.

Q. And where was Senator Angela Paxton?

A. She regularly split her time both between their home in McKinney and in Austin.

Q. What was your relationship with the Paxtons individually and as a couple?

A. Individually, I would call General Paxton as – as a friend. I spent a great deal of time with him. He and I bonded over a good number of activities, such as watching football, sometimes talking politics, but just – just talking life.

With Senator Paxton, I would say that she was nothing but loving and caring. I think she also understood that the demands of the job kept me away from my family. So in many ways, she was kind and understanding in the way that a mother would be normally.

As a couple, I would say that they were incredibly welcoming and caring to me and always inclusive.

Q. So fair to say there's no animosity or bad blood between you and the Paxtons?

A. Not from me, no.

Q. Are you part of some vast conspiracy to harm them?

A. No.

Q. Are you in league with TLR or the Bushes?

A. No.

Q. Are you here to tell the truth?

A. Yes.

Q. I'm going to turn your attention to Nate Paul. Are you familiar with that name?

A. Yes.

Q. How so?

A. During 2020 I was introduced to Nate Paul, and there were a number of activities and discussions that revolved around Nate Paul throughout 2020.

Q. Can you tell me the first time you remember hearing of Nate Paul or meeting him?

A. The first time I remember meeting Nate Paul would have been February or March of 2020. General Paxton and I met him for lunch at Terry Black's Barbecue.

Q. Was it just the three of you?

A. It was.

Q. And what was the topic of conversation?

MR. BUZBEE: Objection, hearsay.

MS. EPLEY: Your Honor –

PRESIDING OFFICER: Sustained.

MS. EPLEY: May I please respond? Anything from Ken Paxton is an admission by a party opponent. Nate Paul is very clearly tied to a conspiracy, at least in terms of the evidence before this Senate, and Drew Wicker is available for cross-examination. None of that evidence is hearsay.

MR. BUZBEE: Again, Your Honor, the question she asked, she did not specify who was talking. Anything Nate Paul may or may not have said would be hearsay.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) In the course of getting to know Nate Paul and Ken Paxton, as a friendship – let me do this differently.

How were the interactions between Nate Paul and Ken Paxton?

A. I'm sorry. Can you state this question again?

Q. Yes, sir. What was the relationship like between Nate Paul and Ken Paxton?

MR. BUZBEE: Objection, Your Honor, speculation. He can – he can testify about what he saw and maybe what he heard from Ken Paxton, but that's the extent of it.

MS. EPLEY: It's foundational evidence, Your Honor. He can testify to his rational perception of the facts.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) Did you see the two of these men interact with one another?

A. Yes.

Q. And what did you see in terms of their demeanor?

A. A cordial relationship.

Q. Did Mr. Paxton look to be under pressure to you?

A. No.

Q. Now, I'm going to turn your attention to the second time you had lunch with them. Do you recall that?

A. Yes.

Q. And where was that?

A. That was at Polvos downtown in Austin.

Q. Do you recall approximately when?

A. This would have been May-June time frame.

Q. Okay. And was anybody else present for that lunch?

A. Ryan Bangert.

Q. Does Mr. Bangert work for Attorney General Ken Paxton at that point?

A. He did.

Q. Is he there in his personal capacity or as part of his job duties?

A. He was asked by the General to attend as part of his job responsibilities.

Q. And what was the topic of that conversation?

A. The Mitte Foundation.

Q. Did anything change in regards to what Mr. Paul wanted between the first and the second lunch?

MR. BUZBEE: Objection, Your Honor. This calls for hearsay again.

MS. EPLEY: Your Honor, if I may. I would really appreciate it if you would look at 801(e)(2)(D) specific to coconspirator statements.

MR. BUZBEE: Your Honor, there's no evidence of any silly conspiracy. This is hearsay.

MS. EPLEY: This entire trial has been about a conspiracy, Your Honor.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) Who paid for lunch?

A. Nate Paul.

Q. How did you perceive their demeanor and interactions with one another, hostile or friendly?

A. Between Nate Paul and Ken Paxton?

Q. Yes, sir.

A. Friendly.

Q. What about Ryan Bangert? How was his demeanor?

A. Inquisitive.

Q. Did he seem to agree with what it is they wanted?

MR. BUZBEE: Objection, Your Honor, speculation. We've heard already from Mr. Bangert.

MS. EPLEY: That is exactly why it's relevant, Your Honor.

MR. BUZBEE: It's speculation.

MS. EPLEY: He attacked the credibility of Mr. Bangert. So it is not only not hearsay because he's a representative working for Attorney General Ken Paxton who would have adopted a belief in or offered contrary information to, in addition to that, it's a consistent statement used to rehabilitate Ryan Bangert because of their attacks.

MR. BUZBEE: Your Honor, I'm sorry to belabor this, but Mr. Bangert testified. And to have this witness tell us what Mr. Bangert's attitude was about some lunch three or four years ago is just improper.

MS. EPLEY: Time frame has nothing to do with exceptions to hearsay, Your Honor.

PRESIDING OFFICER: Overruled.

MS. EPLEY: Thank you.

Q. (BY MS. EPLEY) Can you please tell me what Ryan Bangert was saying in response to this conversation?

MR. BUZBEE: Okay. Your Honor, now she changed the question and she –

MS. EPLEY: I'm entitled to do that.

MR. BUZBEE: Let me finish my objection, please.

Now she – instead of the witness answering the last question, now she's asked a clearly hearsay question.

MS. EPLEY: I went more specifically at it after the Court's ruling, which I'm entitled to do.

MR. BUZBEE: She cannot ask this witness what Ryan Bangert said.

MS. EPLEY: I –

MR. BUZBEE: She just can't do that, and that's what she just did.

PRESIDING OFFICER: Sustained.

MS. EPLEY: Thank you, Your Honor.

Q. (BY MS. EPLEY) I'm going to turn your attention to the third lunch involving Nate Paul and Ken Paxton. Can you tell me when that was?

A. This would have been June-July time frame.

Q. Of 2020?

A. Yes, ma'am.

Q. And who was present at that lunch?

A. General Paxton, myself, and Nate Paul.

Q. What was the topic of conversation for this lunch?

A. The FBI raid on Nate Paul's home and office.

Q. Specifically access to the affidavit underlying that search warrant?

MR. BUZBEE: Objection, leading. And again, Your Honor, I'm sorry to interrupt, but she's asking about what Nate Paul said at a lunch. That's improper, and that would be hearsay.

MS. EPLEY: Your Honor, may we approach?

PRESIDING OFFICER: You may approach.

(Conference at the bench off the record)

MS. EPLEY: Mr. President, I'm sorry to interrupt, but I would like to ask for some time back and to stop the clock, please.

PRESIDING OFFICER: The clock stopped when you came up.

MS. EPLEY: Thank you.

(Pause in proceedings)

PRESIDING OFFICER: We will sustain the objection.

MS. EPLEY: May I proceed?

Q. (BY MS. EPLEY) Outside of those three lunches in which you ate with Nate Paul and Ken Paxton, did you have occasion to be around them on other – on other times, other occasions?

A. Yes.

Q. And what kind of things would you do together? Where would you see them together?

A. There were two types of instances. The first was continued lunches, usually at Polvos. The second was meeting at Nate Paul's place of business, and I – I was not part of those discussions whenever those did occur.

Q. So to make sure that I understand, there would be times you were at lunch but not seated at the table and eating with them?

A. That's correct.

Q. How many times did that occur?

A. Dozen, dozen and a half.

Q. And what about trips to Nate Paul's business, how many times do you recall that happening?

A. At least a half dozen.

Q. Were you ever at Nate Paul's home?

A. No.

Q. And did you ever see Nate Paul join Ken Paxton at the office?

A. Only once.

Q. Okay. We'll come back to that in a moment.

MS. EPLEY: Your Honor, at this time the House offers House Exhibit 704, which is a public record. It is already on file, and there's a business records affidavit attached that has been on file with the Court and defense for over 14 days.

PRESIDING OFFICER: Any objection once you read that?

MR. BUZBEE: Your Honor, there's a facial – facial problem on this exhibit. It claims an affidavit proving up 12 pages of records, but apparently there's 23. I don't know if there's anything in here that matters, but the affidavit is improper and obviously inaccurate, unless somebody wants to correct me.

MS. EPLEY: Your Honor, it's a record of the Texas Department of Public Safety. And pursuant to the rules related to public records, it would be incumbent upon Mr. Buzbee to establish why he thinks the records would be inaccurate. Also, the page count is likely attributable to the fact that photographs were enlarged and attached.

MR. BUZBEE: Again, Your Honor, she's the proponent of this document. It says it's 12 pages. It's not 12 pages. I mean, that right there gives us some element of maybe it's not trustworthy and it's – she's the proponent. She needs to show us why the affidavit doesn't match the documents attached. That's her job.

MS. EPLEY: Your Honor, I'm confident in my response as it exists, but let me speak to my co-counsel out of a moment of respect.

MR. BUZBEE: May I approach and give the Court a copy of what I'm looking at?

MS. EPLEY: I would also add that at the conclusion of each of the records is a notification that it's a certified copy. It comes in in three different exceptions to hearsay: business record, public record, and it's a certified copy.

Additionally, I emphasize that the Attorney General works for the State of Texas, and these are State of Texas records. It's intellectually dishonest for him to fight them.

(Pause in proceedings)

MS. EPLEY: Mr. President, while you're considering, can I also ask that the clock be stopped and we returned about ten minutes between the last two sections of this? It's an excellent defense strategy, but it's slowing us down since we agreed to all of their exhibits and they would not for ours.

MR. BUZBEE: Your Honor, I'm – I'm sorry. I've got to – I mean, this is important. First off, I've been called intellectually dishonest because I look at an affidavit that says 12 pages and it's 23 and now that we're playing games because they're offering an exhibit that's clearly not what they claim it is. So I – I'm just making my objections, and that's all I'm doing.

PRESIDING OFFICER: Yes. You stipulated it was 12; it's 23.

MS. EPLEY: Yes.

PRESIDING OFFICER: So I am going to overrule the objection because there are five large photographs that may account for it and it is a government document, but I'm not giving you back the time because if you had explained this up front, we wouldn't be having this – this issue.

MS. EPLEY: That seems fair, Mr. President. I'll go faster.

PRESIDING OFFICER: Overruled. Here's your document back.

MS. EPLEY: Stacey, would you turn to – don't publish it yet, but –

PRESIDING OFFICER: 704 is admitted into evidence.

(HBOM Exhibit No. 704 was admitted)

MS. EPLEY: – turn to the picture we discussed.

Q. (BY MS. EPLEY) If we were to show you a picture of Nate Paul, would you be able to identify him?

A. Yes.

Q. And are you going to feel like I've led you, or if I show you the wrong picture, will you correct it?

A. Yes.

Q. Yes, you'll correct me?

A. Yes, I will correct you.

Q. Thank you, sir.

MS. EPLEY: Permission to publish?

PRESIDING OFFICER: Yes.

Q. (BY MS. EPLEY) Who do you see on the screen before you?

A. That is Nate Paul.

Q. And is this the same person that was having lunch with Ken Paxton on those occasions and whose office that you visited?

A. It was.

Q. And is this the same person who is currently facing charges in the federal courts?

MR. BUZBEE: Objection, hearsay and relevance.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) Is this the same person who was discussing the Mitte Foundation in front of you?

MR. BUZBEE: Objection, hearsay. We've already discussed this. This is hearsay.

MS. EPLEY: He was having the conversation with Ken Paxton who is a party opponent, Your Honor. And again, I would direct you to 803 – or, excuse me, 801(e) –

PRESIDING OFFICER: Overruled.

MS. EPLEY: Thank you.

Q. (BY MS. EPLEY) Is this the same person who was discussing Mitte with you and Ken Paxton?

A. Yes.

Q. The same person who discussed that in front of Ryan Bangert?

A. Yes.

Q. And was he making requests or pressure upon the office?

MR. BUZBEE: Objection, hearsay.

PRESIDING OFFICER: Overruled.

Q. (BY MS. EPLEY) What kind of things was he asking the office to do?

MR. BUZBEE: Objection, Your Honor. That's hearsay.

MS. EPLEY: Let me go back and do it exactly the same way that he just overruled.

Q. (BY MS. EPLEY) Is this the same person who was talking to Nate Paul and Ken Paxton about Mitte?

A. Yes.

Q. And what kind of things was he asking the office to do?

MR. BUZBEE: Objection, assumes facts not in evidence. No one's established he was asking for anything. Hearsay.

Q. (BY MS. EPLEY) What was he asking of the office?

MR. BUZBEE: Again, Your Honor, she just asked the exact same question. Hearsay and assumes facts not in evidence.

MS. EPLEY: I understand why he doesn't want this in, Your Honor, but can we stop the clock again?

PRESIDING OFFICER: No, we're not going to stop the clock each moment we're having throughout the trial. If there's a long delay, I will stop the clock and give you time back.

I'm going to sustain the objection. And both sides need to stop the ongoing speaking objections.

MS. EPLEY: Yes, Your Honor.

May I get a clarification? A moment ago it was overruled and then sustained. Is Nate Paul going to be considered a coconspirator for the purpose of this line of questioning or not?

MR. BUZBEE: Your Honor, before you – if I could. A conspiracy requires an agreement. Can I take the witness on voir dire to establish there's never an agreement?

A conspiracy at its heart requires an agreement between two parties and then acts in furtherance of the conspiracy. There's been no evidence whatsoever in this trial, there can be no evidence in this trial of any agreement between Nate Paul and Attorney General Paxton. This witness will confirm that. I would like to take him on voir dire to establish that, and we'll put an end to all this.

MS. EPLEY: If I may clarify. It is not incumbent on the sponsoring witness to establish conspiracy. That is an obligation of the Court or the Presiding Officer. This entire case has been about Nate Paul and Ken Paxton. And I understand why they don't want it in, but that goes to weight, not admissibility, and he can be crossed on these issues.

MR. BUZBEE: If he –

MS. EPLEY: This entire trial has been about Nate Paul and Ken Paxton.

MR. BUZBEE: Two questions, Your Honor, to establish with this young man that there's never an agreement; he never heard an agreement. No agreement, no conspiracy, and we can quit talking about that. They can use this word all day long like they've been, but they cannot establish an agreement between Nate Paul and Ken Paxton.

MS. EPLEY: If I may.

PRESIDING OFFICER: We'll stop the clock for a moment.

(Pause in proceedings)

PRESIDING OFFICER: Ms. Epley, Mr. Buzbee, come up.

(Conference at the bench off the record.)

PRESIDING OFFICER: Ms. Epley, you may – we've already ruled on that issue. You may move forward.

MS. EPLEY: Yes, Your Honor. Based on the – the ruling, I will proceed.

Q. (BY MS. EPLEY) I'm going to turn your attention to specific silos in the office. Are you comfortable with that term? Do you know what I mean in terms of Mitte, foreclosure, open records, and Brandon Cammack or the search warrant?

A. Yes.

Q. Okay. Turning your attention to the open records request, who was in charge of the division during that relevant time period?

A. Ryan Vassar.

Q. And do you recall an occasion in which you were asked to collect a file specific to an open records request?

A. Yes.

Q. What were you asked to do?

A. I was asked to pick up those documents from Ryan Vassar and provide them to General Paxton.

Q. Did you do that?

A. Yes.

Q. What, if anything, do you recall about that package?

A. I recall that it was in a sealed manila envelope, and it had a CD with it.

Q. And when you say "CD," I know common parlance, but can you explain specifically what you mean?

A. A compact disk to go into a computer to maintain digital files.

Q. So something with structure to it that would hold additional data?

A. Yes.

Q. Why do you remember it being there?

A. Because it was on the outside.

Q. Where did you take that file?

A. General Paxton.

Q. How long – did it stay with General Paxton, or did you collect it at some point?

A. I did collect it at some point.

Q. How long was it gone? How long was it with –

A. A week, a week and a half.

Q. After you collected the file, where did you return it to?

A. Ryan Vassar.

Q. Do you recall during this time frame whether or not you had done any pickups or deliveries involving Nate Paul and Ken Paxton?

A. The deliveries that I made to Nate Paul took place in May and June.

Q. Okay. And can you tell us about that?

A. There were three occurrences in which I met Nate Paul to pick up or deliver items. The first was to deliver a manila envelope. The second was to pick up the General's phone that he had left at Nate Paul's office. And the third was to pick up documents related to the Mitte Foundation to deliver to Ryan Bangert.

Q. Now, you mentioned the delivery of a manila envelope. Do you recall whether that was substantially similar to the one that you had picked up from Ryan Vassar and delivered to Ken Paxton?

A. I do not.

Q. Do you recall how heavy or thick the package was?

A. I do not.

Q. Could you use your fingers to demonstrate for the Senators similar to the way you explained it to us the first time? What is the smallest and largest it could have been?

A. The smallest that it could have been –

MR. BUZBEE: I object – I'm sorry, Drew.

Your Honor, I object. He already said he doesn't remember. Now he's just speculating.

PRESIDING OFFICER: Overruled.

Q. (BY MS. EPLEY) Please, go ahead.

A. The way I explained it to the House Impeachment Managers was this size to this size.

Q. And do you recall whether or not that package had any CDs attached to it?

A. I do not.

Q. Do you know if it contained any?

A. No.

Q. So would you be able to tell these Senators that it was in any way substantially different than from what you received from Ryan Vassar and delivered to Ken Paxton?

A. No.

Q. Okay. When we first spoke, do you recall approximately when that was?

A. May.

Q. May?

A. May of this year.

Q. And did you want to speak with us?

A. No.

Q. What did you understand at the time – whether you were correct or incorrect, what did you understand we were doing?

A. My understanding was that there were questions about funding the settlement of the whistleblowers.

Q. And when you arrived, was it subsequent to a subpoena?

A. It was.

Q. Was that necessary in order to have you attend?

A. It was.

Q. Did you arrive alone?

A. No.

Q. Who were you with?

A. My attorney.

Q. Who is your attorney?

A. Jon Evans.

Q. Is he present here today?

A. He is.

Q. And why did you retain Mr. Evans?

A. I retained Mr. Evans three years ago after the events that occurred in the fall of 2020. I retained Mr. Evans after being reached out to by the FBI. And after being offered counsel by the Office of the Attorney General, I chose to retain my own counsel that would look out for my own interests.

Q. I want to make sure that I understand. At some point, the Office of the Attorney General offered to provide you an attorney?

A. Yes.

Q. Are you under the impression you had done anything wrong?

A. No.

Q. Did the Office of the Attorney General indicate whether or not they wanted you to speak to FBI?

A. They indicated that they would not like me to speak to the FBI.

Q. And you said to protect your interests. What concerns did you have about using their attorney as opposed to your own?

A. I would assume that an attorney employed by the Office of the Attorney General would look out for the interests of that institution, but not for me.

Q. And did you feel then that your motives or your interests were not aligned?

A. I didn't know that they were not aligned, but I wanted to make sure that they were aligned to my interests.

Q. Okay. When we had you come in and speak to us in May of 2023, what was your demeanor in your opinion when you first came in? Were you forthcoming and happy to talk?

A. No.

Q. Were you honest to the best of your ability?

A. Yes.

Q. And was that statement consistent with the testimony you're giving today?

A. Yes.

Q. And was it consistent with the testimony or at least the statements you had provided three years before that date?

A. Yes, they were.

Q. I saw you hesitate. Did you – did you correct yourself on your own at some point during the conversation with us?

A. I did.

Q. What was that about?

A. The correction was a question by the House team asking me whether or not I had delivered documents to Nate Paul. Over the course of that discussion, I was asked about it again, and I recalled that I had, in fact, done so. And I have since verified with my attorney and with other law enforcement officials that that is consistent with my testimony from three years ago.

Q. Thank you, sir.

There was some implication that we had threatened, or I think it was Mr. Buzbee talking about squeezing you. Did you feel squeezed?

A. No.

Q. Did we threaten you at all?

A. No.

Q. Did we lead you or give you the answers?

A. No.

Q. So when you made that correction, why did you do it?

A. I did so because I remembered something. And I had misrepresented my testimony whenever I provided an incorrect answer earlier, and so I sought to correct that.

Q. Thank you, sir.

I'm going to turn your attention then to the foreclosure and specifically whether or not you overheard any conversations involving Ken Paxton related to the foreclosure.

A. Okay.

Q. Do you recall any conversations?

A. I recall one conversation.

Q. And what was that?

A. It was a conversation where I was in Ryan Bangert's office and overheard he and Ryan Bangert discussing –

Q. Sorry, Drew. "He" who?

A. General Paxton and Ryan Bangert were discussing the opinion, and General Paxton asked Mr. Bangert if he had been able to reach out and contact an individual. Mr. Bangert responded that this individual had not been helpful in the matter that he had reached out about and –

Q. Let me pause you. Not helpful in what way? They just declined to assist?

A. I'm – I'm not completely aware, no.

Q. Okay. Go ahead.

A. The second part of that conversation was in which the General expressed a desire to make sure that grandmothers were not evicted from their homes, and that's where I learned about the foreclosure opinion.

Q. Are you aware that there was a stay related to residential homes at the time?

A. At the time I probably was.

Q. So the foreclosure letter would have impacted commercial business, not residential?

MR. BUZBEE: Objection, leading and speculation.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) I'm going to turn your attention to the Omni Hotel in the summer of 2020. Were you familiar with that hotel at that time?

A. I was.

Q. And why is that?

A. During the course of General Paxton's renovations at his home, that's where he was staying in the interim.

Q. Okay. I'm going to come back to the renovations at his home, but help me understand. Do you have any personal knowledge of Mr. Paxton being at the Omni in the summer of 2020?

A. I do.

Q. How is that?

A. I – General Paxton called off his protective detail for the time that he was staying at the Omni Hotel. And as part of my job responsibilities, I picked him up and dropped him off each day to the Omni Hotel.

Q. Did Mr. Paxton drop his security detail on few or many occasions in 2020?

A. It came in spurts.

Q. Help me understand "spurts." What would that frequency be?

A. There were times at which it was highly frequent and I was his primary means of transportation, and there other times at which we utilized the protective detail.

Q. And while we're on the topic so that I can move a little faster, what about items being on a schedule? Was everything he did through OAG or personally reflected on a schedule?

A. No.

Q. Is the schedule supposed to contain the comings and goings of the Attorney General?

A. More generally, yes.

Q. Why is that?

A. For the assistance of DPS specifically, I would provide a two-week Outlook on the schedule so that they could understand where appointments were, what time, who their POC was at that place and time so that they coordinate security efforts.

Q. And were there occasions in which Mr. Paxton's plans were not contained on his schedule?

A. Yes.

Q. Specifically related to Nate Paul?

A. Yes.

Q. How do you know that?

A. Because I managed the schedule.

Q. Did you have concerns about that at the time?

A. No.

Q. At some point, did it become concerning enough to you for you to speak to a supervisor?

A. Yes.

Q. Who was your supervisor?

A. Blake Brickman.

Q. And why would you go to Blake Brickman about such a concern?

A. I was receiving some new requests in terms of both transportation as well as documentation and scheduling, and I was trying to understand the best way to handle that with my boss, who was General Paxton.

Q. I'm going to return you back to the Omni. On one occasion, were you there with your family?

A. Yes.

Q. Can you quickly tell the Senate why you were there and for how long?

A. My family had come down for a weekend. I don't recall if there was any special significance for that occasion. They were down there to stay there for the weekend. General Paxton was also there at that time due to the renovations being conducted on his home. And they were staying down there, and I chose to stay with them for that – for the time that they were at that hotel as well.

Q. Did you have occasion to see Ken Paxton while you were there?

A. I – I did run into him, yes.

Q. Can you please tell us about that?

A. My mom and sister had gone up to the hotel room. My father and I had run back to my apartment downtown. Upon returning to the Omni Hotel and entering the lobby, we turned right to go into the elevators. We had pushed the button, and we were waiting on the elevators.

And on the other side of the door, my father and I heard a lively discussion. Just to be clear, not adversarial, just lively. And whenever the doors opened, two individuals exited. One was General Paxton. He was in a – he was in workout attire, and he told us that he was going to the gym. The other individual was in a dress and high heels and exited rather quickly. General Paxton walked out, shook my hand as well as my father's. We spoke for a moment, and then he told us he was going to work out.

Q. Was there anyone else on the elevator for which that lively conversation could have included?

A. No.

Q. And what, if anything, did you notice about the dynamic between the two, if anything at all?

A. I – I couldn't overhear the conversation, but whenever they exited, she quickly exited the elevator and that was the only – that was the only time I really saw them interact in person.

Q. Did that cause any concern for you, or questions?

A. It did – it did spur some questions.

Q. And who would you have directed those questions to?

A. I reached out to Marc Rylander about that.

Q. And why did you reach out to Marc Rylander?

A. Prior to coming to the Office of the Attorney General, I had been informed that there had been –

MR. BUZBEE: Objection, hearsay.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) Did you have reason to think, whether true or not true on the part of Mr. Rylander, this might be something of interest to him?

MR. BUZBEE: Objection.

A. Yes.

MR. BUZBEE: Again, Your Honor, she's just trying to ask a different way. This is based on hearsay.

PRESIDING OFFICER: Overruled.

Q. (BY MS. EPLEY) Did you have any reason to think this might be of interest to him?

A. Yes.

Q. And was it?

A. Yes.

Q. Did he seem to understand who it was you had seen?

A. Yes.

Q. Did you receive a photograph to confirm?

A. Yes.

Q. Now, I'm not going to show you the same photograph, but I am going to show you a person. Would you be able to tell me if this was the person that you saw on the elevator?

A. Yes.

MS. EPLEY: May I approach? Oh, actually, so used to government work, I forget we have technology. Can I turn everyone's attention to 704? And, Stacey, would you pull up the photograph, please?

Q. (BY MS. EPLEY) Do you recognize the person in this picture, whether you know her name or not?

A. I do.

MS. EPLEY: For purposes of the record, the person being depicted in the photograph is Laura Olson as established by her Texas driver's license.

Thank you, Stacey.

Next, Your Honor, the House offers Exhibit 699. It is a business record as established by the affidavit on the face. I'm confident that the page count will match this time as there's no substantial photographs. And it has been on record for over 14 days. And it is being admitted by agreement, as I understand it.

PRESIDING OFFICER: Any objection?

MR. BUZBEE: No objection, Your Honor.

PRESIDING OFFICER: Admit Exhibit 699 into evidence.

(HBOM Exhibit No. 699 was admitted)

Q. (BY MS. EPLEY) Now, Mr. Wicker, I'm not going to have you do this, but inside of an apartment complex application would it explain where you have lived before and where you're going to live now? That didn't make sense.

Are you aware of the fact that application leases will establish your prior address as well as your current one?

A. Yes.

Q. And is the name on that record the same as the driver's license Laura Olson?

A. It is.

Q. Is that the woman that you saw step off the elevator with Ken Paxton?

A. It is.

Q. You mentioned home renovations. Do you remember why those renovations were occurring?

A. There were storms late spring that caused water damage to General Paxton's Austin home.

Q. Okay. I don't want you to give the address, but could you give us the street name so that we're all familiar with the fact that we're speaking about the same thing?

A. Marganita Crescent.

Q. So you said spring. Do you recall what month the damage occurred in?

A. This probably would have occurred March-April time frame.

Q. Okay. And do you know where the damage was?

A. To the best of my recollection, it was confined to the master bedroom.

Q. Why would you know that?

A. I met with the insurance adjuster multiple times at the request of General Paxton while he was out of town or in other meetings.

Q. So there were occasions where you were authorized on his behalf to conduct personal business; for example, the adjustment of the insurance?

A. I was authorized to greet the insurance adjuster and show them the home.

Q. Does that mean you would sometimes also receive records related to the home renovation?

A. I can only think of one occurrence in which that happened.

Q. And what was that?

A. I received an invoice that I had been included on from The Steam Team.

Q. And are you aware as the adjuster that there are some renovations that were done pursuant to the water damage itself and covered by insurance?

A. I would assume so, yes.

Q. Okay.

MS. EPLEY: I'm going to turn everyone's attention to House Exhibit 703. Again, it's a business record. It's Cupertino Builders. There's a business records affidavit, and it's been on file for over 14 days.

PRESIDING OFFICER: Any objection?

MR. BUZBEE: No, sir.

PRESIDING OFFICER: Admit 703 into evidence.

(HBOM Exhibit No. 703 was admitted)

MS. EPLEY: Stacey, would you please pull up the face of the email that's attached.

Q. (BY MS. EPLEY) Mr. Wicker, do you recognize the name of the individual who sent the email?

A. Kevin Wood.

Q. And who is Kevin Wood?

A. Kevin Wood was the lead contractor at the Paxton's home renovation.

Q. Is he someone that you met personally?

A. He is.

Q. How many times did you see or speak with Kevin Wood?

A. At least a half dozen.

Q. And do you see that on the two line is the name Raj Kumar?

A. I see in – yes, I do.

Q. And moving down further, do you see that Nate Paul was the – or npaul@worldclass.com was the person who emailed Kevin Wood?

A. I do.

Q. Is the body of that email related to home items or repairs, things that need to be doing – done?

A. It would appear so, yes.

Q. I'm going to have Stacey then turn to the first couple of pictures in the file. Let me see the next.

Does anything about the home being depicted look familiar to you?

A. Several of these images do appear to be that that's the Paxton's dining room.

Q. Are you wondering or are you sure?

A. No, I'm positive.

Q. Thank you. How many occasions – on how many occasions were you at the Margranita home in the summer of 2020 during renovations?

A. During the renovations, a half dozen.

Q. Okay. And do you recall any times that you were present where Kevin Wood and Ken Paxton were both there?

A. I do.

Q. I'm going to turn your attention to a conversation about the kitchen. Do you recall whether or not there was any damage to that area of the home?

A. I do not.

Q. Would it make sense then that these are things external to insurance coverage?

A. It would make sense.

Q. Were those ever – is that an area of the home that you ever discussed in regards to being an adjuster – or assisting the adjuster rather?

A. Not to my recollection.

Q. Okay. Can you walk us through any conversations you overheard between Kevin Wood and Ken Paxton?

MR. BUZBEE: Objection, Your Honor. Anything Kevin Wood may have said would be hearsay.

MS. EPLEY: At this stage, Your Honor, it's not being offered for the truth, it's to set an anchor. I will get more specific in a moment.

MR. BUZBEE: Again, Your Honor, the question is very nonspecific. And anything she's going to ask about what Kevin Wood may have said is hearsay.

MS. EPLEY: Your Honor, it is clear from the course of the conversation that Kevin Wood was acting as a service provider. At that point the truth doesn't matter. At the point in which it does, it goes to his motive, intent, and plan.

MR. BUZBEE: Again, Your Honor, you've already – she just said what Kevin Wood said wouldn't matter. I agree. Hearsay and irrelevant.

MS. EPLEY: I didn't say it ultimately wouldn't matter, Your Honor. It will matter very much.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) Did you – did you get an idea as to what the relationship was between Ken Paxton and Kevin Wood?

A. Kevin Wood was the lead contractor on General Paxton's home.

Q. And if Mr. Paxton then wanted additional things or changes to the renovation, whom would he speak with?

A. Kevin Wood.

Q. Is there any other way Mr. Paxton would find out the timing of renovations or the duration of renovations or the cost of renovations other than Kevin Wood?

MR. BUZBEE: Objection, compound and speculation. She is asking what Ken Paxton would do and what he would know. That's pure speculation.

MS. EPLEY: It's an operative fact, Your Honor. There's no other way for him to know it.

MR. BUZBEE: Again, she just asked what Ken Paxton might know. That's speculation.

PRESIDING OFFICER: I'm going to overrule. You can answer, if you know.

A. Not to my knowledge.

Q. (BY MS. EPLEY) I don't even remember the question at this point, frankly. I might have to read it back.

At any point were there conversations about changes to the property?

A. Yes.

Q. Isn't that the entire point of a contractor?

A. Yes.

Q. And at any point were there discussions about particular items in the home?

A. Yes.

Q. Would what matters to you be whether a counter is granite or not or whether the renovations are occurring at this stage?

MR. BUZBEE: Objection, vague and relevance.

Q. (BY MS. EPLEY) Did you care what his countertops were made of?

MR. BUZBEE: Again, Your Honor, what does it matter whether young Drew Wicker cares about the countertops? It's irrelevant.

PRESIDING OFFICER: Overruled.

Q. (BY MS. EPLEY) Did you care what the countertops were made of?

A. No.

Q. Did anything about a conversation related to countertops concern you?

MR. BUZBEE: Objection, hearsay.

MS. EPLEY: It is not being offered for the truth of the matter asserted. There's no statement. It asks if he overheard something he was concerned about.

MR. BUZBEE: She just asked for hearsay right there, Your Honor. That's hearsay.

MS. EPLEY: No, Your Honor, it goes to state of mind.

PRESIDING OFFICER: Overruled.

MS. EPLEY: Thank you.

Q. (BY MS. EPLEY) At some point did you hear something that concerned you?

A. Yes.

Q. What was that?

MR. BUZBEE: Objection, hearsay.

MS. EPLEY: Your Honor, there's three places. One, nucleus of operative facts because it goes to the center of this. Specific to hearsay, it goes to state of mind. There's no other way for General Paxton to know how long something is going to take or what it will cost other than speaking to his contractor. And, finally, it goes to Drew Wicker's state of mind in regards to what he does next because of what he heard whether the statement is true or not.

MR. BUZBEE: Your Honor, we need to know who she's talking about was speaking. She's – I think she's trying to elicit testimony about what this man heard a contractor say who has been subpoenaed and who can come here and testify. This is not the right witness for that.

PRESIDING OFFICER: I'm going to overrule. You're not saying it's the truth of the matter, just the statement was made.

MS. EPLEY: That's at this point, Your Honor. Mr. President, thank you.

Q. (BY MS. EPLEY) Did you hear – what did you hear that concerned you?

A. Kevin Wood stated that he would check with Nate on several of the items.

Q. Now, was that about how long something would take or when something would be delivered?

A. No, sir, it was – no, ma'am, it was with regards to cost.

Q. Now, if Kevin Wood is a contractor who is trying to make money on his own, why would he need to check with anyone?

MR. BUZBEE: Objection, speculation.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) So let's back up a little bit. What would he have to check with Nate on specifically? Please tell us in detail what you recall.

A. He was stating that he would need to check with Nate on the cost of countertops and renovations to the cabinetry in the kitchen.

Q. I'm going to be very specific. Did he have to check on the cost or did he have to check on – did – did Mr. Wood seem to already understand what the cost would be?

A. Yes.

Q. And what was the cost?

A. He mentioned the total of \$20,000.

Q. For what?

A. For the cabinetry and the countertops.

Q. And what was Ken Paxton's response, that he wanted to do it or did not want to do it?

A. He stated that he would like to move forward.

Q. And then what was said by Kevin Wood?

A. He said I would check with Nate.

Q. Did you relay that conversation to anyone?

A. I relayed it to two individuals.

Q. Were either of them people who worked above you at the Office of the Attorney General?

A. Yes.

Q. Were you relaying the information to be salacious or for another reason?

A. I was seeking advice.

Q. And who did you speak to?

A. I spoke to Marc Rylander and Blake Brickman.

Q. What did Marc Rylander or Blake Brickman advise you to do?

MR. BUZBEE: Objection, hearsay.

MS. EPLEY: Your Honor, they're –

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) Okay. What did you do after speaking to Marc Rylander and Blake Brickman?

A. I spoke to General Paxton.

Q. What did you say to Mr. – General Paxton?

A. I asked him about the conversation that I had overheard, and I stated that I walked away with a certain impression. And that –

Q. Let me pause you. With what impression?

A. I walked away with the impression that Nate Paul was involved in the renovations of General Paxton's home.

Q. What concerns did you have about that?

A. Given the fact that we were working on several items related to Mr. Paul, it felt as though there might be an inappropriate relationship there.

Q. Were you that clear with the General?

A. Yes.

Q. And what happened?

A. He stated that he appreciated me bringing his concern to him and that he then assured me that that was, in fact, not the case.

Q. Did his explanation absolve all concerns?

A. No.

Q. How did you feel at the conclusion of that conversation?

A. Still uneasy, but I never discussed it after that with him.

Q. Okay. Are you aware of the fact that we've issued subpoenas for Kevin Wood for him to address these issues and that he does not intend to testify before this Court?

MR. BUZBEE: Objection, speculation. She's just testifying now.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) Did you spend much time at the Paxton home after that?

A. Not much, no.

Q. Why not?

A. It was a mix of ongoing renovations, increased travel, and just lack of request to be there.

Q. Okay. Did you feel comfortable about the home or being present at the home?

A. Not always, no.

Q. Why is that?

A. There was still some lingering concerns over the questions that I had asked the General, but I had not followed up on those concerns.

Q. In the summer of 2020, prior to the whistleblowing allegations, did you have an opinion as to the veracity or the truthfulness of Mark Penley?

A. Yes.

Q. And what was it?

A. He seemed to be an individual of the utmost integrity.

Q. And did you have an opinion as to the credibility or truthfulness of Jeff Mateer?

A. Yes.

MR. BUZBEE: Your Honor, I'm sorry. It's not proper for one witness to talk about whether another witness is truthful. That's just not how it works. That's –

MS. EPLEY: It absolutely is, Your Honor.

MR. BUZBEE: Please let me finish and quit interrupting, please.

Your Honor, it's not proper for one witness to sit up on the stand and say this person is truthful, this person is truth – that's not how it works. It's improper. I object.

MS. EPLEY: That's – he's absolutely right in a vacuum. I would have no authority to talk about the character of truthfulness as a primary rule and I wouldn't infringe it. But once he attacks their credibility, Rule 405(a)(1) allows me to establish by reputation or opinion a relevant character trait; in this case, truthfulness.

MR. BUZBEE: That's not how it works, Your Honor.

MS. EPLEY: Yes, it is.

MR. BUZBEE: Anyway, you don't – this is not how it works, Your Honor. You don't get to get up here and bring one witness and talk about the veracity of all the other witnesses. Now, if she feels like Mr. Penley's veracity was challenged on some particular statement, then she brings a statement to try to – a different statement to try to rehabilitate him, but she don't do it with this witness.

MS. EPLEY: You can do it with any witness, Your Honor.

PRESIDING OFFICER: We'll sustain the objection.

Q. (BY MS. EPLEY) How did you communicate with Ken Paxton in 2020?

A. Through email and text message and phone calls.

Q. How many cell phones did Ken Paxton have?

A. He had two primary, and he later obtained two more cell phones.

Q. I learned through the course of opening that I used the term "burner phone" incorrectly. Apparently they have to be cheap and from 7-Eleven. What would you call extra phones that most people don't know about?

A. Extra phones.

Q. Okay. So two primary phones, two extra phones?

A. Yes, ma'am.

Q. Do you have the phone number of his personal phone?

A. I do.

Q. And would you give us the last four digits of that, please?

A. The cell phone is 8128.

Q. And what about his work phone?

A. 0220.

Q. Can you describe for us physically what the other two phones look like?

A. The other two phones being the extra phones?

Q. That's correct.

A. Okay. The other two phones, one was a Samsung Galaxy Fold, the other was a red iPhone.

Q. You mentioned that you also communicated with him by email. Outside of work email, did he have another?

A. He did.

Q. What kind of account was that?

A. It was a Proton Mail.

Q. And do you know how the Proton account was set up?

A. It was set up through the OAG's office.

Q. Why was that?

A. We went to China.

Q. So it was safer to discuss business on that phone than it would be for a Chinese hacker to get into a personal cell or a work cell, correct?

A. Yes.

Q. But do you also know that their headquarters are out of the United States?

A. I believe they're in Switzerland.

Q. And so they wouldn't be subsequent [sic] to a search warrant and are not provided as part of a public records request to the OAG?

MR. BUZBEE: Objection, speculation, Your Honor.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) And are you familiar with something called Signal?

A. I am.

Q. What is that?

A. It is an encrypted messaging app.

Q. Encrypted also making it safer, correct?

A. Yes.

Q. Are you aware that they, too, are housed out of the country not subsequent to – or not under the pressures of a subpoena and not provided by the OAG?

MR. BUZBEE: Again, Your Honor, this is just her testifying what she thinks Signal is. This witness doesn't know this. It's speculation and improper.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) At any point did General Paxton ask to use technology that you provided?

A. Yes.

Q. What was that?

A. He used my personal cell phone.

Q. How many times did the General use your personal cell phone?

A. At least three to four.

Q. Were you able to hear those conversations or who they were with?

A. I was not.

Q. Were you able to determine after you got your property back why he needed your phone?

A. No.

Q. Why not?

A. Whenever I received my cellular device back, the call log had been wiped.

Q. And did he use anything of yours other than your cell phone?

A. No.

Q. Do you recall after the whistleblowers the – Mr. Paxton asking to use your laptop?

A. Yes.

Q. What was that about?

A. That was a request – he was working on a letter to the Inspector General of the United States.

Q. Can you anchor that in time for us? What had just occurred?

A. This was late October, and this would have been after the whistleblower complaint.

Q. And do you know – what were you asked to do?

A. I was asked – General Paxton handed me a hard copy of a document and asked me – asked me to transcribe the events outlined in the document in the form of a letter to the Inspector General.

Q. And by "hard copy," you mean like what I have here?

A. Yes.

Q. So not handwriting, but typewritten?

A. Yes.

Q. Why would you needed to be provided a typewritten copy of anything that's already in electronic format?

MR. BUZBEE: Objection, speculation.

PRESIDING OFFICER: Overruled.

Q. (BY MS. EPLEY) Why would you need to be provided a hand copy of anything that's already in electronic format?

A. I don't know.

Q. And what were you asked to do? Transcribe you said?

A. Yes.

Q. Were you making additions or deletions?

A. I did make several additions, yes.

Q. What kind of additions?

A. Since it was asked to be in the format of a letter to Inspector General Horowitz, it was addressed to Inspector General Horowitz. There was a slight introduction that I had been asked to include. And then the sign-off was asked to be as General Paxton.

MS. EPLEY: At this time I offer House Exhibit 573. This is part of the Office of the Attorney General records. There is a business record affidavit. It has been on file for greater than 14 days.

PRESIDING OFFICER: Any objection?

MR. BUZBEE: No objection, Your Honor.

PRESIDING OFFICER: Please admit Exhibit 573 to evidence – into evidence.

(HBOM Exhibit No. 573 was admitted)

Q. (BY MS. EPLEY) Mr. Wicker, will you take a moment and look at the body of that letter and let me know if you recognize it?

A. This is the letter that I was asked to write for Inspector General Horowitz.

Q. So if I turn you to the top where you add, "Dear Mr. Horowitz," you typed that in?

A. Yes.

Q. Do you know who that is?

A. He was or is the Inspector General of the United States.

Q. We've heard about the Office of the Inspector General throughout this trial. Do you know whether or not that's the appropriate person to go to if you want to make complaints about federal prosecutors or federal agents?

A. That is my understanding, yes.

Q. At any point prior to the whistleblower situation, had Ken Paxton talked to you about or in your presence about the Office of the Attorney General [sic]?

A. About the Office of the Attorney General, yes.

Q. Had he ever suggested going there or that they were the correct place to bring this complaint?

A. He – he had not mentioned that to me, no.

Q. In fact, do you know that he didn't want to take it to OIG prior to that?

MR. BUZBEE: Objection, speculation.

PRESIDING OFFICER: Overruled.

Q. (BY MS. EPLEY) Do you know whether or not he wanted to take Nate Paul's complaint to the OIG prior to the whistleblowers coming forward?

A. I do not.

Q. And then once you look at this letter, I'm going to turn you down to the bottom in regards to the allegations made by Nate Paul, and I'm going to go quickly. Do these amount to things like not getting to use the restroom?

A. It did.

Q. And when you drafted it, did you realize part of Nate Paul's big federal complaint is that he couldn't call his attorney except from using an agent's cell phone?

A. Yes.

Q. And that he was not allowed to call for counsel and that's why they provided him a cell phone?

A. Yes.

Q. Are you aware that the only allegations he makes – well, let me do this differently. Where were you when you were helping type this up for the General?

A. This letter was written in the Office of the Attorney General.

Q. On what laptop?

A. My state laptop.

Q. And what did you do with the laptop after typing up the letter?

A. I followed up with General Paxton about having completed the transcribed letter.

Q. And then what?

A. And I asked him what he'd like to do with it.

Q. And what was the response?

A. He said that he had several insertions that he would like to make and that he would let me know about when he needed it.

Q. Did he have you email him or put it into a USB drive?

A. Not to my recollection, no.

Q. What did he do?

A. He asked me to bring my state laptop to his Austin home so that he could work on the letter.

Q. And did he make changes to your knowledge?

A. To my knowledge, no.

Q. Okay. After – after drafting the letter for the Attorney General, do you know whether or not the letter was ever sent to OIG?

A. I do not.

Q. Let me turn your attention then to the conclusion of your career there. What was the status of your job?

A. The status was that I was both the scheduler as well as the executive aide.

Q. Well, I mean, at the end, in October of 2020 leading into November. Were you offered a promotion? Were you offered a change in job function?

A. I was.

Q. And what was that?

A. General Paxton had expressed an interest in myself taking on greater responsibilities with regards to certain policy areas. And that I would continue with my present job responsibilities but also take on the additional policy-related responsibilities.

Q. And at some point you mentioned the FBI had reached out to you and you make Ken Paxton aware of that; is that accurate?

A. Yes.

Q. And what did he do?

A. General Paxton's question that he asked me was why.

Q. Did you have a response for him?

A. No, I did not.

Q. What, if anything, did he direct you to do?

A. He – he did not direct me to do anything at that time.

Q. Did he take you anywhere?

A. Not at that time, no.

Q. Okay. Ultimately – you say "not at that time." So what happens next in regards to that?

A. The next discussion I had with a member of the AG staff regarding the FBI was Brent Webster requested to meet with me.

Q. And what, if anything, did Brent Webster have to say on behalf of the Office of the Attorney General?

MR. BUZBEE: Objection, hearsay, Your Honor.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) Was he working in his official capacity as a representative or employee of the Office of the Attorney General?

A. That is my understanding, yes.

MS. EPLEY: Same question, Your Honor, subsequent to 801(e)(D) which is specific to representatives or employees. Brent Webster is making the comment to Mr. Wicker in his capacity as an employee of Ken Paxton.

MR. BUZBEE: Same objection, Your Honor.

We've established in this trial you can't – that's not how it works. She cannot just come up here and ask him what somebody else said other than General Paxton himself.

MS. EPLEY: You can when he's being directed as part of his employment.

MR. BUZBEE: He's not an employee of Ken Paxton.

PRESIDING OFFICER: He's an agent of Ken Paxton, so we'll overrule.

MS. EPLEY: Thank you.

Q. (BY MS. EPLEY) What, if anything, did Brent Webster tell you?

A. Mr. Webster said that he understood that the FBI had reached out to me and that I should not respond.

Q. Did he tell you why?

A. He said that I ran the risk of incriminating myself.

Q. And did he then bring you back to Ken Paxton?

A. Eventually, yes.

Q. And what was that conversation about?

A. He believed that there was an opportunity to assert attorney-client privilege.

Q. So he, too, wanted to prevent you from speaking to FBI?

A. It certainly seems that way, yes.

Q. And were you asked to speak to anyone else about this?

A. Lesley French.

Q. And what did she tell you to do?

A. Lesley French advised me that she had been through something similar and that there was nothing to worry about; that the AG's Office would provide me with counsel while I met with the FBI and that there is no need for me to bring my own counsel.

Q. What was your response?

A. My response was that I would feel more comfortable retaining my own counsel that would look out for my interests.

Q. Why did you respond that way?

A. Because that's where I would have been felt – that's how I would have felt comfortable in that instance.

Q. After all of this, what decision do you ultimately make about this promotion?

A. The conversation that occurred regarding the promotion was all at once and this was actually – I informed General Paxton that I would not be taking the promotion, but I would gladly accept the responsibilities.

Q. Why – why were you making that distinction?

A. I did not want the General to have the appearance of having offered me anything in light of the FBI reaching out.

Q. So you were trying to protect the appearance of what that would look like for General Paxton?

A. For General Paxton and myself.

Q. Thank you. Did you ultimately put in your notice and quit?

A. I did resign, yes.

Q. Was that on November 2nd, 2020?

A. If I recall correctly, yes.

Q. Makes sense then that payments would stop; is that correct?

A. Yes.

Q. And did they stop from the Office of the Attorney General?

A. They did.

Q. Did they stop overall?

A. No.

Q. What else were you provided?

A. I was – I was continued to be provided a monthly stipend by the campaign.

Q. Did you notify Ken Paxton's campaign that you were still receiving money and that you should not be?

A. No. I had let them know that I was leaving and to cut off my access to both the email and the calendar and that I should cease receiving stipends.

Q. When did you cease receiving stipends?

A. Not until the following year.

Q. And what, if anything, did you do with that extra money that you had been provided?

A. Michele Smith had sent me a W-2 with that amount. I contacted her not understanding that I continued to be paid. I asked her what I should do with the money and if General Paxton would like it back. She reached out to General Paxton who informed her to tell me to keep it. And I stated, no problem, and I went ahead and donated the money back.

Q. They told you to keep it, and you donated it back?

A. Yes.

Q. Why did you do that?

A. I didn't do the work.

Q. How did you feel about receiving money from Ken Paxton's campaign after you ceased employment and in light of all the facts relevant today?

A. I have no reason to believe that it was with malicious intent. It might have been an innocent mistake.

Q. I think maybe more specifically I'm talking about your character. What made you return it?

A. I didn't put in the work and I was – I did not want any instance – I didn't want it to appear as though I might have any conflict of interest if anything like this ever came about.

MS. EPLEY: Thank you, sir. Pass the witness.

PRESIDING OFFICER: We're going to take a break now. And, Members, we went longer in this section, so we'll take a 20-minute break, and then we'll go until 12:30. We'll move lunch 12:30 to 1:30 today. So be back here at 15 minutes after 11:00.

(Break taken from 10:54 a.m. to 11:32 a.m.)

AFTER RECESS

PRESIDING OFFICER: We have a motion to be brought in court by the House Managers I understand.

MS. GRAHAM: Mr. President, yes, we would like to present a motion for reconsideration and amendment of the Senate Rule 27 and 38.

PRESIDING OFFICER: Please bring it forward.

MS. GRAHAM: Yes, sir.

(Motion delivered to the Court)

PRESIDING OFFICER: I'm not going to read the whole motion, Members. You will have an opportunity to do that later. In short, they want to amend the rules so that after deliberations when you vote for acquittal or conviction, if you vote for conviction, it automatically prevents the Attorney General from serving in office again. They want to combine that. That's what the motion is.

It has to lay out for 24 hours. It's 11:30. So we would not take it up until 11:30 tomorrow, and that will come to you to do with as you decide. You can table it; you can take it up; whatever you decide. So I wanted you to be aware of that motion because that's the proper procedure if the parties are making a motion to bring it to me and for me to share it with you.

Mr. Buzbee.

MR. BUZBEE: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. BUZBEE:

Q. Is it okay if I call you Drew?

A. Yes, sir.

Q. Turn your mic on there.

A. There we go. Is this better?

Q. Okay?

A. Yes, sir, that is okay.

Q. I hope you don't think I'm being disrespectful. I just –

A. No. Go ahead.

Q. We did – we did speak on the phone a couple of nights ago?

A. Yes, sir.

Q. Okay. And you also talked to these folks over here as well?

A. Yes, sir.

Q. Okay. I want to clear something up. You were – when you were working as an aide to General Paxton, you were getting paid not only from the State, but also from his campaign.

A. Yes, sir, that is correct.

Q. Because you were doing some things not only for the State, but you were doing other business for General Paxton?

A. Correct.

Q. And so it would make sense that you would be paid by both entities?

A. Yes, sir.

Q. And as I understand it, you were getting paid direct deposit by the campaign?

A. Yes, sir.

Q. Okay. So just to clear this up, when – when you decided to leave the AG's Office and go and work in your family's business, somebody forgot to turn off your direct deposit from the campaign.

A. Yes, sir.

Q. It wasn't somebody, like, still giving you checks, it was just an automatic direct deposit.

MS. EPLEY: Objection, speculation.

Q. (BY MR. BUZBEE) I mean, you know how you were – how you were getting paid in your own bank account, don't you?

PRESIDING OFFICER: I'll sustain the objection, but you can ask again.

Q. (BY MR. BUZBEE) You know how you were getting paid. It was a direct deposit into your bank account, wasn't it?

A. That's correct.

Q. And it just continued until you raised the issue, and then you gave the money back, right?

MS. EPLEY: Objection, speculation.

MR. BUZBEE: We've already heard from this.

PRESIDING OFFICER: Overruled.

Q. (BY MR. BUZBEE) Isn't that what happened when it was figured out? General Paxton said, Well, just keep – keep the money, Drew. And you decided, no, the better thing to do is just give it back to the campaign, right?

A. That is correct.

Q. Okay. These – you talked about three lunches in your direct, did you not?

A. I did.

Q. These were at restaurants?

A. Yes, sir.

Q. In a public place?

A. Yes, sir.

Q. Was anybody hiding or – or in a secret, dark back room?

A. Not to my knowledge.

Q. Anybody that walked in the restaurant could see General Paxton there, could see you there, could see whoever he was having lunch with there, right?

A. That is correct.

Q. Wasn't anything secret about that at all, was there?

A. No, sir.

Q. Okay. I want to make sure the Members understand, Drew, because this is some things that you not only told the House when you were interviewed, but you also told me the other night on the phone.

When you were working for General Paxton, you almost considered him family, didn't you?

A. That is correct.

Q. You have no animosity towards the Paxtons, do you?

A. I do not.

Q. And you told me you loved the General, right?

A. That is correct.

Q. And you also said you appreciate everything that General Paxton did for you.

A. Correct.

Q. The Paxtons used to joke that you were – you were a second son, didn't they?

A. They did.

Q. You told me that you and General Paxton were very close.

A. That's correct.

Q. Are you accusing – and I don't think you are, I just want to make it clear because you were probably with General Paxton more than anyone else during that time frame that you were working for him, weren't you?

A. Yes.

Q. I mean, I want to make it clear. I think the Senators know, but just for the public, sometimes you – you would be what's called a body man? You ever heard that term?

A. Yes, I've heard that term.

Q. Yeah. And basically you're with your boss all the time until he releases you for the day.

A. That is correct.

Q. So you would have been spending more time with General Paxton than anyone else, right?

A. Yes.

Q. More so than even his wife, Angela.

A. Yes.

Q. You're not accusing him of bribery, are you?

A. I am not.

Q. Let's be clear. The guy that spent more time – and that's you, Drew – with General Paxton than anyone else during the time frame that we're here to talk about is absolutely not accusing General Paxton of doing anything wrong at all, are you?

A. I'm not accusing anybody of anything, no.

Q. Okay. You also were with General Paxton when he traveled, right?

A. That's correct.

Q. And just so – and I know you've read some of these press reports, haven't you?

A. I've done my best to stay away from any sort of media. I've had some people say some things to me, but I've tried to shut that down as soon as it's come up.

Q. And I know it's hard to ignore some of this stuff in the newspaper, but you know that there's been an allegation that General Paxton had a secret email address?

A. I believe you mentioned that to me on the call the other day, yes.

Q. And you and I know that the reason he had that Proton address, that email address, was because he was traveling to China.

A. That's correct.

Q. And the reason be – and that was something set up for him by the IT department at the Office of Attorney General.

A. That is correct.

Q. And that email address was to prevent the Chinese from hacking into his cell – or into his email, right?

A. Correct.

Q. Okay. And other people in the office had that same type of email address, didn't they?

A. I don't know how many others, but yes.

Q. Okay. Do you remember the suggestion of burner phones?

A. I've – Ms. – Ms. Epley mentioned it earlier, but yes.

Q. Yeah. It was – and I know you probably haven't been reading the newspaper, but let's just go ahead and get this out of the way. If a burner phone is a phone, a plastic phone that you can buy at a convenience store with a certain amount of minutes and when it's over, you break it and throw it in the trash, General Paxton never had anything like that, did he?

A. Not to my knowledge, no.

Q. He never had any burner phone, did he?

A. Not under that definition, no, sir.

Q. Okay. You told the House you could not speculate as to what relationship Nate Paul had with General Paxton; isn't that right?

A. I stated that I believed that they – that they were friends, yes, but I wouldn't speculate beyond that.

Q. Yeah. That's all you know, right?

A. Yes.

Q. Okay. One thing you do know, that you never were in the presence of General Paxton when he and Nate Paul made any kind of agreement; isn't that right?

A. That is correct.

Q. I mean, let's be clear. They've been throwing around this word "conspiracy" for literally a week and almost a half. And you were the man who was with General Paxton more than anyone else, and you can say definitively you never saw Nate Paul and General Paxton reach any sort of agreement whatsoever; isn't that right?

A. No, sir.

Q. Is that right?

A. For the conversations I was privy to, that is an accurate statement, yes, sir.

Q. Okay. You don't have any actual knowledge that Nate Paul ever did anything for General Paxton other than buy a lunch; isn't that right?

A. That is correct.

Q. Let's be clear. The man that was with General Paxton more than anyone else is testifying under oath that you have no evidence, no knowledge that Nate Paul ever did anything for General Paxton other than buy a lunch; isn't that true?

A. That is correct.

Q. Now, you have seen some speculation in the newspaper and the press, haven't you?

A. Prior to this trial, yes.

Q. Yeah. And I want to – and I'm not picking on you, Drew, because I think you can tell that I'm fond of you and I like you. But I want you to know that this whole idea of the house renovations, everybody says it came from you. Do you know anything about who paid for General Paxton's home renovations?

A. Not directly, no.

Q. All you have is one stray comment, right?

A. Across multiple instances, yes.

Q. And you were concerned about it and you went and raised it with your boss, right?

A. That is correct.

Q. And he was very clear with you, that is not what's going on here; isn't that right?

A. That is what he stated to me, yes.

Q. Okay. When you interviewed with the House Managers, did they ever bother to show you the receipts, bills, payments related to General Paxton's house renovations?

A. No, sir.

Q. They are in evidence. Did you ever go with General Paxton and Senator Paxton when they went to Home Depot?

A. No, sir.

Q. When they went to Lowe's?

A. No, sir.

Q. When they went to a different Lowe's?

A. No, sir.

Q. Were you ever with them when they were pricing sinks and countertops?

A. No, sir.

Q. You did say in your – in your testimony to the House that General Paxton's – I don't want to use the wrong word, but he's close with his money.

A. Yes.

Q. I don't want to call him cheap because he's my client, but – but he pays attention to what he spends.

A. The word I would use is frugal.

Q. Frugal, good word. Okay. You believed, based on what some people have told you or maybe what you read, that General Paxton got granite countertops?

A. That was what I read in one news article, yes.

Q. Okay. Let's let that sink in. And when you read that and when you connected it to the statement you say you heard, you thought, Well, there it is, General Paxton got granite countertops paid for by Nate Paul, right?

A. No, sir.

Q. You still didn't believe that, did you?

A. No, sir. In terms of the timing, I had already made my statements to the House committee, and the article that I read and the referencing now I believe came out after that.

Q. Okay. And I'm not – I'm not talking about that. I just want to make sure that at some point in time you believed that General Paxton had gotten granite countertops, right?

A. I had heard that. I don't think I believed that, no, sir.

Q. Do you believe it now?

A. No, sir.

MR. BUZBEE: Let's pull up, Erick, if you will, Attorney General Exhibit 371.

Q. (BY MR. BUZBEE) You told us you had been in the kitchen of the Paxtons' home in Austin?

A. I was.

Q. And that's in Tarrytown here in Austin?

A. That is my understanding what the neighborhood is called, yes.

MR. BUZBEE: Okay. Can we pull that up, Erick, please.

MS. EPLEY: Objection, Your Honor. Is this already in evidence? And he hasn't established the relevant time period, whether it was before or after.

MR. BUZBEE: I've already said this is in evidence, Your Honor. It's AG 371.

PRESIDING OFFICER: Overruled.

Q. (BY MR. BUZBEE) Now, this picture, sir, was taken before – a few days before this trial started. Do you see the countertops?

MS. EPLEY: Objection, assumes facts not in evidence.

MR. BUZBEE: It's already been proved up, Your Honor. We'll do it again.

MS. EPLEY: It has not been proven up. It is a photograph, and it depicts exactly what it purports to until or unless he lays a predicate for someone who can say when it was taken.

MR. BUZBEE: If I could keep going, Your Honor, we'll do all that.

PRESIDING OFFICER: Sustained.

Q. (BY MR. BUZBEE) Sir, do you see the kitchen, the Paxton kitchen there?

A. I do.

Q. Do you see the countertops?

A. I do.

Q. Are those the same countertops that you saw when you were in the Paxton kitchen?

A. Prior to the renovation, yes.

Q. Okay. Do you realize that that's the same countertops as they exist today?

MS. EPLEY: Objection, facts not in evidence. He doesn't have a predicate for that, and he's testifying to the Senate.

MR. BUZBEE: Your Honor, this has already come into evidence of the current picture of General Paxton's kitchen. It's already in evidence.

MS. EPLEY: Mischaracterization of the evidence, Your Honor. The photograph is in evidence, but what it depicts has not been established. And Tony Buzbee does not get to, no matter how hard he tries, establish the time frame in which it was taken.

PRESIDING OFFICER: Sustained.

Q. (BY MR. BUZBEE) Is this how the kitchen looked when you were in it?

A. Prior to the renovations, yes.

Q. Okay. Do you see the countertops?

A. I do.

Q. Do you see the stove?

A. I do.

Q. Do you see the cabinetry?

A. I do.

Q. Do you know how often the Paxtons went and priced new stoves, new countertops, painting the cabinetry? Do you know any of that?

MS. EPLEY: Objection, assumes facts not in evidence. We don't know that they did that at all.

MR. BUZBEE: We're asking – I'm asking him, Your Honor. How can I establish if I don't ask him that?

PRESIDING OFFICER: Overruled.

Q. (BY MR. BUZBEE) Do you know how many times they did that?

A. I do not.

Q. Wouldn't it be unfair to the Paxtons to suggest that this picture here – that these –

MS. EPLEY: Objection to relevance, the way it's phrased –

MR. BUZBEE: If I could finish.

MS. EPLEY: – your Honor. It's inappropriate.

PRESIDING OFFICER: Let him finish his question.

Q. (BY MR. BUZBEE) Do you know whether – the countertops that we see in this picture, do you know whether they've ever changed?

A. I do not know if they've changed, no.

Q. Okay. In evidence is Exhibits 346 to 353. You mentioned Steam Clean is one of the contractors, right?

A. Yes, sir.

Q. And you had to deal with them?

A. I believe I was copied on email correspondence.

Q. Okay. And did you know that there was more work that the Paxtons wanted beyond what Steam Clean was going to do?

A. I wasn't that involved in the detail of The Steam Team.

Q. Okay. Did you – you talked to us about how you had some involvement with an insurance adjuster?

A. The involvement being that I showed him the home, yes.

Q. And the insurance company was USAA?

A. I believe that's correct.

Q. Let's look at what's in evidence, AG Exhibit 1 – 410, second page.

MR. BUZBEE: Just catch the first page first, Erick.

Q. (BY MR. BUZBEE) Can you confirm with me, Mr. Wicker, Drew, that the date of this correspondence from USAA is September 16th, 2020?

A. I can.

Q. And let's turn to the second page. Do you see that the policyholder is Warren Paxton, your former boss?

A. Yes.

Q. Okay. And you see there's a claim number there?

A. I do.

Q. And do you see this explanation for the benefits and the payments and the additional payments that are laid out there?

A. That's what it appears to be, yes.

Q. And how often did you hear General Paxton complain about how slow the insurance company was on his claim?

MS. EPLEY: Objection, Your Honor. What's good for the goose is good for the gander. That's hearsay.

MR. BUZBEE: Exactly. We've been hearing from General Paxton all trial.

MS. EPLEY: He's my – he's our party opponent, Your Honor, not his own. He cannot proffer statements for Ken Paxton on his behalf from the stand. We get to use them against him; he doesn't get to offer them for you.

PRESIDING OFFICER: Sustained.

Q. (BY MR. BUZBEE) Do you see here, it says 32,000 total cash out to you for all other covered repairs. Do you see that?

A. I do.

Q. Did you ever have any involvement in trying to convince the mortgage company to release that check to the Paxtons?

A. I don't recall that, no.

Q. Okay. Did you – did you understand that there were more repairs being made that Ken Paxton was claiming were covered from a different contractor?

A. I'm not aware.

MS. EPLEY: Objection, assumes facts not in evidence, and Counselor is testifying.

Q. (BY MR. BUZBEE) Did you know?

PRESIDING OFFICER: Sustained.

Q. (BY MR. BUZBEE) Did you know that there was a different contractor doing some of the work in the Paxtons' home?

MS. EPLEY: Objection. Mr. Buzbee, that's twice the Judge has sustained the objection to facts not in evidence.

MR. BUZBEE: He just testified to it in direct that he dealt with Kevin Wood. That's in evidence.

MS. EPLEY: That's because it was a direct relationship based on his rational perception of the facts.

Q. (BY MR. BUZBEE) Did you deal with Mr. Wood? Did you see Mr. Wood at the home?

A. I did deal with Mr. Wood, yes.

Q. Did you know that he was doing repairs and renovations to the home?

A. Yes.

Q. Did you know that he was, in fact, the second contractor that's being referred to in the USAA docs?

A. No. I've never seen these documents.

Q. I'm trying to figure out –

MS. EPLEY: Objection, assumes facts not in evidence. He's introduced a second contractor when all we know is the first and Cupertino.

PRESIDING OFFICER: Overruled.

Q. (BY MR. BUZBEE) I'm trying to figure out how it would be that – that Nate Paul is paying for repairs when in fact USAA is paying for some of them. You have any idea about that?

A. General Paxton expressed to me that he was paying things out of his own pocket as well as insurance.

Q. Exactly. You knew that, for instance, the sink that they use – that they put into the home, you know that that sink was replaced, right?

MS. EPLEY: Objection, assumes facts not in evidence.

MR. BUZBEE: I'm asking him, Your Honor. How can we put it in evidence if I don't ask the witness?

PRESIDING OFFICER: Overruled.

MR. BUZBEE: Those are silly objections.

Q. (BY MR. BUZBEE) You know that they were trying to replace their sink, right?

A. No, sir, I do not know that.

Q. Do you know what the sink looks like now?

A. No, sir.

Q. Do you know who paid for the sink?

A. No, sir.

MR. BUZBEE: Your Honor, we're going to offer AG Exhibit 433, which is all of the pictures –

MS. EPLEY: Objection, Your Honor.

MR. BUZBEE: – that Angela – let me offer the exhibit first. All of the pictures that Angela Paxton had from her phone, all of these where they were at Lowe's and Home Depot pricing repairs to their home that they – and they paid for out of their own pocket.

MS. EPLEY: Objection, Your Honor, assumes facts not in evidence.

MR. BUZBEE: If I could finish.

PRESIDING OFFICER: Excuse me, Counselor, let him finish. Okay. You'll have plenty of time to object.

MR. BUZBEE: Proven up with an affidavit from Senator Paxton herself establishing that these are records that they keep – that they kept. And she confirms that they are what they – she say they are. And they're nonhearsay, they're mostly just pictures.

MS. EPLEY: Your Honor, Mr. President, if I may respond.

MR. BUZBEE: Be Exhibit 433, all the pictures from Angela Paxton's phone.

MS. EPLEY: I am not calling Senator Paxton's credibility on this issue –

PRESIDING OFFICER: Give me one second.

MS. EPLEY: – into question.

PRESIDING OFFICER: Let me ask you. Do you object?

MS. EPLEY: I do.

PRESIDING OFFICER: What basis?

MS. EPLEY: I am not calling the question – the affidavit itself into question. What I am saying is there is inadequate information in that packet to establish it is relevant. For example, there are about 300 pages of what looks like scrolling online shopping or photographs from catalogs from Home Depot and Lowe's. They have no

point of relevance. You don't know when the pictures were taken or by whom. So while she can establish they are her records, we do not know what they imply. There's nothing to show us what they fairly and accurately depict or when it was taken.

MR. BUZBEE: That's what the affidavit does.

PRESIDING OFFICER: Mr. Buzbee?

MR. BUZBEE: The affidavit specifically does what she claims it doesn't do.

MS. EPLEY: She does not claim the time frame or when the pictures were taken.

MR. BUZBEE: Right here, Your Honor.

PRESIDING OFFICER: Can I see the affidavit?

MR. BUZBEE: You may.

MS. EPLEY: Further, Mr. President, I would point out that their business record affidavit has not been on file for 14 days, and no metadata is included which would have been easily provided if they had done a Cellebrite dump of the cell phone.

One other point of order, Mr. President. The defense has not followed the rules established by this body in order to have a Senator testify which is de facto what is happening by affidavit. I want to – I want to encourage everyone to realize I'm not questioning that she signed what she believes to be a valid affidavit. It's that it is not in compliance with the rules and it does not tell us what it purports to depict.

MR. BUZBEE: Your Honor, our mission here – this is Article X. Our mission here is to find the truth. And they have alleged that Ken Paxton and Angela Paxton, a member of this body, were bribed, that someone else paid for their house repairs.

The documents you have in your hand directly contradict that in and, in fact, prove the opposite. Those are proved up by affidavit. The pictures fairly and accurately represent pictures they were taking when they were pricing at Lowe's and Home Depot. They also have pictures of the house itself as it was undergoing renovations. And I'll compare those pictures with the pictures of the home now to demonstrate that all of the things Angela Paxton wanted, like a new sink, she got –

MS. EPLEY: Objection, Your Honor.

MR. BUZBEE: If I could finish, Your Honor.

MS. EPLEY: Counsel continues to testify on behalf of his client. It is inappropriate. I ask that we approach and that the testimony be stricken and the Senators asked to disregard. I am not attacking a Senator here, but he has to follow the rules of evidence because this is a court and we follow the rules.

PRESIDING OFFICER: Come on up. Come on up.

(Conference at the bench off the record)

PRESIDING OFFICER: Members, we'll take a lunch break now. Be back at one o'clock.

(Recessed for lunch at 12:07 p.m.)

AFTER RECESS

(1:37 p.m.)

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

PRESIDING OFFICER: You may be seated. Thank you.
Would the parties come forward.

(At the bench, off the record)

PRESIDING OFFICER: Members of the jury, we have some resolution between the parties on the issue when we left that they're going to work on and bring that issue back up tomorrow. So I think both parties have come to an agreement.

Recall the witness.

(Witness entered Senate chamber)

PRESIDING OFFICER: You're still under oath. Please be seated.
You did an excellent job of speaking loudly into the mic so continue.
Mr. Buzbee.

MR. BUZBEE: Yes, sir.

ANDREW WICKER,

having been first duly sworn, testified as follows:

CROSS-EXAMINATION (CONTINUED)

BY MR. BUZBEE:

Q. I want to make sure we're all on the same page about what we're attempting to do here.

MR. BUZBEE: Erick, would you mind putting in front of our senators Article X, please.

Q. (BY MR. BUZBEE) Drew, help me here a little bit. Article X alleges constitutional bribery. Do you see that?

A. Yes, sir, I do.

Q. It says in the second paragraph, Specifically, Paxton benefited from Nate Paul providing renovations to Paxton's home.

Did I read that right?

A. Yes, sir, you did.

Q. You understand that's the allegation being made, right?

A. Yes, sir.

Q. Now, you had told us about a conversation you heard at the Paxton's Tarrytown home, right?

A. Yes, sir.

Q. It was you, it was General Paxton, and it was a gentleman named Kevin Wood in the kitchen, correct?

A. That is correct.

Q. Now, of course, you've – you've told us all that you never saw Nate Paul at General Paxton's home, true?

A. That is correct.

Q. And you knew that the Paxton's home had water damage, right?

A. Correct.

Q. And you knew Kevin Wood was the contractor, right?

A. That is correct.

Q. And you knew that the Paxtons had decided to do some additional renovations at the same time they were fixing the water damage, right?

A. Yes, sir.

Q. And you say you were in the kitchen with General Paxton and Kevin Wood and they were talking about redoing the countertops, right?

A. That is correct.

Q. And the mention was that Angela wanted granite countertops, right?

A. That General Paxton and her had both decided they would like granite countertops, correct.

Q. And you said that at some point the cost of that was mentioned to be \$20,000?

A. Yes, sir.

Q. Okay. And you can't tell us here whether the Paxtons actually got these \$20,000 countertops, can you?

A. No, sir.

Q. Now, one way we could figure that out is for all of us to go to the Paxton's home right now, couldn't we?

A. Yes, sir.

MR. BUZBEE: I mean, Your Honor, we could right now, if the Court would allow it, get on a bus and drive over to Tarrytown and look at the Paxton's countertops. Could we do that, Your Honor?

MS. EPLEY: Objection. Relevance, Your Honor. He can bring in photographs if he chooses to that were taken at a current time period.

PRESIDING OFFICER: I'm going to overrule. He simply asked a question. That's something I could do.

MR. BUZBEE: Yes, sir. And we make may a motion in that regard. But maybe we can fix it in this way, Your Honor.

Q. (BY MR. BUZBEE) We had previously looked at an exhibit put into evidence by the House Board of Managers.

MR. BUZBEE: Let's look at House Board of Managers 703.

And, Erick, if you would, turn to the fourth page of this exhibit that's in evidence.

Q. (BY MR. BUZBEE) We can see here, can we not, that Kevin Wood has an e-mail that's sent on July 4th, 2020. Do you see that?

A. Yes, sir.

Q. And he attaches some pictures of the home at that time – point in time, right?

A. I can't see that, but I do see that there are attachments.

MR. BUZBEE: Okay. Now let's turn over, Erick, if we could, to the page Bates-stamped 29672 within that exhibit and pull that up so everybody can see.

And try to – try to bring that picture up so we all can see it, Erick.

Q. (BY MR. BUZBEE) All right. Now, we can see what that kitchen looked like as of July of 2020, can't we?

A. Yes, sir.

Q. I want you to look very carefully at it. Can you see the stove?

A. Yes, sir.

Q. Can you see the countertops?

A. It's a little bit grainy, but, yes.

Q. And that's how the house looked when you were in that kitchen with General Paxton and with Kevin Wood; isn't that right?

A. It was mostly covered up by renovations, but, yes.

Q. Now – so this is – we'll call this "the before," okay?

A. Yes, sir.

Q. This was the before, the suggestion that we're going to make those countertops granite, right?

A. Yes.

Q. And we're going to redo the cabinetry, right? That's another thing you mentioned?

A. Yes, sir.

MR. BUZBEE: All right. Now, let's go back if we could to the picture that's in evidence and marked as AG 371 and bring that up.

Erick has the most stressful job in this trial. No pressure, Erick.

Q. (BY MR. BUZBEE) Okay. Here we have a picture of that same kitchen; is that true?

A. It would appear so, yes.

Q. And you see the same countertops that you saw in the previous picture, don't you?

A. It would appear so, yes.

Q. And you see the same cabinets as in the previous picture, right?

A. Again, it would appear so.

Q. So the question, the question is –

MS. EPLEY: I'm going to object, Your Honor, to relevance. I don't believe this is in the packet that we're referencing. Mr. Buzbee can cite me if I'm incorrect.

MR. BUZBEE: I have already said this is in evidence at AG 371.

PRESIDING OFFICER: Overruled.

Q. (BY MR. BUZBEE) The question is when was AG 371 taken, right?

A. Yes, sir.

Q. Because if this picture was taken on August 22nd of 2023, then anybody with any common sense would know that nothing was done to the cabinets or the countertops, right?

A. That would be correct.

MR. BUZBEE: May I approach the witness, Your Honor?

PRESIDING OFFICER: Yes, you may.

Q. (BY MR. BUZBEE) Before you testify about it, just confirm with me that what you've been handed, which is now –

MS. EPLEY: Objection, Your Honor, to publishing a document that's not in evidence that he has not attributed for the record.

MR. BUZBEE: I have not published anything at this point, Your Honor.

MS. EPLEY: The picture is on the screen, Mr. Buzbee.

MR. BUZBEE: That's the picture AG 371. This is something different.

PRESIDING OFFICER: Overruled.

Q. (BY MR. BUZBEE) Now take a look at what I've handed you, AG 1051. And would you confirm with me that the picture you're holding in your hands is the same picture that we see on the screen, which is AG 371?

A. It appears so, yes.

Q. And do you see the exhibit you're holding in your hand has, in fact, the date and where the picture was taken?

A. It does.

MR. BUZBEE: Your Honor, we offer AG 151 (sic).

PRESIDING OFFICER: Will you show it to the defense?

MS. EPLEY: May I – may I see a copy and the date that was referenced?

PRESIDING OFFICER: It's coming to both of us. We would like to have one.

MR. BUZBEE: Give a copy to the other side.

PRESIDING OFFICER: Give it to them first.

And you can give us a copy. Sir, you can give us a copy.

That's the only one you have? Do you have another copy?

MS. EPLEY: Mr. President, I don't want to stave off his direct – I mean cross, but I think that I can clear something up if I can take Mr. Wicker on a brief voir dire. I think he's been misled as to the date and time of the photograph he originally identified.

MR. BUZBEE: Again, Your Honor, I'm asking this witness if he has now the date the picture was taken on a cell phone, the exact same picture that's already in evidence. It's not very hard. We're going to get to the truth here.

PRESIDING OFFICER: Overruled.

Q. (BY MR. BUZBEE) Tell us, sir, the date of the picture you have in your hand.

A. It states that it was Tuesday, August 22nd, 2023, at 4:50 p.m.

Q. And where was the picture taken?

A. It says Austin, Tarrytown.

MR. BUZBEE: Your Honor, we offer AG 1051.

PRESIDING OFFICER: Do you object?

MS. EPLEY: I do, Your Honor. Objection. Hearsay. He hasn't established a proper predicate to make it relevant to this trial. It doesn't have an address. And Mr. Wicker cannot say that he fairly and accurately depicts something that he's actually seen.

PRESIDING OFFICER: Overruled.

MR. BUZBEE: Now, Erick, please publish for the ladies and gentlemen of this distinguished jury the picture of the Tarrytown Paxton home that was taken in August of this year.

Q. (BY MR. BUZBEE) Do you see there, sir, that the cabinets have never changed?

A. It would appear so, yes.

Q. Do you see there, sir –

MS. EPLEY: Mr. President –

Q. (BY MR. BUZBEE) – that the countertops have never changed?

MS. EPLEY: Mr. President, I'm sorry. I must insist. He's provided metadata, but without any source for it. I'm not trying to impugn his character, but this is a court of law and he has to establish the predicate for the information that's contained below. He has not done that and he intends to rely upon it. It is hearsay.

MR. BUZBEE: It's in evidence already, Your Honor. You've ruled on it. It's in evidence.

MS. EPLEY: Your Honor, with all respect to Mr. Buzbee, he's misleading you. The photograph is in evidence. The information contained beneath it is not. That's what he's asking you to do now.

MR. BUZBEE: Again, we can look back with the court reporter, but I offered 1051. The Court allowed it.

MS. EPLEY: In that case, Mr. President, it is fully within your discretion to correct an error. I'm not conceding that it is admitted, but if it were, in light of the fact that he cannot establish that anything beneath that photograph is true, and he intends to dance upon it, I would ask that the Court help correct that issue.

MR. BUZBEE: That picture, Your Honor, as you can tell, is the same picture that's in evidence. The only addition to it is now we know exactly when the picture was taken and where it was taken.

MS. EPLEY: Which establishes the exact issue, Your Honor. There is no one here who can establish whether or not this picture was, in fact, taken August 22nd, 2023. And any 12-year-old can create that graphic on a computer.

MR. BUZBEE: Your Honor, this counsel – this lawyer is suggesting that me, an officer of this court, has somehow doctored a picture, when I've offered to go over to the home right now and look at the kitchen and it will look exactly like that.

Why would somebody who has an obligation as a prosecutor to find the truth try to prevent the truth from coming out? This is in evidence. The picture is in evidence already. The Court has allowed now the picture in evidence that shows when it was taken. I would allow –

MS. EPLEY: I am not trying to impugn anyone's character. I'm acting as a prosecutor and a rule follower. And I expect to do that here so no misimpressions are left with the Court.

PRESIDING OFFICER: This is allowed in evidence.

MR. BUZBEE: Thank you, Your Honor.

PRESIDING OFFICER: Overruled.

(AG Exhibit 1051 admitted)

Q. (BY MR. BUZBEE) Now, you care about the truth, don't you, Drew?

A. Yes, sir.

Q. You want the truth to come out?

A. I believe it has to.

Q. Yes. It's important, isn't it?

A. Yes, sir.

Q. And now we see that the picture of the Paxton home, we can see that there were no work done on the countertops, can't we?

A. Yes, we can.

Q. We can see that there was no work done on the cabinetry, can't we?

A. Yes, sir.

Q. Pretty clear, isn't it?

A. From those images, yes.

Q. Accusing someone of bribery for accepting granite countertops and new cabinetry is a very serious allegation, isn't it?

A. I would agree.

Q. And you understand that Mr. Paxton, General Paxton, has no obligation to prove anything, right? He's being accused.

A. Yes, sir.

Q. He doesn't have to prove anything, does he?

A. Yes, sir.

Q. But we've proven that the countertops were not altered in any way, haven't we?

A. The countertops appear to have not been altered, that's correct.

Q. The cabinets have not been altered in any way, have they?

A. It would appear that way, yes, sir.

Q. And, in fact, we've created a comparison picture. It's Exhibit 1 – or 1052, AG 1052.

MR. BUZBEE: May I approach?

Q. (BY MR. BUZBEE) And we agree, Drew, that 1052 that you're holding in your hands is a picture. The one on the left is the one we just looked at, right?

A. Yes, sir.

Q. And the one on the right is the one we looked at from Kevin Wood, right?

A. That is correct.

Q. And they're – they're side by side on this exhibit, true?

A. That is correct.

Q. And we know the one on the right was taken in July of 2020, right?

A. Yes, sir.

Q. And we know the one on the – on the left was taken years later, August 2023, don't we?

A. Yes, sir.

MR. BUZBEE: We offer 1052.

PRESIDING OFFICER: Do you have a copy of that? Would you please provide a copy?

MS. EPLEY: To – to clarify, I see AG 371, and I see a House Board of Managers 73 on 1052. Which one of these two photos is supposed to be 1051?

MR. BUZBEE: I'm not answering her questions, Your Honor. I've offered this exhibit.

MS. EPLEY: Then I object to relevance.

MR. BUZBEE: This is a comparison, as I've laid out with the witness. He's established the relevance of this picture. It compares the one taken years back in 2020 with the one taken last month. We would offer it.

PRESIDING OFFICER: Overruled.

MR. BUZBEE: Would it be accepted, Your Honor?

PRESIDING OFFICER: What is the number again?

MR. BUZBEE: 1052.

PRESIDING OFFICER: 1052 is admitted into evidence.

(AG Exhibit 1052 admitted)

MR. BUZBEE: Thank you, Your Honor.

Q. (BY MR. BUZBEE) So can we agree, Drew, that – that your concerns now have been put to bed, at least with regard to the countertops and the cabinetry?

A. With regards to those two items yes, sir.

Q. I mean, now you're satisfied, right?

A. Yes, sir.

Q. Okay. Now, I want to show you some other documents in evidence. I mean, it shouldn't be that – that a friend – a family member has to prove their innocence, should it?

A. In – in a court of law, my understanding is that they're supposed to provide evidence to answer the charges. The answer to your question is no, you're innocent until proven guilty.

Q. Yeah.

MR. BUZBEE: AG Exhibit 332.

Thank you, Erick.

Q. (BY MR. BUZBEE) This is an invoice. Can you tell us all the date of the invoice?

A. The date of the invoice is September 1st, 2020.

Q. And the invoice is from whom?

A. Cupertino Builders.

Q. I just want to keep – keep that date in your mind. September 1, 2020. Can you do that for me, Drew?

A. Yes, sir.

MR. BUZBEE: All right. Erick, go to AG Exhibit 410.

Q. (BY MR. BUZBEE) Can you see the date there on this USAA claims correspondence?

A. September 16th of 2020.

Q. So here we are 15 days after that invoice that we saw previously?

A. Yes, sir.

MR. BUZBEE: And turn the page, Erick.

Q. (BY MR. BUZBEE) And we can see as of that time the claim being made with regard – or with USAA is being administered?

A. Yes.

MR. BUZBEE: Okay. AG 428.

Q. (BY MR. BUZBEE) Drew, this is a document that's in evidence from the state of Delaware. Do you see that?

A. I do.

Q. And do you see it's a document related to Cupertino Builders?

A. I do.

Q. And can we – can we agree that that's the same entity that we saw in the September 1, 2020, invoice?

A. Yes, sir.

Q. And would you look at the very bottom line that gives us the date that that company was incorporated in the state of Delaware?

A. It appears that the filing was April 16th of 2020.

Q. So what we know is, is in April of 2020 Cupertino Builders was incorporated in the state of Delaware?

A. Yes, sir.

Q. And we know that months later it issued an invoice to the Paxtons for work on their home?

A. That's correct.

MR. BUZBEE: Go back to the invoice, please, Erick.

Go back to AG 332, Erick.

I just want to look at this invoice that was issued September 1, 2020, okay. Turn to the second page, Erick.

Q. (BY MR. BUZBEE) Do you see the total amount invoiced to the Paxtons for the renovations of their home?

A. \$121,817 (sic).

Q. Do you have a pen with you?

A. No, sir, I do not.

MR. BUZBEE: May I approach the witness?

PRESIDING OFFICER: Yes.

Q. (BY MR. BUZBEE) Drew, would you do me the favor of writing down the amount of that invoice on your postic note there? \$121,617.

A. Yes, sir.

Q. And we know, of course, that Cupertino Builders was a Delaware corporation as of the time this invoice was issued?

A. That is what it says.

MR. BUZBEE: Let's look now at AG Exhibit 48. And turn, Erick, if you would, to the Bates stamp EBT184. These are some texts messages between General Paxton and a guy we may hear from in this case named Chip Loper. All right?

And could you pull that text up, Erick.

Q. (BY MR. BUZBEE) We saw that invoice was due on September 30th, 2020, right?

A. That is correct.

Q. And now we have a text from General Paxton to his blind trust – or his trustee of his trust instructing him to make a payment, don't we?

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

Q. And confirm with me, if you would, that the amount that Chip Loper, the trustee, is being instructed to pay is exactly the amount that's on your postic note that you just wrote.

A. I can confirm.

Q. Say it again?

A. I confirm that.

Q. Exact, right?

A. Yes, sir.

MR. BUZBEE: Erick, bring up AG Exhibit 47.

Q. (BY MR. BUZBEE) So what we've seen so far, Drew, is we've seen an invoice that's due on September 30th, right?

A. Yes, sir.

Q. We've seen a text from Mr. Paxton to his trustee instructing him to pay, right?

A. Yes, sir.

Q. And we know those amounts are the same, true?

A. Yes.

Q. And now what we have in front of us is a bank statement from Prosperity Bank, right?

A. That is what it says.

Q. And would you please confirm with me – go to page – we're looking at AG 47. Go to page 116, EBT116.

And would you confirm that the day after – the day after Mr. Paxton, General Paxton, sent the text to his trustee that a wire was made from Mr. Paxton's account of \$121,617?

A. I can.

Q. And is that the same number that you wrote on your postie note?

A. Yes.

MR. BUZBEE: Now let's go to AG 333.

Q. (BY MR. BUZBEE) Do you see here that this is another record from a bank BBVA?

A. I do not see BBVA – oh, yes, I do. Okay. Up there.

Q. Business Choice checking account?

A. Yes, sir.

Q. And can you confirm that that account received a wire in the exact same amount as you wrote on your postie note?

A. Yes.

Q. And it matches to the letter, to the penny, the amount of the invoice?

A. Yes.

Q. And the amount of the wire out of the Paxton's account?

A. I don't see where this says that this is the Paxtons' account.

Q. Well, you saw the previous Paxtons' account. What we've seen is the invoice, the wire out, and the wire in, haven't we?

A. Yes.

Q. Okay. When you raised your concern because – I mean, you – you raised it first with some of the folks in the office. Is that how it went?

A. I sought advice from a trusted individual who brought me into the office first, yes.

Q. Is that Brickman?

A. No, sir. That was Marc Rylander.

Q. Okay. So you went to Rylander and said, Look, I heard something. It sounds a little weird. What do I do?

A. Yes.

Q. Because you – you didn't know what to do about it?

A. No, sir.

Q. And what he told you to do, Hey, just raise it with General Paxton, right?

A. His advice was that if I was comfortable raising it with General Paxton, that I do so. And that I also inform Blake Brickman as my direct report.

Q. Okay. And he told that your understanding was just wrong, didn't he?

A. That is what General Paxton said, yes.

Q. He also told you he appreciated you bringing that to his attention, right?

A. That is correct.

Q. And – and you accepted that, didn't you?

A. Yes.

Q. And it seemed logical, didn't it?

A. I still had some questions, but, yes, I did take it at face value.

Q. And he never told you not to tell anybody, did he?

A. No, sir.

Q. I mean, he never said, Hey, keep it on the down low, Drew, did he?

A. No, sir.

Q. He told you specifically, Drew, I'm paying for these renovations, but I appreciate you sharing that with me, but that is not what this is, right?

A. Yes, sir.

Q. And you took his word for it, didn't you?

A. I took his word for it.

Q. Now, you don't have any personal knowledge about any relationship General Paxton may or may not have had with anyone named Laura Olson, do you?

A. I've only witnessed them together the one time.

Q. So you don't have any personal knowledge about their relationship other than you saw a woman come out of an elevator, right?

A. I saw Laura Olson come out of an elevator, yes.

Q. Okay. Now, these trusted people you – you mentioned in the office, you were talking to them often, weren't you?

A. On a daily basis.

Q. Y'all were friends?

A. Yes.

Q. Did you know they took General Paxton's name off the letterhead?

A. I don't know –

MS. EPLEY: Objection, Your Honor. Facts not in evidence.

MR. BUZBEE: I'm asking –

MS. EPLEY: Proven to be false in the course of this trial.

PRESIDING OFFICER: Sustained.

Q. (BY MR. BUZBEE) Did you ever discuss with them taking General Paxton's name off his own letterhead?

A. No.

MS. EPLEY: Objection, Your Honor. Question calls for hearsay. And it's facts not in evidence.

PRESIDING OFFICER: Sustained.

Q. (BY MR. BUZBEE) Now, just so we're clear, you are not accusing or providing any evidence that General Paxton did anything wrong in this case, are you?

A. The only evidence that I bring to the table is what I overheard and what I have reported. That is it.

MR. BUZBEE: Pass the witness, Your Honor.

PRESIDING OFFICER: Your witness.

MS. EPLEY: Thank you.

REDIRECT EXAMINATION

BY MS. EPLEY:

Q. Mr. Wicker, you sometimes ran personal errands for General Paxton; is that right?

A. That is correct.

Q. When you did that, were you advised what – which service you were using, the campaign fund money or work money? Did you have to attribute where money was spent or your time was spent?

A. I – I wasn't compensated for most of those services, so, no, I was not.

Q. Okay. Thank you.

The second, because Mr. Buzbee asked you extensive questions, you had told us that the damage was in the bedroom, correct?

A. Yes.

Q. And did you see actual renovations anywhere in the home outside of the bedroom?

A. Yes.

Q. Is it fair to say if you knew people were looking into your countertops and your cabinets, you might choose at that point not to get them upgraded?

MR. BUZBEE: Objection. Speculation, Your Honor.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) Okay. Do you know in the course of working with the adjustor in looking at Steam Clean and those groups that work for the insurance side – or let me do this differently.

Do you know that payments were made by insurance?

A. I – I do not know that firsthand, no.

Q. But we've all taken as a given, I think through the course of talking to Mr. Buzbee, that more further renovations were done, correct?

A. Yes. And that's what the document said.

Q. Okay. I want to clarify something else, and I'm sorry to put you on the spot.

When Mr. Buzbee was showing you pictures of the kitchen, do you have an independent memory now in regards to what those granite – I mean, what the countertops looked like or are you taking his word for it?

A. To the best of my recollection, those were the countertops.

Q. I do not want to lead, so I'm going to ask you a question only because of a prior conversation. The answer doesn't really matter, but I want to clarify.

Didn't you say redo the granite countertops when we first spoke, meaning what was being changed may or may not be granite again?

A. That was a mistake on my part. And as I mentioned to both you and Mr. Buzbee, I had to amend that statement to be more consistent with other statements made to law enforcement.

Q. I see. So you've already had a conversation specific about this with Mr. Buzbee?

A. I did.

Q. Okay. Have you and I had this particular conversation?

A. To the best of my recollection, yes.

Q. Okay. And so when you made that correction for yourself, it's not because you were lying the first time, right?

A. No.

Q. Okay. What is the most relevant part of that conversation with Kevin Wood, the renovations which we know took place, which people only know about because of you, or the state of the cabinets and countertops?

MR. BUZBEE: Objection, Your Honor. Leading, number one.

And number two, I don't think it's appropriate to ask the witness what's most relevant. That's the Court's job.

MS. EPLEY: I think I've made the point. That's okay. I'll move on.

PRESIDING OFFICER: Sustained.

MS. EPLEY: Thank you.

Q. (BY MS. EPLEY) How many times did you hear the phrase, "I'll have to check with Nate"?

A. Three times.

Q. Over the course of one day or multiple days?

A. In the course of one conversation.

Q. Thank you, sir.

Do you have any question, then, that on three different occasions the response to a question directed at Kevin Wood about financial impact of renovations was, "I'll have to check with Nate"?

A. That is correct.

Q. Since you've already spoken to Mr. Buzbee, let me ask you a few questions about that.

How did your conversation go? Did you call him or did he call you?

A. Whenever we were – in preparing for this trial, every effort was made, whenever the House team reached out to offer the same thing for the defense. And it was in response to that in preparation for this testimony here today that my counsel and I both reached out to Mr. Buzbee's team to have a conversation prior to me taking the stand.

Q. That's an honorable and fair thing to do.

Had you made prior effort – efforts to speak to Mr. Buzbee or Paxton's team?

A. My legal counsel had, yes.

Q. On your behalf?

A. Yes.

Q. And at any point until the last week did they take you up on that?

A. They did not.

Q. He asked you a lot of questions about whether or not you overheard an agreement between Nate Paul and Ken Paxton. Do you recall that?

A. Yes.

Q. Do most people who are working together stand on top of a mountain, hands on their hips, and say, I'll do this for you if you'll give me X?

MR. BUZBEE: Objection, Your Honor. That's an improper question. Leading. And –

PRESIDING OFFICER: Sustained.

MR. BUZBEE: Thank you, Your Honor.

Q. (BY MS. EPLEY) Do you – do you understand that law enforcement in this investigative body can use circumstantial evidence –

MR. BUZBEE: Objection, Your Honor.

Q. (BY MS. EPLEY) – to determine whether or not there's a conspiracy?

MR. BUZBEE: I'm sorry to interrupt. Objection. Improper question. Speculation.

PRESIDING OFFICER: Sustained.

MS. EPLEY: Yes, Your Honor.

Q. (BY MS. EPLEY) Let me do this differently then. Do you have any memory of when the Paxtons moved back into their home?

A. This would have been probably August/September time frame, if I had to guess.

Q. Okay.

MS. EPLEY: May I approach the witness, Your Honor?

PRESIDING OFFICER: Yes.

MS. EPLEY: For the record, I'm showing him what's marked as 698 and not in evidence as a document to refresh his recollection.

Q. (BY MS. EPLEY) Mr. Wicker, do you recognize that?

A. I do. If you can just give me one second to read it.

Q. Yes, sir.

MR. BUZBEE: Can I get a copy of that, Your Honor?

PRESIDING OFFICER: He would like to have a copy.

MS. EPLEY: I mean, in candor, there are multiple copies over there, but I don't have them. May I take his and pass it around?

PRESIDING OFFICER: Yes. Give it to the defense first.

Let's stop the clock for a moment.

Are you ready?

MS. EPLEY: I am.

PRESIDING OFFICER: You can resume the clock.

MS. EPLEY: Since we do have a copy for everyone, I'm going to change course actually. This is a text message that's included in 698, which is a set of documents provided with the business records affidavit, which have been provided to defense, and they've had notice of it for over 14 days, at which point I would move to admit 698.

MR. BUZBEE: I have no objection to this, Your Honor.

PRESIDING OFFICER: The Court will admit Exhibit 698 into evidence.

(HBOM Exhibit 698 admitted)

MS. EPLEY: And would you publish? Thank you, Stacey.

Q. (BY MS. EPLEY) Who is this a conversation between?

A. It – this states to be a conversation between myself, Marc Rylander, and Jeff Mateer.

Q. What is the date?

A. It appears to be July 19th of 2020.

Q. Okay. And do you see any reference to when the Paxtons might be moving back into their home?

A. It appears that it was around that time frame. And so judging by the context here, he had been storing clothes at the AG's office, and we moved those back around that time frame.

Q. Okay. So fair to say, then, the Paxtons' home was at least renovated enough for them to return to it in the middle of July?

A. Yes.

Q. And would it surprise you to know that nowhere in those Cupertino records is there an invoice or estimate at any time during June or July?

MR. BUZBEE: Leading, Your Honor.

THE WITNESS: I did not say that.

MR. BUZBEE: I'm going to have to object to leading.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) Next, let me ask you – let's turn to item 683, which is already in evidence. And, Mr. Wicker, I'm sorry to take advantage of you since you're on the stand, but I need to recap a couple of things Buzbee went through.

Tell me, if you would, the date on this document.

A. September 30th of 2020.

Q. This document has been admitted as what we refer to as the cease and desist letter. So notice to Brandon Cammack to stop working.

Are you aware of that time frame in the office?

A. I am.

Q. And do you know that Brandon Cammack reaches out to Ken Paxton to let him know there are – there are problems?

A. I learned this later, yes.

Q. Okay. But does this e-mail corroborate what you heard?

A. It does –

MR. BUZBEE: Objection, Your Honor. I'm sorry. He just said he heard it later. That's hearsay. Now she wants him to corroborate hearsay with something else. Improper.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) Okay. Let's look at the document itself. September 30th cease and desist letter to Brandon Cammack. Let's look at item 130.

Do you see the date on this letter?

A. September – September 30th, 2020.

MS. EPLEY: Is that 130?

Yes, ma'am, please.

I'm sorry, Stacey. Thank you.

Q. (BY MS. EPLEY) Do you see September 30th referenced on this document as well?

A. I do.

Q. And in the records provided by Esther Blind Trust, this is the first conversation about payment to Cupertino. Would that surprise you?

A. I was not aware of the Esther Blind Trust, so I'll take your word for it.

Q. So – but September 30th, Brandon Cammack is notified that there's a problem. Ken Paxton finds out. And the first thing he does is tell the Esther Blind Trust to send \$121,000 to someone else?

A. Okay.

Q. I'm going to turn your attention to item 223.

MS. EPLEY: I think this is also not in evidence. So do not – yet.

It isn't? I got thumbs-up from this side.

In that case will you pull up item 223. Can I have you scroll down, Stacey, to the return?

Q. (BY MS. EPLEY) Do you recall General Paxton being out of town at the end of September, early October, as the whistleblowers are coming forward and law enforcement is being notified that they're concerned he's accepting bribes and misusing the office?

MR. BUZBEE: Your Honor, I –

MS. EPLEY: These questions are no different than the way –

MR. BUZBEE: If I could, without being interrupted.

Your Honor, this is outside the scope. I just want to flag that for the Court. I'm going to let her do this because I want to talk about a few of these things that are outside as well.

PRESIDING OFFICER: It is outside the scope, but he's not objecting, so he'll be able to do the same.

MS. EPLEY: Yes, Your Honor. If it would have been helpful that I took extensive notes, Mr. Buzbee opened up all of these doors for me.

Yes, sir. Thank you.

PRESIDING OFFICER: You're both out of scope. Okay. You're both free.

Q. (BY MS. EPLEY) On October 1st, do you know where General Paxton was in regards to the office? Did he come in?

A. No, ma'am.

Q. And I'm going to have Stacey scroll down a little.

Are these texts between you and Jeff Mateer?

A. I – can – can you scroll up? Yes. Yes.

Q. And what is it that you understood on October 1st was happening with the general?

A. I really didn't have an understanding at that time.

Q. Did you think anything about the fact that he wasn't there or didn't want you to let people know what he was doing?

MR. BUZBEE: Objection, Your Honor. Leading. And he's already said he doesn't know.

MS. EPLEY: I'm going to –

PRESIDING OFFICER: Sustained.

MS. EPLEY: I'm going to read from a document because it is in evidence.

Q. (BY MS. EPLEY) It says he has a lot to do out of the office and that I'm to tell anyone that asks that I don't know where he is.

Is he telling you to lie?

A. I don't know that he's asking me to lie, just to state that I don't know where he is.

MS. EPLEY: Stacey, if you would, please turn to Exhibit 131.

Pause for a moment.

Q. (BY MS. EPLEY) In the upper left-hand corner, do you see that this account is affiliated with the Esther Blind Trust?

A. I do.

Q. The same organization that was being told to make payment the day before by text, at least according to the documents in evidence before you?

A. Yes.

Q. Do you see –

MS. EPLEY: Scroll down for me.

Q. (BY MS. EPLEY) Do you see that same \$121,000 payment – \$617 being made as it was requested by Ken Paxton?

A. I do.

Q. And do you see who the recipient is?

A. Cupertino Builders LLC.

MS. EPLEY: Ms. Stacey, if you'll pull up 703 for me, please. I would like to see page 21.

Q. (BY MS. EPLEY) Mr. Wicker, do you see who is supposed to be the account holder on these documents? It's under Business Choice Checking, Specifically Choice?

A. Cupertino Builders LLC.

Q. And do you see the first line in the transaction sheet?

A. It shows an incoming wire in the amount of \$121,617.

Q. Consistent with Cupertino being paid for remodeling or doing work at Ken Paxton's house, if that's what he has alleged, correct?

A. Yes, ma'am.

Q. Let's turn to page 3.

These are the same records that include Kevin Wood, the contractor who you personally met, who helped facilitate whatever upgrades Ken Paxton might want, a person whose e-mail address suggests he's Nate at World Class, and an individual named Raj Kumar; is that correct?

A. Yes, ma'am.

MS. EPLEY: Stacey, may we see the face of the business record affidavit.

Q. (BY MS. EPLEY) Do you see before you that the business records we've been referencing and that already are admitted belong to Cupertino Builders?

A. Yes.

Q. Would it surprise you to know that as Mr. Buzbee pointed out, it's when they were in Delaware and before they opened a Texas affiliate? Would you have any reason to be surprised by that?

MR. BUZBEE: Objection. Leading, Your Honor.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) Do you also see that the individual otherwise referred to as Raj Kumar is in here named – I'm going to – I'm going to butcher it, frankly, on the second page, Narsimha Raju Sagiraju?

A. I do see that.

Q. It was a valiant effort. I saw your smile.

MS. EPLEY: Next, Stacey, may we see page 16.

Q. (BY MS. EPLEY) Is this the same invoice Mr. Buzbee showed you a moment ago?

A. It appears to be, yes.

Q. The same invoice that he splashed in his press conference for representation of General Paxton?

MR. BUZBEE: Objection, Your Honor. Improper question. He's talking about a press – she's talking about a press conference? I mean, that's not proper.

PRESIDING OFFICER: I'm going to sustain.

Rephrase.

MS. EPLEY: Stacey, if you would for me, please turn to page 22.

Q. (BY MS. EPLEY) Now, Mr. Wicker, in all of the records before you, if there had been payments or estimates or supplies or timelines or communication in regard to payment in any way in regards to Ken Paxton and Cupertino, don't you think Mr. Buzbee would have pointed it out?

MR. BUZBEE: Objection, Your Honor. Leading.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) Then the very last thing I would like to ask you is this: In regards to the document, the invoice we had just looked at, this document is the metadata that was provided by Cupertino. It is already admitted into evidence. Please tell me what date that invoice was created.

A. October 20 – October 1st, 2020, at 7:50 p.m. Central Standard Time.

Q. After the whistleblowers, after he knows that you're aware of the renovations, after a cease and desist, after directing payment, only after all of those things does he get the first piece of documentation that would in any way credit that it was valid?

MR. BUZBEE: Objection. Leading.

PRESIDING OFFICER: Sustained.

Q. (BY MS. EPLEY) I guess I'll end where the defense began. There are no coincidences in Austin. But the next piece I think –

MR. BUZBEE: Objection to the sidebar.

PRESIDING OFFICER: We've heard a lot of sidebars in this, a little bit of sidebars. I'll give you a sidebar. They've had a few.

MR. BUZBEE: One sidebar.

PRESIDING OFFICER: Overruled.

You're even now on sidebars. Okay.

MS. EPLEY: The very last piece – I wish I could have ended there, but I need to get in the Uber records we discussed yesterday. The Court had already said that they could be admitted, after extensive arguments between both sides. I just failed to offer on the record for their admission.

PRESIDING OFFICER: Go ahead.

MS. EPLEY: House moves to admit item – I'm sorry – 700.

PRESIDING OFFICER: 700 will be – we've already settled that, right, 700 – yesterday. 700 will be admitted into evidence.

(HBOM Exhibit 700 admitted)

MR. BUZBEE: Your Honor, can we be heard on that? I think we have – I didn't know this – this would not be the right witness for this, but can we be heard on those records?

MR. STONE: Can we –

PRESIDING OFFICER: Yes.

MS. EPLEY: We spoke extensively, and the Court ruled yesterday.

MR. STONE: Your Honor, we saw – I apologize.

MS. EPLEY: I'm going to object to using the time. And may we approach?

PRESIDING OFFICER: We'll – we'll stop the clock for a moment. Approach.

(At the bench, off the record)

PRESIDING OFFICER: The Court will come back to order.

Where were we?

Ms. Epley, were you up here? I think you were.

So when we last left – and restart the clock – you were asking to admit 700.

MS. EPLEY: Yes, Your Honor.

PRESIDING OFFICER: There was an objection. We've looked at the two documents. I ruled that in yesterday. We see that they are similar. And so 700 is admitted into evidence.

(HBOM Exhibit 700 admitted)

MS. EPLEY: Thank you, Mr. President. Pass the witness.

MR. BUZBEE: Erick, would you do me the service of putting on the screen what's in evidence House Exhibit 571.

MS. EPLEY: Objection, Your Honor. I don't believe this document has been admitted.

MR. BUZBEE: We offer 571 if it's not in evidence.

MS. EPLEY: I would ask that he take it off the screen, Your Honor.

PRESIDING OFFICER: Yeah. Take it off the screen for now, Erick. We all know Erick.

MR. BUZBEE: We love Erick.

PRESIDING OFFICER: And everyone knows Stacey.

MR. BUZBEE: It's actually in evidence, I'm told.

PRESIDING OFFICER: We're checking. You don't have it? We'll check. Just the House or AG's?

MR. BUZBEE: House Board of Managers Exhibit 571.

PRESIDING OFFICER: That is – Ms. Epley, it is in evidence, according to our records.

MR. BUZBEE: Thank you, Your Honor.

MS. EPLEY: Very good. Thank you.

PRESIDING OFFICER: All right.

MR. BUZBEE: Put it on the screen, Erick. And make it big. And make sure you capture the time and date of this text.

Get the date too, Erick.

I'm going to need somebody to confirm the date. Penley 5.

RECROSS-EXAMINATION

BY MR. BUZBEE:

Q. As we're getting this date, can you see there that there's a text sent from Jeff Mateer to General Paxton where he tells the general that yesterday each of the individuals on this text made a good faith report of violations of law?

A. I can.

Q. Do you know what date that was done?

A. I do not.

Q. Okay. If this text was sent on October 1st, because we know they went to the FBI on September 30th, that means they – they were sending this text the day after, correct?

A. Yes.

Q. On October 1st, 2020. Make sense?

A. Yes.

Q. So on October the 1st, 2020, Jeff Mateer, along with several other individuals, sent this text to General Paxton, right?

A. That is what it appears to be, yes.

MR. BUZBEE: Now, let's look back now, if we could, Erick, at the date and time that the general instructed his trustee to wire the money to pay for his home renovations.

Q. (BY MR. BUZBEE) You heard the suggestion, I'm sure, Drew. You heard they suggested he only did that because he knew that his people had went to the FBI?

MS. EPLEY: Objection. Compound. I don't understand the question.

PRESIDING OFFICER: Overruled.

Q. (BY MR. BUZBEE) Yes. You heard that suggestion, didn't you, Drew, that the general learned that his – a few of his subordinates went to the FBI, therefore, he hurriedly sent a text to pay for his house repairs? You heard that?

A. That was the insinuation in the last line of questioning, yes.

Q. That's what she was insinuating, wasn't it?

A. That was what I understood, yes.

Q. But the truth is, if we look at AG Exhibit 48 and we go to EBT184, could you just tell us all so we'll be clear about how the timing actually was. What was the time and date of when the general instructed his trustee to pay for his home renovations?

A. September 30th.

Q. And that's also the same date that the invoice was due, right?

A. That is what the invoice said was due, yes.

Q. Okay. And can we agree that September 30th, 2020, is before October 1, 2020?

A. Yes, sir.

Q. Now, when we talked previously, I failed to ask you something that's real important.

First, did these folks – how many times did you interview with these folks over there to the right?

A. I've spoken with them three times in preparation for this.

Q. Okay. And the only reason you spoke to me is because you felt it would be fair that – to let me have a chance to talk to you as well after you had talked to them?

A. Any time they reached out, I reciprocated and extended the same offer.

Q. Okay. Did they ever show you any of the documents I showed you today?

A. Not to my recollection, no.

Q. They didn't show you the bank wire showing that General Paxton and Angela Paxton paid for their renovations?

A. Not to my recollection.

Q. They didn't show you the – the text message to the trustee instructing the payment?

A. Not to my recollection.

Q. They didn't show you the document showing that the – the wire was actually received by the contractor?

A. Not to my recollection.

Q. Did you ever wonder why they didn't do that?

MS. EPLEY: Objection, Your Honor. Question calls for speculation.

PRESIDING OFFICER: Sustained.

Q. (BY MR. BUZBEE) There was a suggestion that you delivered some kind of document to Nate Paul. Do you remember that suggestion?

A. Yes.

Q. You said it was a manila envelope?

A. Yes.

Q. You – you had told us that you picked up an envelope from Vassar that had a – a CD taped to it?

A. I don't recall that it was taped.

Q. It was inside of it?

A. No, sir. It was on the exterior.

Q. On the exterior of the envelope?

A. Yes.

Q. You know for sure you didn't deliver that envelope to Nate Paul, don't you?

A. Not that envelope, no.

Q. Okay. Let's be clear. Whatever Vassar gave you that was checked out – you didn't check anything out, did you?

A. No, sir. There were signatures on the document, but I don't recall checking anything out.

Q. Right. Vassar gave you something that you gave to the general, right?

A. That is correct.

Q. And that particular document had a CD on the outside of the envelope?

A. That is correct.

Q. And that certainly was not the envelope delivered to Nate Paul, was it?

MS. EPLEY: Objection. Question calls for speculation. And lack of foundation based on Drew Wicker's previous testimony.

PRESIDING OFFICER: Sustained.

Q. (BY MR. BUZBEE) Did the document or the envelope that you delivered to Nate Paul, was it – did it have a CD on the exterior?

A. It did not have a CD on the exterior.

Q. Okay. And just so we're clear, you never met Nate Paul in the dark of night in an alleyway and delivered anything, did you?

A. No, sir. It was in the afternoon.

Q. In – in the light of day?

A. Yes.

Q. It wasn't a secret at all, was it?

A. No, sir.

Q. You did hear some conversations between Nate Paul and General Paxton, didn't you?

A. Yes.

Q. Let's focus on what you heard. One of the things that was discussed was whether the raid by the federal agents –

MS. EPLEY: Your Honor, objection. Normally I wouldn't mind, but since I tried to elicit this exact testimony and don't want to waste the senators' – waste the senators' time with the second redirect, I must object to hearsay.

MR. BUZBEE: It's already – she already asked this question, Your Honor. I'm just clarifying what she asked this young man.

MS. EPLEY: I did ask it. And he objected, despite me being absolutely certain it would come in. And at this point he doesn't have the same exception because Ken Paxton is not his party opponent.

PRESIDING OFFICER: Sustained.

Q. (BY MR. BUZBEE) Sir, you know that the focus of the conversation was whether the raid was just; isn't that true?

MS. EPLEY: Objection. Question calls for hearsay.

PRESIDING OFFICER: Sustained.

Q. (BY MR. BUZBEE) You know that the – the discussion that they had was whether the FBI had followed the rules, right?

MS. EPLEY: Objection. Question calls for hearsay.

PRESIDING OFFICER: Sustained.

Q. (BY MR. BUZBEE) You know that Mr. Paxton – General Paxton's discussion was whether the feds had violated the law; isn't that right?

MS. EPLEY: Objection. Question calls for hearsay.

MR. BUZBEE: Again, Your Honor, we've heard – he talked all about what Ken Paxton has said, and I'm entitled to explore that, exactly what was said.

MS. EPLEY: He successfully shut down this entire line of questioning, whether he should or shouldn't have, and he shouldn't be given the latitude now because he does not have an exception to hearsay.

PRESIDING OFFICER: Overruled.

Q. (BY MR. BUZBEE) You know that what your boss was saying was whether Nate Paul had been unfairly targeted, right?

A. In the discussions that I was privy to, Nate Paul did most of the talking.

Q. Whether he had been unjustly targeted, right?

A. That was the concern that he had expressed.

Q. Because you know sometimes the legal system gets politicized, don't you?

MS. EPLEY: Objection. Relevance.

MR. BUZBEE: He was asked this by the Board of Managers, Your Honor.

PRESIDING OFFICER: Overruled.

Q. (BY MR. BUZBEE) You know that sometimes the legal system gets politicized, don't you?

A. Yes, sir.

Q. And Mr. Paxton, General Paxton's concern was whether there had been a miscarriage of justice; isn't that right?

MS. EPLEY: Objection. Question calls for speculation.

MR. BUZBEE: He said it in his own words, Your Honor.

MS. EPLEY: He can't say that in his own words, Your Honor.

PRESIDING OFFICER: Sustained.

Q. (BY MR. BUZBEE) Now, you knew that General Paxton had some distrust of DPS, didn't you?

MS. EPLEY: Objection. Relevance and hearsay.

PRESIDING OFFICER: Overruled.

Q. (BY MR. BUZBEE) You knew that, didn't you?

A. I did.

Q. You never heard General Paxton say he was going to do anything for Nate Paul; isn't that true?

A. He never stated that he would take any action directly on his behalf, no.

Q. Now, there was some suggestion about something that you delivered in a manila envelope, right?

A. Yes, sir.

Q. Was it like this one?

A. Yes, sir.

Q. Just like this?

A. Very, very similar, if not the same.

Q. You don't know what was inside of it?

A. No, sir. I did not look.

Q. You have – you have no evidence to offer about what was in the envelope?

A. No.

MS. EPLEY: Objection. Asked and answered.

THE WITNESS: I do not.

PRESIDING OFFICER: Overruled.

Q. (BY MR. BUZBEE) You do know, of course, that it was a couple of pages at most, right?

A. What I stated was that I am – I do not recall the thickness of the document.

Q. Was it this thick?

A. Again, sir, I do not recall.

Q. You can't say that it was anything near this thick, can you?

A. I can't say.

MS. EPLEY: Objection, Your Honor. Inconsistent with his prior testimony. He's mischaracterizing the evidence. Mr. Wicker used his fingers to show roughly, I don't know, 2 centimeters to an inch in thickness, which is consistent with what is in Tony Buzbee's hands.

MR. BUZBEE: I appreciate all the speaking objections you asked us not to do, but I would like to finish up so we can get on down the road.

PRESIDING OFFICER: Overruled.

Go ahead.

Q. (BY MR. BUZBEE) Now, could it be – let me ask you: Did you ever exchange texts with Nate Paul?

A. I don't recall any text exchanges, no.

MR. BUZBEE: May I approach the witness, Your Honor?

PRESIDING OFFICER: You may.

Q. (BY MR. BUZBEE) Would your texts refresh your recollection?

A. If there are any, yes.

Q. Now, you've had a chance to look at the document. Without testifying what's in the document, does that refresh your recollection?

A. Yes.

Q. Okay. You had told us that that packet – not a packet. The manila envelope you delivered was sometime in the summer, maybe even in the fall, right?

A. No, sir. The testimony that I provided was summer.

Q. Summer. June perhaps, right?

A. Yes, sir. Earlier in the day I stated that it was likely May or June.

Q. And that text you had that you were exchanging with Nate Paul was in June of 2020; isn't that true?

A. Yes.

Q. And you exchanged texts with Nate Paul before you delivered an envelope just like this one, didn't you?

MS. EPLEY: Objection, Your Honor.

MR. BUZBEE: I'm asking the man a question. I'm entitled to an answer.

PRESIDING OFFICER: Overruled.

Q. (BY MR. BUZBEE) You exchanged texts with him before you delivered an envelope just like this one; isn't that true?

MS. EPLEY: Objection, Your Honor. It assumes facts not in evidence.

MR. BUZBEE: I want to –

MS. EPLEY: He needs to be very clear about the time line and Mr. Buzbee –

PRESIDING OFFICER: Overruled.

Q. (BY MR. BUZBEE) Didn't you?

A. I don't recall whether or not this text message occurred before delivery or after.

Q. Can we agree that the – that you were texting Nate Paul about Dick Weekley?

A. That is what the text messages show, yes.

Q. Can we agree that you delivered to Nate Paul information about an event Dick Weekley was holding because Dick Weekley was trying to get Nate Paul to donate money to Texans for Lawsuit Reform?

A. No, sir.

Q. You don't remember that?

A. No, sir, I do not.

Q. Can we agree that that text that you're holding in your hand confirms that you were texting information about Dick Weekley to Nate Paul?

A. It does.

MR. BUZBEE: Your Honor, with that, I pass the witness.

MS. EPLEY: The briefest of redirects, please, Mr. President.

MR. BUZBEE: You don't get one.

PRESIDING OFFICER: You're back up.

MS. EPLEY: May I proceed?

PRESIDING OFFICER: You may.

FURTHER REDIRECT EXAMINATION

BY MS. EPLEY:

Q. Is the conversation you had with Dick Weekley, if it existed at all, something that would have to be delivered by hand to Nate Paul?

A. No.

Q. What was it? What was the construct – the construct of the conversation?

A. The conversation that I had had with Dick Weekley was with General Paxton on his – Dick Weekley's back porch, in which we were engaging in a fundraising conversation. I do not recall Nate Paul having been mentioned. And if it was any information tied to TLR, I don't see why that couldn't have been sent via e-mail, if that's the question.

Q. So it's completely made up in regards to this to your knowledge?

MR. BUZBEE: Objection. Leading. And also, Your Honor, I'm just curious, are we going to keep questioning the witness? Are you going to give extra turns like this?

PRESIDING OFFICER: You'll get one more cross and then we're done, Mr. Buzbee.

MR. BUZBEE: Okay. Thank you.

PRESIDING OFFICER: This is the first time we've gone to two redirects, and you'll have a chance to recross. But I thought the lateness of the trial we'd allow it. I think you smiled knowing I'm sustaining his objection.

MS. EPLEY: I did. Thank you, Mr. President.

Q. (BY MS. EPLEY) Do you have any reason to think that this story Mr. Buzbee has told you has anything to do with that manila envelope?

MR. BUZBEE: Objection. Leading.

Q. (BY MS. EPLEY) Do you?

PRESIDING OFFICER: Sustained.

Try another way.

MS. EPLEY: Thank you.

Q. (BY MS. EPLEY) Did you ever need to deliver an invitation from David Weekley to Nate Paul?

A. Not to my knowledge.

MS. EPLEY: Pass.

FURTHER RECROSS-EXAMINATION

BY MR. BUZBEE:

Q. The truth is you don't know what you delivered, do you?

A. That is correct.

MR. BUZBEE: Pass the witness, Your Honor.

PRESIDING OFFICER: Well, both of you – can we dismiss the witness – excuse the witness, rather?

MS. EPLEY: I think – yes.

MR. BUZBEE: Subject to recall.

PRESIDING OFFICER: Subject to recall. You're excused subject to recall. Thank you.

(Witness left the Senate chamber)

PRESIDING OFFICER: Mr. Hardin, who should we have the bailiff bring in?

MR. HARDIN: I'm sorry?

PRESIDING OFFICER: Which witness are you calling?

MR. HARDIN: Mr. Blake Brickman, please, Your Honor.

PRESIDING OFFICER: The bailiff will bring in Mr. Blake Brickman.

MR. HARDIN: Mr. Buzbee, are these your documents up here? Is any of this yours?

PRESIDING OFFICER: Mr. Hardin, as we move forward, we're going to break around 3:30 for a short break, just for planning purposes.

(Witness entered the Senate chamber)

PRESIDING OFFICER: Raise your right hand.

(Witness was sworn by Presiding Officer)

PRESIDING OFFICER: Please be seated. Speak close to the mic and speak up. Mr. Hardin, you're on the clock.

MR. HARDIN: Thank you.

JAMES BLAKE BRICKMAN,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HARDIN:

Q. State your name – full name, please.

A. James Blake Brickman, but I go by "Blake."

Q. How are you presently employed?

A. I work here in Austin at a venture capital firm.

Q. I'm going to move pretty fast with you here, but I don't want you –

PRESIDING OFFICER: You need to move closer to the mic.

MR. HARDIN: Yeah, you – you need to come through.

Q. (BY MR. HARDIN) I'm going to move pretty fast here with you, but I don't want you to speak fast. I'm just explaining to you they'll come kind of hot and heavy, okay.

Would you give me an idea of where you grew up, your college, and your jobs before you got to the AG's office?

A. I grew up in Dallas, Texas. I went to Vanderbilt University. And I went to the University of Kentucky College of Law.

Q. And when you finished – and during the time that you were going to school, did you go to law school at night school?

A. Yes, sir. I was the chief of staff for United States Senator Jim Bunning in Washington D.C., and I went to night law school during that time.

Q. And did you work – did you work for another politician before you came back to Texas?

A. Yes. I was Governor Matt Bevin from Kentucky's chief of staff from 2015 to 2019.

Q. My memory is that Governor Bevin was considered a pretty conservative governor, was he not?

A. He was probably the most conservative governor in the country.

Q. Is that the history of your public employment?

A. It is.

Q. All right.

A. Senator Jim Bunning was also known as the most conservative senator at the time. Rand Paul took his seat when he retired.

Q. All right. Now, when you came back to Dallas, what year did you come back and how did you end up at the AG's office?

A. I came back in the end of 2019. I interviewed for a position as deputy attorney general with Jeff Mateer and Attorney General Ken Paxton in December of 2019, when they personally recruited me to come back to Texas.

Q. And did General Paxton himself interview you and ask you come back and come?

A. He did. I met with General Paxton early in 2019 in Austin. And then after Christmas in 2019 he offered me the job when we had lunch at Campisi's in Dallas together.

MR. HARDIN: May I have Attorney General Exhibit 170?

THE WITNESS: Can I move this closer?

PRESIDING OFFICER: Sure.

MR. HARDIN: I think it should be either right after or right before that, Stacey. I didn't have the page number.

Thank you.

Q. (BY MR. HARDIN) Would you read that, please, out loud?

A. This is a message from General Ken Paxton to me.

Q. Dated what date?

A. January 11th, 2020.

Q. Is this right before you started or had you actually started?

A. This is two weeks before I started, so –

Q. Go ahead.

A. I got a text from both Tommy and Doug Deason, both singing your praises. I think highly of both those guys so you keep good company. I am looking forward to your coming to work with us. You are going to fit in great and be a tremendous asset to our team.

Q. And that is – is that – with that kind of endorsement, is that the way you began working for Judge – not Judge – for Attorney General Paxton?

A. It is. Tommy Hicks is who he's referring to, who at the time was the co-chairman of the RNC and a very close friend of Donald Trump, Jr. Doug Deason is a conservative philanthropist in Dallas who is well-known in the Republican party.

Q. All right. Now, when you began, what was your position?

A. I was in charge of policy and strategic initiatives, but because I had not waived into the Texas Bar, my title initially was not deputy attorney general because I did not waive in until about June of 2020.

Q. All right. When was the first time that you heard the name Nate Paul?

A. Sometime in either late March 20 – March of 2020 or early April of 2020.

Q. And without going into what was said, did you have a conversation with the young man that was called "the body man"?

A. I had a conversation with Drew Wicker. Drew Wicker came to me.

Q. And where was Drew Wicker's position in relation to you?

A. Drew Wicker reported directly to me.

Q. All right. And was Mr. Wicker concerned?

A. He was very concerned.

Q. And did he report to you his basis of his concern?

A. He did.

Q. And what did you tell him?

MR. BUZBEE: Objection. Hearsay.

MR. HARDIN: That's fine. We'll just move right along.

Q. (BY MR. HARDIN) At – did you give him some advice? Just yes or no.

A. Yes.

Q. All right. And later did he inform you that he had followed through on that advice?

A. Yes.

MR. BUZBEE: Objection, Your Honor. Hearsay.

MR. HARDIN: All right.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Did you become aware ultimately of who it was that he was concerned about?

A. Attorney General Paxton was meeting privately with a man named Nate Paul without his security detail present and without the meetings being on his personal calendar – on his official calendar.

Q. And was Drew concerned about him periodically getting rid of the security detail?

MR. BUZBEE: Your Honor, I'm sorry, I object. We heard from Drew Wicker. This is hearsay.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) My only question was did he relay his concerns about that matter, without telling me what they were?

A. Yes.

Q. All right. Now, I want to move now to September of 2020. Over a period of time, without going into detail, had you become familiar with and heard the Nate Paul in connection with other matters from several different or multiple occasions?

A. Yes, sir.

MR. BUZBEE: Objection. Leading and hearsay.

MR. HARDIN: That's not leading. I just asked whether he did. He could have said no. He could have said yes.

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) Now, by the time we hit September the 29th, what was your state of mind as to what your concerns were about Mr. – about Mr. Paul?

A. I was extremely concerned about Mr. Paxton's conduct. My office was about 5 feet away from Attorney General Ken Paxton's office. And what I saw over the course of those three, four, or five months, the summer of 2020, I was very concerned that Mr. Paxton was breaking the law.

Q. I want to go back – if I may step away to get an exhibit. But first I want to ask you about your relationship up until the summer when you started having concerns with the attorney general.

Was there a particular occasion back in the spring in which the attorney general sought to praise you?

A. Yes, sir. Attorney General Paxton and I had a very good relationship for the first few months I was in the office.

Q. All right.

MR. HARDIN: May I step over here, Your Honor?

May I approach the witness, Your Honor?

Q. (BY MR. HARDIN) Now, would you identify the exhibit I just showed you, which is obviously a book. And what exhibit number, just for identification purposes, is it?

A. It's Exhibit 705.

Q. And what is the title of the book?

A. The book is called *Scalia Speaks* by Antonin Scalia, Justice Scalia.

Q. And where did you get that book?

A. Attorney General Ken Paxton gave this book to me in front of 40 or 50 of the most senior employees in the Office of Attorney General in May of 2020.

Q. When did he give you – in May. That's what I was going to ask you. Did he inscribe it?

A. He did.

Q. Is the inscription in the first page?

A. It is.

Q. What did he say?

A. Would you like me to read it?

Q. Yes.

A. Blake, I am so grateful you joined our team at the Texas AG's office. You have been an amazing addition. I'm confident that you will continue to make a difference for our office and all of Texans. Blessings, Ken Paxton.

Q. Thank you.

How would you characterize whether that is an accurate description of the way he talks to and about you up through the month of May of 2000 – of 2020?

A. It was accurate.

Q. All right. Was there a particular event that you'd been involved in on behalf of somebody that led him to – to be giving you that book and an award?

A. Yes, sir.

Q. What was it?

A. This was early May of 2020. And if you remember, that was at the very beginning of the COVID pandemic. And there was a situation in the DFW Metroplex where I'm from where there was a hairdresser named Shelley Luther who was put in Dallas County jail because she violated a stay-at-home order so she could provide for her family.

Q. How does that involve you?

A. I went to Attorney General Ken Paxton and said, Sir, this is wrong that this is happening in this country.

Q. And what was his reaction?

A. He said, Well, what – what can we do about it?

Q. And you said?

A. I said, You should speak out about this. This is wrong. Use your bully pulpit. And he did.

Q. And as a result, what was his reaction to that?

A. He did several interviews. He was on Fox News talking about this. Tucker Carlson even praised him.

Q. And then –

A. In early May of 2020. So he was very happy. And this was my idea.

Q. And, of course, there were other public officials that didn't – that also spoke up around that same time, correct?

A. There were many others after the fact, yes.

Q. All right. And so as a result, what was the attorney general, of you having suggested that to him and it turning out well, how was his attitude toward you as you entered June of 2000 – of 2020?

A. It was great. That's why he gave me the book. He had never done this before, is what he told the entire staff. He had never made an award like this ever before.

Q. All right. Now, let's go to September the 29th, September 30th of 2020. You said you had become concerned. You expressed some of those concerns.

What was the focus and what was giving rise to it for you personally in September the 29th and 30th of 2020?

A. I witnessed Attorney General Ken Paxton do brazen things on behalf of Nate Paul. He abused the entire Office of the Attorney General of Texas to benefit Nate Paul. And it got worse and worse and worse as the year progressed.

Q. Were you one of those who went to the FBI on September the 30th?

A. Yes, sir.

Q. And are you also one of those that has been colloquially called a "whistleblower"?

A. Yes, sir.

Q. Well, when you went to the FBI, did you go with other persons?

A. There were seven of the most senior staffers at the Office of Attorney General. We went together.

Q. Now, there seems to be some confusion in some parts of the world as to what evidence is. Did y'all take evidence with you?

A. We did.

Q. And what did you take in the form of evidence to talk to the FBI?

A. Again, this is the seven most senior people in the agency. We took firsthand personal knowledge of Ken Paxton's illegal, immoral, and unethical conduct to federal law enforcement officers.

Q. You took yourselves?

A. Yes.

Q. And did y'all – can you describe the meeting as to what y'all did?

A. Sure. There – the meeting lasted several hours. I don't remember exactly how much, but we all went around the table and shared our concerns with Ken Paxton's conduct.

Q. Is that evidence?

A. It is.

Q. Did you give eyewitness accounts of what you observed?

A. Yes.

Q. Would it be just like an eyewitness account of somebody seeing a robbery?

A. Yes.

Q. All right. Sometimes the victims of robbery don't have any documents on them, do they?

A. Correct.

Q. All right. But at the end of that time, had each of the seven of you provided your evidence of what you believed was inappropriate and wrongful conduct by the attorney general?

A. We did.

Q. All right. And at that time had you seen the grand jury subpoenas that were issued?

A. I had seen one or two, but not all of them.

Q. All right. And then, after that meeting, were you present when it was decided to send a letter to – actually, who did y'all send letters to? Let me put it that way.

A. We sent a letter to Greg Simpson, who is the head of HR for OAG.

Q. Now, if it keeps being – I thought it was dead, but not – I guess not. It keeps being a suggestion that somebody removed a letterhead from a letter that you sent; is that true?

A. I don't even know what that is referring to.

Q. All right. Did you see – was a letter sent without General Paxton's name on it?

A. I believe the letter we sent had the attorney general's crest on it.

Q. All right. Did – what was the practice there as far as letters that you had?

A. I don't recall ever discussing letterhead at all with any of my colleagues when we signed the letter.

Q. All right. Did you have letters with – regular letters that were printed and available with the seal but not his name on it?

MR. BUZBEE: Objection. Leading.

Q. (BY MR. HARDIN) Did you?

A. Yes.

MR. BUZBEE: Your Honor, can we get a –

PRESIDING OFFICER: That was sustained.

MR. BUZBEE: Thank you.

PRESIDING OFFICER: Rephrase.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) Tell me what kind of letterhead you had there.

A. There were many different types of letterhead. I – I don't even recall letterhead being a topic of discussion at all amongst our colleagues.

Q. Well, did any of y'all move – did you have any knowledge or evidence or any belief regarding whether somebody messed with the letterhead of a letter?

A. None at all.

Q. All right. If somebody has tried to keep saying it and saying it and saying it, would that be true or untrue?

A. Not true.

Q. Now, after the 30th, and then on the 1st, did each of you attempt to visit with the attorney general?

A. We did.

Q. And what was his response?

A. That he was out of the office and would not meet with us but that we could e-mail him our concerns. He said that back to us in a text message.

Q. All right. So then after – after it happened, there was some public – were there some public releases, some of – Mr. Mateer resigned and so, correct?

A. Jeff Mateer resigned on – I believe it was Friday, October 2nd –

Q. All right. Now – what happened?

A. – 2020.

Q. What happened with you after these events? Did you resign?

A. I did not.

Q. And what happened? What was your – what was your circumstances going forward?

A. I showed up for work.

Q. And when you went to work, what were the circumstances?

A. Monday, October 5th, was the very first time I ever met a man named Brent Webster, who Attorney General Ken Paxton had hired to be the first assistant. We had a meeting previously scheduled at 9:00 a.m. that morning about the legislative affairs team, of which I was involved with. The very first thing that Brent Webster did in that meeting to me was he threw me out of the meeting.

Q. All right. And then what happened next?

A. I went back to my office. And Brent Webster came into my office with a woman who was armed and kept threatening me to meet with him.

Q. What did you say?

A. I said –

MR. BUZBEE: Objection. Hearsay.

MR. HARDIN: All right. Fair enough.

PRESIDING OFFICER: Sustained.

MR. HARDIN: Fair enough.

Q. (BY MR. HARDIN) So then did you have a conversation with him?

A. I did.

Q. And did you have a meeting with him?

A. I told Brent Webster that –

MR. BUZBEE: Objection. Hearsay.

MR. HARDIN: That's fine. If he doesn't want to know, that's fine.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Let me – let me go – after that conversation, how much longer did you stay employed with the attorney general's office?

A. I was terminated October 20th, 2020, so that would be 15 days.

Q. Briefly can you describe the circumstances of the environment for you there before they ultimately terminated you?

A. It was an extremely hostile work environment. They had – like I mentioned earlier, Brent showed up in my office with a woman with a gun. They asked me to take my cell phone to the car. They removed me from access to Attorney General Paxton's schedule, which I oversaw. They hired apparently another scheduler without asking me. They sent a letter to the entire House of Representatives in response to a request by Jeff Leach that they did not even show me before they sent out, even though I oversaw the legislative team.

I could go on.

Q. All right. Let me ask you this.

MR. HARDIN: Can I have 576 and 3350. I believe they're in evidence, but I want to check before you put them up.

PRESIDING OFFICER: We don't have 576 on our list.

MR. HARDIN: All right. I think she's getting copies, Your Honor.

PRESIDING OFFICER: What was the other number?

MR. HARDIN: The other – the two numbers were 576 and 3350.

And I'll – I'll represent they are the letter that Mr. Leach sent. And – and the second exhibit is the response from General Paxton.

PRESIDING OFFICER: Let me give them a short moment to look at them. Any objection?

MR. BUZBEE: Just taking a look, Your Honor. Just a second.

PRESIDING OFFICER: Sure. Take your time.

MR. BUZBEE: I guess no objection, Your Honor.

PRESIDING OFFICER: Admit Exhibit 350 and 576 into evidence.

(HBOM Exhibits 350 and 576 admitted)

MR. HARDIN: All right. Can we have 576, please?

PRESIDING OFFICER: Hold on, Mr. Hardin. You offered 3350. Did you mean 350? Because what we received was 350.

MR. HARDIN: Well, it was 350, I think. Well, let me look and see. Can I look and see?

PRESIDING OFFICER: Sure, you can.

MR. HARDIN: Just a moment, Counsel.

PRESIDING OFFICER: So it is 350, I overheard. So admit 350 and 576 into evidence.

You may continue.

Q. (BY MR. HARDIN) Now, can you just – we won't go through the whole letter, but let's, if we can, scroll up please.

If you look at it – excuse me. This is a letter, October the 9th, is it not, you were still employed? Were you still employed or not?

A. Yes, sir, I was still employed.

Q. All right. And Mr. Leach at that time, did you know what his position was in the House?

A. Mr. Leach was the chairman of the committee that had direct oversight over the Office of Attorney General.

Q. Got you.

MR. HARDIN: And in that capacity, if we scroll up, please. Actually go to the next page, I believe it is. Thank you.

If you could do the top of it.

Again, in October the 9th, can we go up? Just scroll up just a little bit. The last paragraph, I'll publish it with you to make sure I do it correctly.

Q. (BY MR. HARDIN) Irrespective of that decision, by way of this letter, I formally request that you provide a written report as to what specific steps are being taken by you and your newly appointed first assistant attorney general, Brent Webster, to ensure that the effective operations of the agency continue in full force and effect, without delay, without interference, and without interruption. I would ask that such a report could be provided to all members of the Legislature within seven days.

Now, in the paragraphs before, did Mr. – what did Mr. Leach lay out for him before he came to that final, if you can just – just describe it?

A. Mr. Leach appeared to be concerned about the state of the Office of Attorney General in light of the fact that our allegations had been public at this time.

Q. All right. And so was this an opportunity to ask the attorney general to respond to those allegations –

A. It was.

Q. – that had become public; is that right?

A. That's right.

Q. All right. Thank you.

MR. HARDIN: And now, Stacey, if I can have 350, please – that's 350. If I can have 576.

Pardon me?

Q. (BY MR. HARDIN) All right. Now, if you would, look at this letter. Do you recall this letter?

A. I do.

Q. And in his answer that he gives, how many pages – scroll through it, please.

Does he respond in any way specifically with Chairman Leach's request for an explanation and idea as to what is going forward to correct it?

A. No, but he does lie to Representative Leach and the other members of the House.

Q. Can you – can you point out where it's untrue and what he said?

A. The very first line. The very first line he says that we made false claims. We did not make false claims.

Q. All right. Anywhere else?

Do you take issue with anything else?

A. On the second page, the second-to-last paragraph, Attorney General Ken Paxton says, OAG's regular business is moving forward at full capacity.

That is 100 percent false.

Q. All right. You're talking about the condition of the office after y'all left?

A. That's correct.

Q. All right. I want to move on, but my only question to you is at anywhere in this letter that you read does he really address Chairman Leach's questions?

A. He does not.

Q. Okay. Now, what was the occasion exactly – how were you terminated? What were the circumstances?

A. Brent Webster, who is the first assistant at the time, called me into his office. There was another woman there named – I believe her name was Shelli Gustafson. And he asked me if I would like to have severance or if I wanted to be terminated.

And I told him, Brent, I've done nothing wrong. I'm not going to resign to take severance.

So he terminated me.

Q. All right. Now, at some time after that, did you and three others of the senior staff file a lawsuit?

A. We did.

Q. And is that lawsuit still pending?

A. It is.

Q. Was that lawsuit – was there any attempt to settle that lawsuit? And if so, when?

A. There was no attempt to settle the lawsuit prior to Ken Paxton's re-election in 2022.

Q. I won't ask you that.

What date approximately or what month did y'all file your lawsuit?

A. It was sometime in mid-November of 2020, if I recall correctly. November of 2020.

Q. All right. When you filed that lawsuit in November of '20, you were about a year away from the election, were you not?

A. Two years.

Q. Two years away from the election, excuse me.

And during that period of time, what happened with the lawsuit?

A. Attorney General Ken Paxton tied up our case for two years, making the absurd legal argument that the whistleblower law does not apply to him. He filed what is called a plea to the jurisdiction, which effectively stopped discovery in our case for over two years.

Q. So as of the election of November 22nd, was – had there been any discovery or ability to legally lay out the evidence or allegations in your lawsuit?

A. No.

Q. Now, once the election in November of '22 – of 2020 was over – or '22, excuse me, how was it the settlement conversation started? How did that get started?

A. Sometime in late January of 2023, so earlier this year, Ken Paxton's lawyers called our lawyers and said that they would like to discuss settlement and mediation. So the idea of settlement –

Q. Stop. Stop. This is good. He's about to jump up. I want him to save his energy.

MR. BUZBEE: Thank you.

Q. (BY MR. HARDIN) So he – at the time that he's – they initiated settlement discussions, had there ever been any settlement discussions prior to that?

A. No.

Q. Had there ever been any indication while the lawsuit was pending and the election was in the future, during that two years, was there ever any indication or suggestion that the – about a possible settlement?

A. Never.

Q. All right. Do you know of any circumstances that changed and led to their reaching out to you to discuss the settlement?

A. Ken Paxton was re-elected.

Q. Was he re-elected without knowing anything – without the public being told any of the real facts and so in the discovery with depositions or so?

A. I would say it's even worse than that. I think Ken Paxton lied to the public for two years about our case. So not only did we not have discovery, he did the opposite and lied to the public about our allegations.

Q. Let me ask you, if you can – then what I want to do is to go to Exhibit 469. I want to move to introduce 469 and 470, but I first want to ask a couple of questions about it.

With the original settlement that everybody has heard a good deal about, was there a proposal that you actually personally individually held up from reaching a settlement?

A. I did not go to the mediation.

Q. Hold on.

A. I never –

Q. Hold on. we're going to try to do this in a question-and-answer way. So was there a suggestion of a mediation sometime in February?

A. Yes.

Q. All right. And who all went to that mediation?

A. My other three co-plaintiffs went: Mark Penley, David Maxwell, and Ryan Vassar.

Q. And out of that mediation, did the three of them reach a settlement?

A. They did.

Q. And what was this amount that they settled for?

A. \$3.3 million.

Q. Why did you not go to the mediation?

A. Because I did not want to settle the case.

Q. Why did you not want to settle the case?

A. Because I wanted to be vindicated for what happened to me and my colleagues, and I did not want to settle the case. What happened to us should never ever happen to any other public servant in Texas.

MR. BUZBEE: Objection. Nonresponsive at this point.

PRESIDING OFFICER: All right. Sustained.

Q. (BY MR. HARDIN) All right. Moving on. Now, when you – did you have conditions for money as to how much money you wanted or anything?

A. No, sir.

Q. Did you even give them a figure?

A. I never gave them a figure.

Q. What happened after the mediation when three had settled and the attorney general had settled, did you see pressure or response or any attempts to pay you more money to get you to settle?

A. Yes. What happened was, is the parties came to me and said, Okay, Mr. Brickman, what would it take –

MR. BUZBEE: Your Honor, I'm sorry to object. These are Rule 408 settlement discussions, number one.

PRESIDING OFFICER: Sustained.

MR. BUZBEE: And number two –

MR. HARDIN: Your Honor, I move to introduce Exhibits 469 and 470.

PRESIDING OFFICER: Was there any objection? I don't believe there was.

MR. BUZBEE: I need to see those.

PRESIDING OFFICER: We need to see those.

MR. BUZBEE: If these are Rule 408 settlement discussions, that would be my objection.

Q. (BY MR. HARDIN) Do you have those exhibits in front of you?

A. I do.

MR. HARDIN: For the record and the Court, they're not in evidence yet.

PRESIDING OFFICER: I have 470 and 469.

MR. HARDIN: Yes, sir. I move to introduce.

MR. BUZBEE: Same objection. Not only are they hearsay, but it's protected communications under Rule 408 settlement discussions.

MR. HARDIN: Your Honor, there's nothing protected. These documents have already been public in numerous ways.

MR. BUZBEE: The trial is here in the court, not in the public. In this Court, Your Honor, these are inadmissible.

MR. HARDIN: That's fine. The objection is invalid, Your Honor. These are documents that –

PRESIDING OFFICER: Give me a moment.

MR. HARDIN: Sure.

PRESIDING OFFICER: Give me a moment.

MR. HARDIN: I know. I know.

PRESIDING OFFICER: Under 408, I sustain the objection.

MR. HARDIN: Pardon me, Your Honor?

PRESIDING OFFICER: I said we looked at 408, we sustain the objection. I believe that was your objection.

MR. BUZBEE: That was my objection.

PRESIDING OFFICER: Rule 408.

MR. HARDIN: Yes, sir. These were not, though, for the liability of the claim. I believe that is what we are speaking about as far as 408. These – these statements show what he himself – they offered him. If you look at –

MR. BUZBEE: Your Honor, I am going to object just to relating what the documents say and renew the objection that's already been ruled upon.

PRESIDING OFFICER: I sustained it.
Move forward.

Q. (BY MR. HARDIN) Well, did you have conditions for not – for not agreeing?

MR. BUZBEE: Objection. Same objection.

MR. HARDIN: He has a right to tell what his objection as far as settling –
(Simultaneous crosstalk)

PRESIDING OFFICER: Hold on. Hold on.

MR. HARDIN: Here's my problem.

PRESIDING OFFICER: You're talking over each other. I can't hear and they can't hear.

MR. HARDIN: All right.

PRESIDING OFFICER: So what was your response to his objection?

MR. HARDIN: I asked him for what was his response to their offer. This is an outward offer. This is not a mediation offer. None of this has to do with mediation now. They settled their mediation, and now the lawsuit is still pending. He rejected it. They came to him with a proposed –

MR. BUZBEE: Your Honor, again, he's speaking –

PRESIDING OFFICER: Hold on. Hold on. Hold on. Hold on, Mr. Buzbee.
Hold on.

MR. HARDIN: This is the problem with eating up the time, Your Honor. This is a really serious objection.

PRESIDING OFFICER: I'll give you – give them two minutes back here, okay.
So your objection is, Mr. Buzbee?

MR. BUZBEE: Rule 408, textbook. This is improper, not admissible.

MR. HARDIN: He just used up a minute and a half on an objection that has no validity.

PRESIDING OFFICER: You need to restate your question.

MR. HARDIN: Sure.

Q. (BY MR. HARDIN) What – were you making demands on them for whether you would ever agree to consider settlement?

MR. BUZBEE: Same objection.

Q. (BY MR. HARDIN) Don't tell me –

A. I told –

Q. No, no, no, no, no.

PRESIDING OFFICER: Overruled.

Q. (BY MR. HARDIN) All right. Now, the answer first would be yes or no. And then depending on that answer, I'll ask you the next question.

A. Could you please ask the question again?

Q. Sure. Did you make demands on them that would have to be fulfilled before you would ever settle?

A. I did.

MR. BUZBEE: Same objection, Your Honor. That's Rule 408.

MR. HARDIN: Your Honor, this is what he said, what his conditions were. I will – I can even ask it.

Q. (BY MR. HARDIN) What were your conditions that you demanded before you ever would settle?

MR. BUZBEE: Your Honor, Rule 408.

PRESIDING OFFICER: Mr. Buzbee, we agreed with you –

MR. BUZBEE: Thank you.

PRESIDING OFFICER: – on the first two objections on 408. Not on this one.

Overruled.

Go ahead.

MR. HARDIN: Thank you.

THE WITNESS: Is the question what were my conditions to settle?

Q. (BY MR. HARDIN) Yes. What were your conditions before you would agree to settle?

A. I told –

MR. BUZBEE: Hearsay.

A. – the office of the attorney general that I would settle –

MR. HARDIN: Hold on. Hold on, everybody. Let him speak, please.

PRESIDING OFFICER: Sustained on that one.

Go ahead and rephrase.

I sustained that objection. Rephrase.

Q. (BY MR. HARDIN) I wanted to know what your conditions were, not what you told them. Okay?

A. Fine.

Q. That's the – hold on. That's the basis of the objection.

What were your conditions before you would ever agree to consider settling?

A. I had three.

Q. What were they?

A. Ken Paxton apologize for calling us rogue employees and admit that we did what we thought was right, was the first one.

Q. That's number one.

A. The second one was the Third Court of Appeals had ruled in our favor that the whistleblower law applies, and I wanted him to agree not to move to dismiss that.

Q. In other words, you had a winning opinion on an intermediate court level, and you wanted an agreement that they wouldn't challenge that agreement. That ruling?

A. I did, because I wanted future Texas public servants to know that the whistleblower law applies in this state.

Q. All right. And what was your third demand?

A. That Attorney General Ken Paxton remove a disparaging statement where he called us rogue employees. It was on the OAG website.

Q. In response to that, instead of those conditions, were you offered more money if you wanted that instead?

MR. BUZBEE: Objection. Rule 408, Your Honor.

PRESIDING OFFICER: I'll sustain that objection.

Q. (BY MR. HARDIN) Were you offered more money?

A. Yes.

MR. BUZBEE: Objection, Your Honor.

THE WITNESS: Well, I was offered –

MR. HARDIN: Wait a minute. Wait a minute. He's got an objection on the table.

MR. BUZBEE: Objection.

MR. HARDIN: Hold on.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Well, did – ultimately, were you willing to consider yourself, your own state of mind, were you willing to consider more money instead of those three objections –

A. I was –

Q. – the three objectives that you had?

A. I was not.

Q. All right. And was that communicated to the other side?

A. It was.

Q. Now, ultimately, does Exhibit 470 set out this ultimate settlement that was pending that is being considered by the House? Is that actually a document that has been presented to the House of Representatives?

A. It is.

Q. Or is it the settlement that is actually under consideration that the House, instead of paying right away, launched an investigation of?

A. It is.

Q. Is that a public document?

A. It is.

MR. HARDIN: Again, Your Honor, in all due respect, we offer Exhibit 470, please.

MR. BUZBEE: Objection.

PRESIDING OFFICER: Objection to 470?

MR. BUZBEE: Yes, Your Honor. It's – as you can see, it's a mediated agreement proposed which falls under a privilege, as the Court knows. Moreover, it's hearsay.

MR. HARDIN: Your Honor, that – excuse me. Go ahead. I'm sorry. What I was going to say is, is it – that is tacked onto the settlement that occurred with the others. It was not produced by mediation. He never attended a mediation. He never engaged in the mediation process.

What they did was they just simply put the final agreement on there once he agreed not to object, and they add on those three conditions that he required in order to represent the whole final settlement that affected everyone.

PRESIDING OFFICER: Hold on.

Mr. Hardin, is this a public document?

MR. HARDIN: Yes, sir.

I say that. Make sure I'm not overstating that.

PRESIDING OFFICER: Yeah. Make sure you're not overstating that.

MR. HARDIN: I'm getting yes, it's being pulled off the Internet, is it not?

It's on the Internet. I would point out, too, I think 4 – 408 points out that the Court can admit one either way, on your own – on your own if you think it affects some type of issue in the case.

I can assure you that Mr. Buzbee will be talking about having sued and being settled on cross. That would be something that would come under that.

PRESIDING OFFICER: Overrule the objection.

MR. HARDIN: All right.

Q. (BY MR. HARDIN) Now –

PRESIDING OFFICER: The Exhibits 470 –

MR. HARDIN: Thank you, Your Honor.

PRESIDING OFFICER: – and 469 are admitted into evidence.

(HBOM Exhibits 469 & 470 admitted)

Q. (BY MR. HARDIN) All right. Now, just to be sure the record is clear, you never participated in a mediated settlement agreement, did you?

A. I did not.

Q. All right. Now, I want you – if we scroll down and look at the bottom of this, scroll to it. Number 2 says what?

A. OAG will permanently remove this press release from its website.

Q. And that press release was what? Is that the one in which you – what – what was that press release?

A. This was the press release where Attorney General Ken Paxton called me and my colleagues rogue employees.

Q. Number 3.

A. Would you like me to read it?

Q. Read it.

A. A recital in the settlement agreement will state whereas Attorney General Ken Paxton accepts that plaintiffs acted in a manner that they thought was right and apologizes for referring to them as, quote, rogue employees, end quote.

Q. And then number 4, would you read that?

A. The parties will not ask that the Third Court of Appeals opinion issued October 21, 2021, be withdrawn.

Q. And that – is that the settlement that is now still pending before the House for approval?

A. It is.

MR. HARDIN: You can take that down.

Q. (BY MR. HARDIN) Now, I want to –

PRESIDING OFFICER: Mr. Hardin, about how long do you expect to go, Mr. Hardin?

MR. HARDIN: I'm sorry?

PRESIDING OFFICER: About how much longer do you expect to go? They've been on – the jurors have been sitting for two hours.

MR. HARDIN: I'm hoping to do about another 14 or 15 minutes.

PRESIDING OFFICER: Members, I think you can make it for another 14 minutes. Okay. I see nods from the jurors. Continue.

MR. HARDIN: Thank you, Your Honor.

Q. (BY MR. HARDIN) If I can now, I want to move – there was an attorney general report issued, was it not, that sometime in '21, setting out the attorney general's side of what happened here?

A. In August of 2021 the attorney general put out a report.

MR. HARDIN: I believe Attorney General 127 is in evidence. I'm sure it is.

MR. BUZBEE: It is.

MR. HARDIN: But I just – I want to be certain.

MR. BUZBEE: It is. I put it in evidence.

MR. HARDIN: All right.

Q. (BY MR. HARDIN) Now, would you identify – the front page – if you've read this report, can you just describe it for you – in gentle descriptive language, please. Would you?

A. This is the report that the Office of Attorney General put out clearing itself of wrongdoing.

Q. All right. This is – was represented as some type of independent report, right?

A. Yes.

Q. And then you discovered, based on public statements, it was actually prepared by Mr. Webster, the first assistant?

A. That's correct.

Q. Okay. In this report, have I asked you just to take several – three or four examples of things that you disagree with? Have I asked you to do that?

A. Yes.

Q. All right. What I – what I wanted to ask you is, in this report, how would you describe your reaction to it as accurately as the terms of what happened in these matters involving Nate Paul?

A. I would call this report a whitewash full of lies –

Q. All right.

A. – and omissions.

Q. Now, if I may, let's just go over to page 5 and do this real quickly. If I asked you to pick four or five samples, can you just do that for me. And would you look on page 5 and see as to the first claim.

What is – what is untrue about that claim? Do you see where I'm at?

A. It says, On two prior occasions involving Nate Paul's interests, the open records division sided with the government agency against disclosing to Nate Paul.

That is not true. There was an open records decision that took no opinion as to the release of the documents.

Q. What about the second claim?

A. If you start with the sentence, Most relevant here –

MR. BUZBEE: Your Honor, I'm sorry to interrupt. This witness – this witness was not involved in the open records decision. He was not involved in the Mitte intervention, at least certainly not directly involved.

And for him to go through, and without taking away counsel's time, and go line by line of a report about things that he wasn't involved in, that would not be proper. So maybe with respect to the second claim, maybe he has some personal knowledge, but everything else, he has none.

MR. HARDIN: I – that may be one of the more imaginative objections I've heard throughout this entire trial.

MR. BUZBEE: I feel – I feel –

MR. HARDIN: What I would point – excuse me.

What I would point out is I – if I – if I want to go through – he did have contact with Mr. Mitte. Why I just went by it, because they've heard a million things about the Mitte case. But all he's been asked is are they true or untrue. He's got that wonderful art of screaming cross-examination. He can use every bit of it he wants, okay.

But this issue here is simply does he believe that is an untrue statement. He can challenge him as to what his basis is on cross.

PRESIDING OFFICER: Overruled.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) On this number 2 here, where it says, AG Paxton's involvement is consistent with his predecessors and in line with his required duties and legal obligations as Attorney General of Texas, most relevant here, the position taken by the AG in this litigation was adverse to Nate Paul and in support of a higher settlement amount to be paid by Nate Paul to the Mitte Foundation, as opposed to the prospect of continued and costly litigation that would disproportionately benefit the charity's court-appointed receiver and its lawyer.

Is that a truthful statement?

A. It is not a truthful statement.

Q. And did you actually have an occasion to be asked by the attorney general to review the Mitte file at one time?

A. I did.

Q. All right. The third claim, this informal guidance letter regarding foreclosure sales written by Bangert was made in response to request for disaster counsel advice from Texas Senator Bryan Hughes during the height of the pandemic and not for the benefit of Nate Paul.

Is that a true or untrue statement?

MR. BUZBEE: Objection. Personal knowledge, Your Honor.

PRESIDING OFFICER: Object – I mean, overruled. I'm sorry.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) Is that a true or untrue statement?

A. It is an untrue statement. The foreclosure opinion was for Nate Paul's benefit.

Q. Matter of fact, the foreclosure opinion that said that foreclosures could not be conducted at that time because of the limit on people in the COVID situation, was that actually even totally inconsistent with what the attorney general had just done recently?

A. It was entirely – this opinion was entirely inconsistent from prior opinions that our office put out. This was a time –

Q. Hold on.

A. I'm sorry.

Q. Are you familiar with a particular event some weeks right before the opinion of August 1st or 2nd concerning foreclosures?

A. One month before this opinion came out Attorney General Ken Paxton held a fundraiser in Dallas outdoors, and a month later issued an opinion saying that foreclosure sales could not continue outdoors.

Q. Can we go to page 6, please.

Look at the top. Cammack legally – Cammack – Cammack legally and properly exercised authority delegated to him by both AG Paxton and the TCDAO. Cammack was designated as outside counsel for OAG by AG Paxton, and he was also knowingly appointed as a special prosecutor by the Travis County DA's Office.

Is that a true or untrue statement?

A. It is false.

Q. All right. Would you tell the jury whether these – these that you've labeled untrue statements that we've just gone through for just a couple of minutes, whether they are typical of this report or unique to this – to this report?

A. I'm not sure I understand the question.

Q. Are there other misstatements in this report?

A. There are many other misstatements in the report. These are just a few samples of the misstatements in this report.

Q. All right.

MR. HARDIN: Your Honor, I've got to get a couple of things together. Can I renege and we take a break now? I will be through shortly after you return.

PRESIDING OFFICER: Yes. Before we break, could both parties come up for a second.

(At the bench, off the record)

PRESIDING OFFICER: Members of the Jury, I have to conduct a hearing outside the presence of the jury. So you're on a break until further notice. And we'll call you back. I don't think it will take very long, but don't go far.

(Recess from 3:46 p.m. to 4:22 p.m.)

CHAMBERS HEARING

(Chambers hearing from 4:22 p.m. to 4:40 p.m.)

PRESIDING OFFICER: Would you like to speak on behalf of your client?

MS. STILLINGER: Why don't you – thank you. But I guess we're making a record of this, so just if I could put that on the record.

PRESIDING OFFICER: Yes.

MS. STILLINGER: I'm Mary Stillinger and I'm here with Ms. Olson. And I did file a motion to quash, so I have made it clear that it's her intention to claim the Fifth if she is subpoenaed – or, well, she's been subpoenaed, if she is put on the stand. But I understand you may want to hear that directly from her.

PRESIDING OFFICER: Yes.

(Witness sworn)

PRESIDING OFFICER: So this is a hearing outside of the jurors for the purpose of discussion on quashing the subpoena to testify.

Ms. Epley, I'll turn it over to you.

MS. EPLEY: Thank you, Mr. President.

LAURA OLSON,

having been first duly sworn, testified as follows:

EXAMINATION

BY MS. EPLEY

Q. Hi, Ms. Olson. Have you and I –

THE REPORTER: You'll have to speak up.

PRESIDING OFFICER: Speak up.

Q. (BY MS. EPLEY) Have you and I spoken before?

A. No.

Q. And if we were to call you to the stand to talk to you about knowing Ken Paxton, would you be able to do that?

A. I would take the Fifth.

Q. Through your introduction to the person or having known him at all?

A. Yes, ma'am.

Q. We wouldn't be able to ask you preliminary questions in regards to where you work or where you live?

A. No, ma'am.

THE REPORTER: I'm sorry, I couldn't hear.

PRESIDING OFFICER: Slow down. Slow down. Say that again.

A. I said she's printed that enough, where I live.

MS. EPLEY: I think for purposes of this side, Your Honor, we would point out that this is not an inherently criminal trial. It's a political process. And as such, the House Board of Managers would like to call her to the stand and attempt to elicit information and testimony from her. She doesn't have a right to plead the Fifth in regards to preliminary information and her identification in this forum. And then turn it over to defense to see what their position is in regards to that.

PRESIDING OFFICER: Turn it over to whom?

MS. EPLEY: Turn it over to the defense in regards to what their position is for that.

MR. COGDELL: Well, on behalf of Ken Paxton, it's not really our position that matters, it's the position of Ms. Olson and her counsel. That right is – she owns that right; we don't. So in terms of what Ms. Epley says, I disagree that even – I mean, certainly she would be able to elicit Ms. Olson's name, but anything beyond that, including her address in this case, in my belief that even describing the address could tend to – and, again, I'm not representing or trying to represent Ms. Olson, but I think her counsel's concern is that she has exposure in the ongoing federal investigation involving Mr. Paul and Mr. Paxton. And any association with Mr. Paul or Mr. Paxton viewed through that viewfinder could potentially cause her issues, and she would have a Fifth Amendment right to invoke even as to that, the address. But I'll let Ms. Olson's counsel speak for herself.

MS. EPLEY: Or I'll be happy to go back –

MS. STILLINGER: However, if you want a reply and then I can state our position, that would be fine.

MS. EPLEY: Mr. Cogdell is correct, he cannot execute – or he cannot exercise the privilege on her behalf, but I would have hated to proceed without them weighing in.

As he pointed out, we would be able to elicit testimony with regards to her name. No one intends to, in this forum, publish her actual physical address, but to the extent it's necessary to talk about what area of town she lived in to make other documents or information relevant.

The fact that she knows Ken Paxton or has worked in the Capitol is not something that implicates any sort of criminal actions on her part. The fact that she worked for Nate Paul and World Class Holdings when we don't intend to ask much about her – or anything, potentially, about her job functioning other than where did you work? Do you know Nate Paul? How much money did you make?

PRESIDING OFFICER: And she's going to take the Fifth on all those issues.

MS. EPLEY: Those issues don't implicate a criminal offense. You can't just decide you don't want the ridicule or embarrassment of addressing events or people you've been involved with and be able to plead the Fifth as a protection. There has to be a bandwidth or a burden that's met. And for those issues we don't get close to criminal action.

MS. STILLINGER: So with respect to the Fifth Amendment, it is not – I know this is not a criminal proceeding and Ms. Olson is not a subject of this proceeding, but our concern is not this proceeding.

Could I ask, is this a sealed record or is this a public record that we are on right now?

PRESIDING OFFICER: Good question.

MS. EPLEY: I don't think we would object to being sealed, correct?

MR. COGDELL: We would not object.

MS. HOLLINGSWORTH: It would be by the rules, so –

PRESIDING OFFICER: It may well become public –

MS. STILLINGER: Okay.

PRESIDING OFFICER: – at some point. It may. It may. I can't answer that today.

MS. STILLINGER: Thank you. I would just say I don't think that I can speak about the details of a federal investigation, and I don't think it would be appropriate – I don't think the Department of Justice would think that was appropriate. But I also think it is not our burden to explain how certain responses could cause problems for Ms. Olson. I think if there were any necessity for that, that would be more appropriately done in camera with the Court rather than have it be a public proceeding.

But I will tell you I've been representing Ms. Olson for a couple of years, and it is a good faith claim and a valid claim of the Fifth Amendment. So it is her right to claim, and she's claiming it. She would testify to her name. If she were called to the stand and asked what is your name, she would answer that. As to where she works, where she has worked, how much she's been paid, what does she do for that salary, she would claim the Fifth as to all of that. And I think it would be a valid claim of the Fifth.

So I think – the reason I filed the motion to quash is that I think there would be no real purpose in calling her to the stand except one – and I'm not saying that anybody in particular would want to embarrass her or embarrass the Attorney General. I'm not saying that, but that would be one outcome.

The other would be potentially a negative inference that people would draw from her claiming the Fifth, and I don't think that's – that's not evidence. And so I don't think there's any real purpose in calling her to the stand, and I think it's a waste of time.

I don't think – let me just say one other thing – which I think a lot of that is cumulative, what they're talking about. I think everybody knows that Ms. Olson works at World Class. They have her employment records. They know where she lives. They have her rent records, her lease contracts. I don't think there's any necessity to have Ms. Olson testify. These are not items that could not be gotten anywhere else.

So for all of those reasons we're asking to have the subpoena quashed.

PRESIDING OFFICER: Any last comment?

MS. EPLEY: Yes.

MR. DONNELLY: If I may, Your Honor.

The Court has identified at this point that this is neither a criminal nor a civil proceeding. Certainly if we were in the civil arena, we would be allowed to ask the question and answer, each and every question for which she would be able to assert her Fifth Amendment right and a negative inference could be drawn from such as counsel has stated. Because we are not in a criminal proceeding because of the – automatically pleading the Fifth Amendment as to a blanket assertion are unapplicable. We ask that we be allowed to call her to the stand, ask those questions. If under her counsel's recommendation she asserts the Fifth Amendment right, any inference that can be drawn from there would be up to the jury.

PRESIDING OFFICER: So considering what her counsel has said, what is there to gain by getting 20 "I take" – "I claim the Fifth Amendment" 20 times, what is there to gain?

MS. GRAHAM: The information, Mr. President, that we would seek to elicit is simply where she lives, where she works, and what is her relationship with Mr. Paxton. Beyond that we would not go into any details about the particular job functions. Your title, I think, is fair game, but as to what she does specifically, that's nothing that we intend to elicit.

PRESIDING OFFICER: So how many questions do you have on your list?

MS. GRAHAM: Thirteen.

MR. COGDELL: From Mr. Paxton's perspective, Mr. President, I couldn't object any more. I mean, they would – I can't cross-examine the invocation of the Fifth Amendment. It's an inference that I can't cross-examine. There is no evidence I can obtain. The 403 value of it, that is, the prejudicial value of it is extreme, and there is no relevance as all she's doing is invoking the Fifth Amendment. So based upon a balancing test, there's no possible way that the prejudicial value doesn't exceed the probative value.

MS. STILLINGER: Judge, could I add one other comment?

PRESIDING OFFICER: Yes, ma'am. Yes, ma'am.

MS. STILLINGER: I think what the gentleman here was talking about that you can infer a negative – there's a negative inference that can be drawn from the assertion of the Fifth, I think that applies when it is a party.

MR. COGDELL: That's correct.

MS. STILLINGER: I don't think that it's any witness because – I'm arguing for Mr. Cogdell because he's not arguing for me, but they can't help it. They don't control whether she takes the Fifth or not, so you can't draw a negative inference as to them because she takes the Fifth.

I think the case law he's talking about is when it's a civil case and a party takes the Fifth and then you can tell the jury they can draw a negative inference from that. I don't think it applies to a witness. And I actually do have – I don't have my computer open right now and I didn't print anything out, but I do have a case about that when it is a witness, it is very prejudicial to the parties or presumably to one party.

MS. EPLEY: I think we've sort of covered this before. By virtue of being relevant in a trial, information is prejudicial, that's not a reason to keep it out. When it is a civil case, there's an absolute right to call a person to the stand, to have them invoke the Fifth, and for whatever inferences to be drawn to be –

PRESIDING OFFICER: You said when there's a civil case?

MS. EPLEY: Yes. And in a criminal case, which this is not – I recognize we might be using criminal rules, but the implication of a criminal conviction is prison. And so those rules are greater even than this in an impeachment.

And so I would – I would ask the Court to – or the presiding judge to consider the fact of what you had said to us earlier, which is the Senators know that this is out there, that she is a viable witness, that she's present and directly relevant to an Article. And by definition, an affair is not a public forum. There is not another way to get –

PRESIDING OFFICER: What Article is she directly –

MS. EPLEY: Article VIII –

MS. GRAHAM: Article IX, excuse me.

PRESIDING OFFICER: Remind me of Article IX.

MS. GRAHAM: Article IX is constitutional bribery relating to the affair.

MS. EPLEY: Because Nate Paul employs Laura Olson and she's being paid directly –

PRESIDING OFFICER: She's not going to answer those questions.

MS. EPLEY: She doesn't have to, but we have to attempt to fill that evidence and shouldn't be precluded because she doesn't want to testify in front of the Senate as to her job title.

MR. COGDELL: Counsel for Ms. Olson is exactly right. We don't control Ms. Olson's testimony. In fact, if allowed to testify or if she chose to testify, I, in fact, believe the testimony would be beneficial. But I'm not directing counsel or Ms. Olson on what to do. So it's completely unfair for anyone to be able to withdraw a negative inference over something we have no control over. It's 403. The prejudicial impact greatly outweighs any relevance because there is nothing relevant they're going to gain except from her name.

(Simultaneous crosstalk)

MR. HILTON: Mr. President, just one thing he said. We've agreed to some or all of those records already about employment and residence and all that. So whatever it is they're hoping to obtain –

PRESIDING OFFICER: It's already in.

MR. HILTON: – it's already in. There's no reason to go through this public –

MS. EPLEY: I really want to parse this out. The question was what kind of questions would you ask. I hope I haven't misled anyone. Did you have an affair with Ken Paxton would certainly be a question. So while you're right, her apartment lease or when she moved from San Antonio to Austin might be in record, Ken Paxton – to the extent of our allegations – didn't go out of his way to do favors for someone else because someone moved. He did it because he was having a sexual, intimate relationship with her which confers a benefit. And she's being paid by someone who, our position is, was conspiring with him to – directly from the State of Texas.

MR. DUTKO: Mr. President, I want to point out that all across the news we hear every day about people taking the Fifth Amendment under oath, witnesses, parties. We have the right to call her. You have given us the extraordinary burden, as they point out over and over, beyond a reasonable doubt. One of the Articles we have to prove relates directly to this witness. Even if she takes the Fifth, they have cited no law that allows them to have in here, without the Senate being heard, that we are calling her.

PRESIDING OFFICER: So if she is going to take the Fifth, which means you're not going to get any information, then it would seem to me her not answering questions and claiming the Fifth is prejudicial.

MS. GRAHAM: If we pare down – we could pare down our questions, Mr. President, to establish nothing else but the disputed – heavily disputed fact for which no one else can provide this evidence – because Mr. Paxton, we cannot compel him to testify – that, at a minimum, the affair existed. That does not expose her to any sort of crime and it does not incriminate her one way or the other.

MS. EPLEY: Well, two things as to that. Right, there's two things occurring. Whether or not the invocation of the Fifth is valid. I don't think it's incumbent – you have amazing and unlimited powers, so I'm not trying to pretend that you don't, but I don't –

PRESIDING OFFICER: I don't think I do, but go ahead.

MS. EPLEY: You know, I don't think it would be appropriate for the decision to be made here as to whether she can or cannot plead the Fifth. So let's assume that she will.

PRESIDING OFFICER: Well, wait a minute. What do you mean –

MS. EPLEY: Well, I mean, you know –

PRESIDING OFFICER: – the decision can't be made here?

MS. EPLEY: Well –

PRESIDING OFFICER: She's made a motion to quash the subpoena.

MS. EPLEY: No, they can make it. I just meant us fighting it out isn't going to change anything. She has the ability to make that decision.

PRESIDING OFFICER: Well, I wanted to hear the arguments from all corners.

MS. EPLEY: That brings me to the second, though, to your question if we're going to call her, get her name and then her invoke the Fifth, is that not prejudicial? The honest answer is yes, it is.

PRESIDING OFFICER: Yes.

MS. EPLEY: But it's a prejudice we're entitled to create because we don't have control either over whether she's willing to testify or not. And it's not Mr. Paxton's to assert. And it's not a criminal case, so there isn't a preclusion.

PRESIDING OFFICER: Pretty close.

MS. EPLEY: It is pretty close. It's also an amazingly high burden in regards to the Senate, it goes directly to an Article, and the inferences they make the defense can argue.

PRESIDING OFFICER: Okay. Last word. I'm going to have the last word from you.

MS. STILLINGER: Thank you. The last word from me is that – I do have some cases to cite. I know they said we didn't cite any cases. We just found out late yesterday afternoon that she was going to be called and so –

PRESIDING OFFICER: Right.

MS. STILLINGER: – I had to travel here. I filed a motion early this morning. I did not include case law in this. But I am going to just cite a case, if I could cite this for the record. It is a case out of the Texas Court of Criminal Appeals that – this is a quote: It is error for the State to call a witness who it knows will claim his or her Fifth Amendment privilege. That's Coffey versus State, 796 S.W.2d 175 at 177, note 4. It's an en banc decision out of the Court of Criminal Appeals. It is also cited in United States versus Beechum, which is a Fifth Circuit Case, 582 F.2d 898. I'm sorry, Coffey cites Beechum, not the other way around. And the quote from Beechum is that it is impermissibly prejudicial for the government to attempt to influence the jury by calling a witness it knows will invoke the Fifth Amendment.

It goes on to say, Moreover, when the government witness indicates beforehand that he will invoke the privilege, the court may properly refuse to allow him to testify before a jury. Also cites a Court of Appeals case out of El Paso, *Castillo versus State*, 901 S.W.2d 550.

So I apologize for not getting that in my motion. I probably should have supplemented it while I was waiting. I just thought I would be –

PRESIDING OFFICER: Well –

MS. EPLEY: Sorry, just one last piece. I understand you're absolutely right. I just want the body to be aware that the cases she cited by definition of the title are state and federal criminal offenses. So that is a distinction.

I can pose – I hope my team is not upset by this – a possible solution. It isn't our fault either that she's unable to testify. Could a statement be made to the Senate body that Ms. Olson has been present but will be deemed unavailable for testimony?

MR. COGDELL: I'm fine with that.

MR. BUZBEE: That's the statement?

MS. GRAHAM: We would like – we would like the jury – we would like it to be clear for the record and for the jury to know that if she – if the motion is granted for whatever reason, she is – she does not have to take the stand, that it is not because we are withdrawing our right to call her.

MR. COGDELL: Well, that's a different statement.

MS. GRAHAM: That's why I wanted it to be clear.

MS. EPLEY: Well, I'm not the legal – so can we backpedal what I said?

PRESIDING OFFICER: No. I think I was getting to rule in favor of quashing the subpoena, so I think what you offered would be a step more than you were going to get, but no more.

MS. EPLEY: Is that okay?

MS. HOLLINGSWORTH: Our concern is just because it is an Article, we have a burden, that there is an impression left in the room that we chose not to call Ms. Olson, and we did not do that.

PRESIDING OFFICER: Ma'am, how do you feel about that?

MS. STILLINGER: That the statement would be Ms. Olson is not available?

MS. EPLEY: Ms. Olson is present but has been deemed unavailable to testify.

MS. STILLINGER: We have no problem with that.

PRESIDING OFFICER: Are you okay with that?

MS. EPLEY: I'm okay.

PRESIDING OFFICER: Are you okay? I like when we can all come together.

(End of chamber conference at 4:40 p.m.)

(Recess from 4:40 p.m. to 4:52 p.m.)

AFTER RECESS

PRESIDING OFFICER: Bailiff can bring the witness back in.

Members, for the record, the House Board of Managers called Laura Olson. She is present but has been deemed unavailable to testify. As soon as we get the witness in, we can continue.

SENATOR JOHNSON: We couldn't hear.

PRESIDING OFFICER: I said the House Board of Managers called Laura Olson. She is present but not – but has been deemed unavailable to testify.

SENATOR JOHNSON: What does that mean? Can we have a statement? The Court doesn't understand what that means?

PRESIDING OFFICER: A statement has been made by the Court. It says what it means. Both sides have agreed to that statement. both statements (sic) have agreed to that statement.

(Witness entered Senate chamber)

PRESIDING OFFICER: I did not mean to be short with you, Senator. I am just – I'm not amplifying the orders we give. It's stating what both sides agreed to in writing.

Mr. Hardin, you can continue.

MR. HARDIN: Thank you, Your Honor.

Stacey –

Q. (BY MR. HARDIN) Well, first of all, very quickly, let me ask you: Were you familiar with the House situation in terms of the attorney general and the fact that they were having construction and they had to move out for a while and so on?

A. I was –

Q. The microphone –

A. I'm not sure it's on.

Q. There you go.

A. Yes, sir, I was.

Q. All right. And you've testified earlier that the attorney general's office was right next to you. In addition to that, would – would you regularly get reports from and – and follow information from Mr. Wicker?

A. Yes. The scheduler and the executive assistant, Mr. Wicker, both reported directly to me.

Q. And do they give documents to you as to what they're doing or anything like that?

A. They did, and we met weekly.

Q. All right. And so from your own personal knowledge, do you know when the attorney general moved back into his house?

A. I do.

Q. When was that?

A. Sometime around mid-July, around the 18th or 19th of July.

Q. All right. Now, were you also aware of the name of who was – the company that was doing the – the work on it?

A. Recently I became aware of that company's name.

Q. Well, at some time, did you actually do some research into that person on your own after you were terminated?

A. I did.

Q. And at the end of the day, the names – you, of course, know Mr. Nate Paul. Were you familiar with the name Kevin Wood?

A. Yes.

Q. And were you – the name of a – a person who went by a name of Raj Kukar (sic)?

A. Yes.

Q. And have you reviewed certain materials concerning those people's names?

A. I have.

MR. HARDIN: I'm going to ask you if you would, Stacey, this – this exhibit is already in, Your Honor. I think the – the defense put in Exhibit 134. It's already in. And they put it en masse. And that production included the pictures. I believe this – it was the production by Mr. Wood.

PRESIDING OFFICER: Yes.

MR. HARDIN: Okay.

Could you put up Exhibit Wood – Bates-stamped 16 – Exhibit 134.050. Could you put it up with the Bates stamp 6211, please, Stacey.

Q. (BY MR. HARDIN) Now, I'm going to publish it for you and ask you a couple of questions.

First of all, the – Kevin Wood, were you familiar with the fact that he was the main worker or in charge of the work that was going on at the house?

A. Yes.

MR. BUZBEE: I want to object, Your Honor. He said he learned this later. He had no personal knowledge at the time this happened.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) This particular document that the – the defense put into evidence says, Nate, worked yesterday 7:00 a.m. to 10:00 p.m. Got home and fell asleep. Going right now to start guys on K job.

Mr. Kujar's (sic) last name begins with a K, does it not?

A. Raj Kumar.

Q. Kumar.

And Mr. Kumar's company is what?

A. Cupertino Builders.

Q. All right. Then, Guys at Ben White Concrete asked for help. After I check on the 3M guys, I can get e-mail more detailed schedule. Does your house look okay for Father's Day tomorrow or does it need cut?

And this particular e-mail produced by Mr. Wood was sent to whom?

A. To Nate Paul.

Q. Now, it lists a series of things here. Would you read those off of things that are to be done?

A. Sat, subfloor. Sunday, subfloor.

Q. Slow down. Go ahead.

A. Monday, restore old floor. Tuesday, new floor. Wednesday, new floor, landscape front, and fix irrigation. Thursday, new floor, new fans, and fixtures, finish landscape. Friday, finish new floor, finish electrical. Saturday, seal all floors up. Sunday, clean up.

Q. Can you imagine any reason that the man doing the work on the attorney general's house would need to be informing Nate Paul of the schedule and the work being done?

A. I cannot.

MR. BUZBEE: I'm sorry, Your Honor. He's assuming that this has anything to do with Ken Paxton's home. This is not the witness for this. I object.

MR. HARDIN: This – these – these documents – these are actually taken – let me make sure I don't falsely accuse you. Hold on.

Q. (BY MR. HARDIN) Is he seriously contending – we'll take some time out. I don't want to.

This is an exhibit he produced – he produced. He used photos in this – this deal. He wanted photos of the house.

My question is I don't want to falsely accuse Mr. Buzbee, but is he seriously as an officer of the Court contending there's any question as to whether or not the – the documents in Exhibit 134 have to do with Mr. Paxton's house?

MR. BUZBEE: Your Honor, I'll – I'll respond to that. And yes, he has accused me of a lot of things throughout this trial, but I'm not too concerned about it.

You can see from the e-mail itself a fair reading is this man is working on multiple different jobs, and this witness has no ability to tell us what these things and whose job that is. This guy was also apparently a landscaper and was doing different jobs, and we don't know – we know that some of the pictures obviously are of the kitchen in the Paxton home, but we don't know, and this is not the witness to be asking about the renovations because he doesn't know anything about the renovations.

MR. HARDIN: My – my question was, is he contending seriously – he hasn't answered it yet – that this – these documents do not have anything to do with Mr. Paxton's house? If so, we'll try to prove that up later. I don't believe he said that.

MR. BUZBEE: I didn't come here to answer his questions, Your Honor.

PRESIDING OFFICER: I was going to say –

MR. BUZBEE: Thank you.

PRESIDING OFFICER: – it's not his – you're not asking him questions. He made an objection. He explained it. You made an objection.

MR. HARDIN: Thank you.

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

MR. HARDIN: Is the Court ruling – all right. Thank you.

If I can now, Stacey, would you put up exhibit with the Bates stamp 6212. The last exhibit was 620.

This one is dated – actually – I – I thought 622 was the next exhibit. These would be 6212. 6215 is what I really mean to have up now, Stacey. I'm sorry.

Q. (BY MR. HARDIN) The date of this one, please, sir?

A. July 4th, 2020.

Q. And this one is from Mr. Nate Paul to Mr. Kevin Wood, is it not?

A. It is.

Q. Nate Paul tells Kevin Wood what?

A. Great. Can you send me pics?

Q. Kevin Wood responds what to him?

A. Guys, just finished applying second coat of sealer.

MR. HARDIN: Stacey, I'm sure that I was wrong. My mistake. But I wanted to see if 76 – 6211 and 6212. If you will tell me which you put up first, and I'll put up the other one now. I don't know whether I gave you the wrong number.

Pardon me?

MS. MANELA: This is 6212.

MR. HARDIN: All right. Is that what you put up first?

All right. Thank you.

Then 6212, please.

Q. (BY MR. HARDIN) This is on the 22nd of June. And to Mr. Kevin Wood, he's responding on top of an e-mail from – we just read, the one on June 20th. Do you see that?

A. I do.

Q. And this is Kevin Wood to whom?

A. Raj, Nate's guy, Raj Kumar.

Q. All right. Raj Kumar is the president and CEO of the company that built – did the renovations, correct?

A. Correct.

Q. And then below that, this is Kevin to – he's forwarding Kevin to Nate Paul. So, essentially, what's happened with this – with this e-mail? How does it begin? Kevin Wood forwarding the e-mail? You tell me.

A. The initial e-mail is Kevin Wood to Nate Paul on June 20th. And then it's forwarded from Kevin Wood to Raj Kumar on June 22nd of 2020.

Q. So we now have, have we not, or have we, communications between the man doing the actual on-the-site construction updating Nate Paul, and then the man on the site doing the construction communicating with the owner of the company that's doing the construction, correct?

A. We do, that's correct.

Q. And so in these messages back and forth, if they are, in fact, communicating about Mr. – the lieutenant – excuse me – the –

PRESIDING OFFICER: No problem, Senator. No problem, Senator.

MR. HARDIN: I'll put general, if I have to.

Q. (BY MR. HARDIN) The attorney general. The people doing the work on the attorney general's house are all communicating among themselves, are they not?

A. That's correct.

Q. And they're communicating about the attorney general's house, are they not?

A. That's correct.

MR. HARDIN: Now, I want to look at, if we can, 6216, please.

Actually – actually do 6215, Stacey, please.

Q. (BY MR. HARDIN) Now, this one is dated – the other two were the 20th of June and the 24th of June. And this one is dated July the 4th, is it not?

A. That's correct.

Q. And it's from whom to whom?

A. From Kevin Wood to Nate Paul.

Q. And – and Nate Paul says what to Mr. Kevin Wood?

A. Great. Can you send me pics?

Q. And he's saying that in response to Kevin Wood telling him what on Saturday, July 4th?

A. Guys, just finished applying second coat of sealer.

MR. HARDIN: Stacey, 6216, please.

On July the 4th, in response to an e-mail asking from – from Mr. – from Mr. Paul – can you put together, please, Stacey, a side-by-side, 6216 and 6215.

Q. (BY MR. HARDIN) So on July the 4th, on the left, the one we just went over, Nate Paul asked Kevin Wood to send him pictures of the work they're doing, correct?

A. Correct.

Q. And then if you go over to the right, Kevin Wood does what on the same day, on July the 4th?

A. He sends him the photos.

Q. He says, does he not – does he not – at this time Kevin Wood includes Nate Paul and Raj Kumar on – both of them on multiple pictures of the house, correct?

A. Correct.

Q. Do you have any idea why those three would be communicating like that if Nate Paul had nothing to do with the attorney general's house?

MR. BUZBEE: Objection. Speculation.

PRESIDING OFFICER: Sustained.

Q. (BY MR. HARDIN) Now, after you were terminated, did you start doing some of your – and, of course, y'all had a lawsuit starting when?

A. November of 2020.

Q. Okay. Did you yourself start looking to see if you could find information that would help your lawyers, and your lawyers for information, and so on? Did you come into – discover a receiver's report that had to do with Nate Paul's businesses?

A. I did.

Q. And did you, in fact, yourself obtain that report and give it to us?

A. I did.

Q. I'm going to show you what has been – and ask that Stella give to the Court and the other side.

MR. HARDIN: This is a new exhibit, Your Honor.

Q. (BY MR. HARDIN) Now, without talking about the – the internal parts of it, what did you discover? How did you discover this receiver's report and where was it filed?

MR. BUZBEE: Your Honor, I'm sorry to interrupt. This, first time disclosed.

Number two, he's already admitted that he didn't have any personal knowledge of this. He just went and found it. He's not here as some kind of an investigator. He's supposed to be telling us what his personal knowledge is of things that occurred at the AG's office. What they just handed us looks like to be file stamped October 31st of 2022.

MR. HARDIN: Your Honor – excuse me. Are you finished?

MR. BUZBEE: He was out of the office long before that.

MR. HARDIN: All right. Your Honor, if I may respond.

PRESIDING OFFICER: Yes, you may respond.

MR. HARDIN: This is a receiver's report filed in litigation in Harris County in the 165th Judicial District Court. And what we have and what you have is a certified report, a certified public document. It's filed and now certified that it is a public record. And it comes in under 8038 – (a) (3).

MR. BUZBEE: Your Honor, first, it has to be –

MR. HARDIN: It's relevant. Let me –

MR. BUZBEE: I thought you were finished. Go ahead.

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

Public records and it has factual findings from a legally authorized investigation. And the relevance of it is it deals with the extended cross that Mr. Buzbee went through about the house and whether or not it was legitimate and all of that. And that – and that is addressed, not the – not the – the house, but the investigation. It was clearly – I respectfully suggest it's admissible as a certified public document.

PRESIDING OFFICER: All right.

Mr. Buzbee.

MR. BUZBEE: Excuse me.

PRESIDING OFFICER: Can I answer?

Mr. Hardin, forgive me. I did not understand what you said just now.

MR. HARDIN: Oh, okay. That would not be the first.

PRESIDING OFFICER: Could you give me one more try?

MR. HARDIN: Sure. And that won't be the first. This is a certified public document. It is admissible without a sponsoring witness. If it is relevant to the issue – the matter that we're seeking to introduce it in, then it comes in under 803(c) without a sponsoring witness because it is certified as a public document. It comes in under the public documents exception to the hearsay rule.

And in this particular case, the reason it is relevant, I will refer the Court, perhaps will help you if you look on page – if you use the – and so that you can yourself look, if you look at page 84, Bates-stamped Brickman down below, 84, Brickman 85 in particular. And it has to do with Mr. Nate Paul – go ahead.

PRESIDING OFFICER: Mr. Hardin, I don't – I don't see an 803(c). What am I missing?

MR. HARDIN: Okay. I'm sorry, she's right.

What Jenny – Ms. Brevorka is showing me is you don't have the Brickman Bates stamp. That's how we got it. So we then went and got a certified copy. And so what you would be looking at is page 47 of the report.

PRESIDING OFFICER: What I was asking the question of why it could come in, 803(c), I don't see an 803(c).

MR. HARDIN: More particularly if I could –

PRESIDING OFFICER: Excuse me. I don't see an 803(c), unless I'm missing it. I see 803 through (24).

MR. HARDIN: If we can, if you look at page 72 –

PRESIDING OFFICER: I'm asking the first question. I don't see an 803(c). I may not be looking at the right –

MR. HARDIN: I guess you're right. If you're looking at the Rule –

PRESIDING OFFICER: Yes, sir. I am.

MR. HARDIN: Okay. If you're looking at the Rule, it's 8038(c). I've got a lot of help, and obviously I need it.

We got 8038 – thank you, Dick – and 8038(3). If you look at those, I would represent would make it very much –

PRESIDING OFFICER: You made me dangerous here and made me start looking at these numbers, and there's not an 803(c).

MR. HARDIN: Yeah. There is 808.

PRESIDING OFFICER: It's 808(c). Okay.

Now that I have the right number, I'm going to overrule the objection. Thank you.

MR. BUZBEE: Your Honor, may I?

MR. HARDIN: Thank you very much.

MR. BUZBEE: Your Honor, my objection was not hearsay. I mean, he's giving you a hearsay exception, but I want the Court to note that this is a report from a receiver appointed by the Court, his opinion. It uses the word "opinion" multiple times in the document, and it was done two years after the events in question in this case. It has no relevance to this case.

It's an opinion of somebody, Seth Kretzer, out of Houston, who, if he had some opinion that the Court found relevant, then he should come here and be cross-examined. We can't cross-examine a report from somebody who's not in court.

So, Your Honor, there's three or four different reasons why something like this should not be admitted, first of which is that it's years after the events in question.

Two, it's written by a lawyer who has been appointed to be receiver, and he – it's filled with his opinions about this and opinions about that, which I guess would be some sort of expert-type opinion, although we haven't qualified him as such. There's a lot of reasons why this is improper.

And the last one, I think maybe the one you might find most important, they put this on their exhibit list yesterday, and I just got a copy of it right now.

So how am I supposed to, 100 pages of opinion by a receiver out of Houston, do anything with this? This is completely improper under various – for various reasons.

MR. HARDIN: Your Honor, that's always true of any publicly admitted document that comes in without a speaker. That – right now that doesn't have a prepared cause – he's free to subpoena any of these witnesses. This talks about the very three people that we were talking about and the arrangement that they have.

MR. BUZBEE: They put it on the list yesterday.

MR. HARDIN: I – I tried to –

PRESIDING OFFICER: Okay, gentlemen, stop. Let me – I'm going to relook at this.

MR. HARDIN: Okay.

PRESIDING OFFICER: I based my ruling on your exception.

MR. HARDIN: Thank you, Your Honor.

PRESIDING OFFICER: But he's brought some other points.

MR. HARDIN: Thank you.

Q. (BY MR. HARDIN) Now, if I can –

PRESIDING OFFICER: I said, wait. Wait. You can stop the clock for a moment.

MR. HARDIN: Thank you very much.

Your Honor, may I – just information, I was just informed, this actually – this exhibit, without being certified, was on our original witness list. They have had the exhibit list. They have had this exhibit notice for about a month and a half.

Pardon me, Your Honor. This may not address what you're talking about. I just want it to be clear on the record. Our original notice to them of this exhibit was Exhibit 129 in the middle of August.

MR. BUZBEE: Did – did you change the number on the exhibit?

MR. HARDIN: We did not – you know, we did because the new one was certified. That one wasn't certified, but it was this document.

We – we listed this exhibit. They've – that's what they've had since mid-August. And all we did was introduce before you a certified copy of the exhibit that we had previously done. I can – I can tender it to the Court, if the Court wants to – to look at it. Yeah. Okay.

PRESIDING OFFICER: On further review with my legal team, it appears, looking at the document, it contains double hearsay. So I'm reversing my ruling and sustaining the objection.

Continue.

MR. HARDIN: Finally, Your Honor, we move – we move to introduce the grand jury subpoenas as Exhibit 172. This is very bulky. These were the subpoenas, the grand jury subpoenas that had been mentioned throughout the case.

I'll tender it to Mr. Buzbee, and because of the – we just have one copy for you.

PRESIDING OFFICER: Did you resume the clock?

THE TIMEKEEPER: I did, yes.

MR. HARDIN: Your Honor, these are – just for the record, these are offered, all of the Exhibits 172 through 185, then 187 through 209, and 218 and 220.

MR. BUZBEE: No objection.

PRESIDING OFFICER: You may continue. Let me admit these.

MR. HARDIN: May I have just a moment to see if that's –

PRESIDING OFFICER: Admit 172, 173, 174, 175, 176, 177, 178, 179, 180, 181– 82, 83 – 183, I'm sorry, 184, 185, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 218, 220 into evidence.

(HBOM Exhibits 172-185, 187-209, 218 & 220 admitted)

MR. HARDIN: Thank you. Thank you very much.

PRESIDING OFFICER: Yes, sir.

MR. HARDIN: One final question. Would it be possible for – for us to find out what sections the Court considers double hearsay in case of that report, later we could come back with bracketed – not to argue with you about the ruling of double hearsay, but to maybe admit stuff that was not?

PRESIDING OFFICER: With all due respect, we really did spend a lot of time on that, stopped the clock. And on the advice of – of four very wise people up here to help me with that issue, I'm going to stay with my ruling.

MR. HARDIN: I appreciate it, Your Honor. If I have just a second –

PRESIDING OFFICER: Yes.

MR. HARDIN: If I could stop the clock to confer, because I think we may be through. I just want to make sure.

PRESIDING OFFICER: Sure.

MR. HARDIN: Your Honor, at this time the House Managers rest.

(House Board of Managers rest)

MR. BUZBEE: He just rested without a cross-examine. I can recall the witness, though. I'm fine with that. We'll recall this man.

We will accept the rest, and that's how it works.

MR. HARDIN: He's certainly right. I mean, I want to concede he's absolutely right. I apologize. I think he's entitled to his day in court. Thank you.

PRESIDING OFFICER: So he's giving you your cross-examination, if I'm understanding, Mr. Hardin?

MR. HARDIN: Certainly.

MR. BUZBEE: Your Honor, we have some motion practice we would like to take up with the Court today.

PRESIDING OFFICER: All right.

MR. HARDIN: All right. Is he waiving cross or –

MR. BUZBEE: I said I would recall this witness in our case in chief, if there is a case in chief needed from us. I would like to do some motion practice today.

MR. HARDIN: Here's the problem: I messed up and shouldn't have rested until he finished his cross.

MR. BUZBEE: And yet you did.

MR. HARDIN: Excuse me.

Having this witness come back doesn't make sense. It would seem to me the appropriate thing for him to do is to cross this witness, and then if we had an opportunity and took one on redirect. But it usually should be when both of us have finished with this witness and then we rest.

But the Court is having to put up with a screw up by me. I apologize. But I would very respectfully like for him to go and do his cross.

MR. BUZBEE: I don't have to do a cross. He rested. I will recall this witness.

PRESIDING OFFICER: Mr. Hardin –

MR. HARDIN: He is waiving his cross for this stage, if I understand. If that's the case, there's no problem.

MR. BUZBEE: You rested, sir.

MR. HARDIN: Yes.

MR. BUZBEE: And I accept that.

PRESIDING OFFICER: Yes. You rested.

MR. HARDIN: That's fine. And if he wants to put on his case now or he wants to argue a motion, what's the Court's preference?

PRESIDING OFFICER: Well, it's now up to him. You've rested. It's up to him to either recall the witness or to make a motion or – it's now his call.

MR. HARDIN: All right. May I ask what about this witness? He's caught in the box.

MR. BUZBEE: He's asking for what?

PRESIDING OFFICER: He's asking about this witness. Can he step down at this point?

MR. BUZBEE: Subject to recall, yes, sir.

PRESIDING OFFICER: Okay. You can step down subject to recall.

MR. BUZBEE: Your Honor, we've seen, Your Honor, the House's –

PRESIDING OFFICER: Let's wait until the witness is out of the courtroom.

(Witness left the Senate chamber.)

PRESIDING OFFICER: Mr. Buzbee.

MR. BUZBEE: Yes, Your Honor.

As I understand from my colleagues, a motion for directed verdict must be filed and in writing. We have done that. We filed a motion for directed verdict on each of the articles, and I think we've also grouped some of the articles. I think those are dispositive.

I would ask that the Court consider those. I understand that the Senate would have to vote on those. And I just want to inform the Court that those motions have, in fact, been filed. And I don't think you probably are interested in a bunch of oral arguments so I'll stop it there.

PRESIDING OFFICER: So pursuant to the rules adopted 25 to 3 by the senators, a motion for directed verdict as a dispositive motion must be submitted to the members of the Court for a vote, as you stated. A motion for directed verdict is a challenge of the sufficiency of the evidence. Therefore, these motions will go to the senators.

Under the rules, it takes a majority of the members present, that is 16 voting members who are eligible to serve as jurors, to grant a motion. If the motion fails to get a majority vote, the motion will be denied.

MR. BUZBEE: Thank you, Your Honor. And I'll sit down in here.

PRESIDING OFFICER: Do we have the motions? They need to be presented up to the Court.

MR. HARDIN: Excuse me, Your Honor. It has to be submitted in writing, does it not?

MR. BUZBEE: It was submitted in writing. I think you –

PRESIDING OFFICER: In writing. We have to receive it in writing.

MS. O'NEILL: Your Honor, we have a cross-motion that we will be filing, that is being filed as we speak. We would like to take that up at the bench if we could.

PRESIDING OFFICER: So when would you like to take that up?

MS. O'NEILL: Now would be fine, if we could take it up, please.

PRESIDING OFFICER: So –

MR. BUZBEE: We need to get the Court a paper copy, but just if – we have, in fact, filed it electronically with the Court.

PRESIDING OFFICER: Yeah. I need a paper copy, as we did earlier with the other motion that was filed.

MR. BUZBEE: Very well. We'll get on that right now.

PRESIDING OFFICER: Sounds like you have multiple ones. Thank you.

(At the bench, off the record)

PRESIDING OFFICER: Well, we're going to stand at ease and – for the jurors to meet. Okay. The eligible jurors to meet.

(Recess from 5:37 p.m. to 6:09 p.m.)

AFTER RECESS

(At the bench, off the record)

PRESIDING OFFICER: Members, after consultation with the jurors and both parties, both motions have been withdrawn, and the defense will now call their first witness.

MR. STONE: Mr. President?

PRESIDING OFFICER: Yes.

MR. STONE: Mr. President, the attorney general calls Professor Michael Gerhardt.

PRESIDING OFFICER: Bailiff, bring in Professor Michael Gerhardt.

MR. DONNELLY: Mr. President, before we proceed may we approach?

PRESIDING OFFICER: Yes, you may.

(At the bench, off the record)

PRESIDING OFFICER: members, since we're having an elongated discussion up here, we're going to adjourn for the day. Begin at 9:00 o'clock tomorrow morning. Okay. See you at 9:00 o'clock tomorrow morning. Okay.

(Proceedings adjourned at 6:36 p.m.)

