THE SENATE OF THE STATE OF TEXAS
COURT OF IMPEACHMENT

IN THE MATTER OF
WARREN KENNETH PAXTON, JR.

ATTORNEY GENERAL WARREN KENNETH PAXTON JR.'S MOTION TO QUASH ARTICLES OF IMPEACHMENT OR GRANT REQUEST FOR BILL OF PARTICULARS

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Prior to this one, every impeachment in Texas history was the product of months of open investigation, public testimony, and a process transparent for all Texans. This candid past practice led, when necessary, to Articles of Impeachment that accused a particular official of specific conduct that broke one or more identified laws. Not so for this House—or for these Articles. The product of a deliberately clandestine process, the Articles of Impeachment which serve as the charging document against the Attorney General are unconstitutionally vague.

Both Texas and federal law require the House to prefer Articles that speak plainly: the Articles must say what acts the Attorney General took and identify what laws he is alleged to have broken to justify this impeachment. He cannot be impeached on an allegation as content-free as that he—for example—"misused his official powers by causing employees of his office to perform services for his benefit and the benefit of others," Art. XVII, which is just a statement that the Attorney General did something, alone or with someone else, to benefit someone, himself or someone else, somehow. The Texas Constitution and United States Constitutions require more: they require the House to "descend to the particulars," *Russell v. United States*, 369 U.S. 749, 763 (1962) (quotation omitted), of what the House must prove that the Attorney General has done wrong.

Many of these Articles fail that requirement. The House must therefore timely amend them to satisfy the Texas and United States constitutional standards of fair notice to which every Texan facing a criminal proceeding is entitled. If the House cannot do so consistent with this Court's rules, then the unconstitutionally vague Articles must be quashed until the House can comply with the Texas and United States Constitutions. Alternatively, this Court should order the House to timely file a bill of particulars that more specifically alleges the wrongful actions the Attorney General is alleged to have taken with respect to each Article.

STANDARD

A motion to quash challenges whether a charging instrument on its face gives the accused effective notice of the specific acts he is charged with committing. *Bynum v. State*, 767 S.W.2d

769, 778–79 (Tex. Crim. App. 1989); *DeVaughn v. State*, 749 S.W.2d 62, 67 (Tex. Crim. App. 1988); *Drumm v. State*, 560 S.W.2d 944, 947 (Tex. Crim. App. 1977). The charging instrument must, standing alone, provide effective notice of the allegations that the prosecution intends to prove in order to convict the accused; "it cannot be supported or defeated by evidence presented at pretrial." *State v. Gollihar*, No. PD-1086-08, 2010 WL 3700790, at *2 (Tex. Crim. App. Sept. 22, 2010). Nor may the prosecution rely on the record to salvage a fatally vague indictment. *Adams v. State*, 707 S.W.2d 900, 901 (Tex. Crim. App. 1986). Nor may the prosecution assume that the accused generally knows the nature of the charges against him. *Drumm*, 560 S.W.2d at 946–47; *Haecker v. State*, 571 S.W.2d 920, 921 (Tex. Crim. App. 1978). Rather, "[t]he accused must be given information upon which he may prepare his defense and this information must come from the face of" the charging instrument. *Swabado v. State,* 597 S.W.2d 361, 364 (Tex. Crim. App. 1980). If the charging instrument is quashed before trial, the prosecution must amend the instrument to include the specific allegations that the prosecution must prove to convict the accused. *State v. Moff*, 154 S.W.3d 599, 603 (Tex. Crim. App. 2004). Whether a charging document must be quashed is a question of law for the Court. *Smith v State*, 309 S.W.3d. 10, 13-14 (Tex. Crim. App. 2010).

ARGUMENT

I. The Articles of Impeachment Fail to Satisfy Constitutional and Statutory Pleading Standards.

Our Constitution treats an impeachment as a criminal proceeding. Tex. Const. art. I, § 10 (rights of accused, specifically identifying impeachment); Tex. Const. art. IV § 11 ("[i]n all criminal cases, except treason and impeachment"); art. XV, § 3 ("convicted"); art. IV, § 16(c) ("acquitted").[1] And indeed, as has the House Board of Managers, when they repeatedly referred to

[1] As has this Court in past impeachments. State of Tex. Senate Rec. of Proc. of the High Ct. of Impeachment on the Trial of Hon. James E. Ferguson, Governor, S. 35, 2nd and 3rd Sess., at 337, 340 (1917). As has this Court in these proceedings thus far. Tex. S. Res. 36, 88th Leg., 1st C.S. (2023), Rules 3, 5(a), 5(c), 30(b). *See also Motion to Preclude Testimony,* filed July 7, 2023.

the House's role as that of a grand jury, and to the Articles of Impeachment as the equivalent of an indictment. *See* H. Journal, 88th Cong., Reg. Sess. at 5923, 5952, 5963, 5967 (2023).

Now the Managers must stand by their word. Our Constitution obligates every prosecutor to include in every charging instrument the "accusation . . . with sufficient clarity and detail to enable the defendant to anticipate the [prosecution's] evidence and prepare a proper defense to it." *Garcia v. State,* 981 S.W.2d 683, 685 (Tex. Crim. App. 1998); *see* Tex. Const. art. I, § 10. This constitutional obligation requires that every charging document must contain on its face all "the elements of the offense and every fact or circumstance necessary to complete description thereof." *Labelle v. State*, 720 S.W.2d 101, 107 (Tex. Crim. App. 1986); *State v. Mays*, 967 S.W.2d 404, 406 (Tex. Crim. App. 1998). To satisfy these constitutional directives, the Legislature has established rules mandating particularity in charging instruments—including that a charging instrument must set forth any charged offenses "in plain and intelligible words." Tex. Code Crim. Proc. art. 21.02(7). A charging instrument must contain "everything . . . which is necessary to be proved" to convict the accused. *Id.* art. 21.03.

The Managers may not rely on generalities. These constitutional and statutory notice requirements implicate "fundamental notions of fairness" and ensure that "[t]he accused is not required to anticipate any and all variant facts the State might hypothetically seek to establish." *Drumm*, 560 S.W.2d at 946-47. Instead, the charging instrument must "particularize the act complained of so that its identity cannot be mistaken." *McElroy v. State*, 720 S.W.2d 490,492 (Tex. Crim. App. 1986). Nor may the Managers rely on their public condemnations of the Attorney General, or anything aside from the Articles, to provide the requisite detail: "to presume that an accused is guilty and therefore knows already the details of his offense, and thus can adequately prepare his defense, despite a vague indictment, is contrary to all proper principles of justice." *Slayton v. State*, 633 S.W.2d 934, 936 (Tex. App.—Fort Worth 1982, no pet.). "Thus, the accused has the right to notice that is specific enough to allow him to investigate the allegations against him and establish a defense." *Moff*, 154 S.W.3d at 602. None of the Articles satisfy these standards.

A. The Articles Fail to Specify Which Articles Allege Criminal Offenses, Making It Impossible to Know the Elements Required for Each Article.

The Managers and their counsel have publicized that at least some of the Articles are based on alleged criminal offenses. *E.g.*, H.R. Comm. On Gen. Investigating, Hearing at pp. 138-147 (May 24, 2023). This decision has consequences. A charging instrument that tracks the elements of a penal statute ordinarily satisfies constitutional standards for specificity, *Moff*, 154 S.W.3d at 602, but not always. For example, when a charge stems from commonly undertaken official acts, tracking the language of the statute "alone is not sufficient to fulfill the constitutional and statutory requirements of specificity." *Id.* "[T]he defendant must be informed of the specific transactions that allegedly violated the statute." *Id.* Similar rules apply in a variety of contexts, from offenses based on alleged false statements, *Swabado*, 597 S.W.2d at 364, to bribery charges. *Bates v. State*, 587 S.W.2d 121, 129 (Tex. Crim. App. 1979).

But the common thread is that each charge must identify the statute it tracks so that the Court can determine whether the prosecution has identified all the elements of the underlying charge—let alone with the constitutionally required specificity. *Moff*, 154 S.W.3d at 602; *Amaya v. State*, 551 S.W.2d 385, 387 (Tex. Crim. App. 1977). The Articles fail to assert the violation of *any* Texas criminal statute, let alone identify which statutes have been violated to enable the Court to evaluate the Articles as a charging instrument. Exhibit A. Attorney General Paxton is constitutionally entitled to know which Articles are based on alleged criminal conduct long before he faces trial without having to resort to outside sources or speculation. *Terry v. State*, 471 S.W.2d 848, 852 (Tex. Crim. App. 1971); *Drumm*, 560 S.W.2d at 946–47; *Swabado,* 597 S.W.2d at 364.

B. Articles I, II, III, IV, V, and XVII Fail to Specify the Alleged Manner or Means that Converted Otherwise Permissible Acts into Impeachable Offenses.

When it is the manner or means by which an act is done that makes an otherwise lawful act an offense, a charging document that merely tracks the language of the statute is insufficient. *Ex parte Holbrook*, 609 S.W.2d 541, 543 (Tex. Crim. App. 1980); *State v. Edmond*, 903 S.W.2d 856, 859 (Tex. App.—Ft. Worth 1995), *aff'd in part, rev'd in part*, 933 S.W.2d 120 (Tex. Crim. App. 1996). This means the House must specifically identify the facts that transformed the Attorney General's otherwise-lawful actions into an impeachable offense. *Holbrook*, 609 S.W.2d at 543. The charging instrument itself must state facts that, if proved, would constitute an offense. *Posey v. State*, 545 S.W.2d 162, 163 (Tex. Crim. App. 1977).

Take an alleged abuse of official capacity—by definition, the unlawful use of facially lawful authority. One court of appeals quashed an indictment that alleged that a police officer abused his official capacity by failing to appear for work to perform his duties, because the charging document against him failed to "explain specifically how [the] Defendant [] benefited from his alleged absence on three separate days, or how he harmed and defrauded another as a result of his absence." *State v. Campbell*, 113 S.W.3d 9, 13 (Tex. App.—Tyler 2000, pet. ref'd). A charging instrument that fails to allege criminal conduct is subject to being quashed. *Id.*; *State v. Williams*, 780 S.W.2d 891, 894 (Tex. App.—San Antonio 1989, no pet.).

So too with many of the Articles. Articles I through V all allege that the Attorney General misused a power that no one questions he lawfully possessed. Yet none identifies a specific act that rendered any of those alleged actions improper, let alone illegal. Article I faults Attorney General Paxton for directing unnamed employees to intervene in a lawsuit between the Mitte Foundation and Nate Paul, but the Article does not explain why intervention was improper. Exhibit A, Art. I. Article I at best suggests impropriety by stating that the intervention was designed to "harm[] the Mitte Foundation in an effort to benefit Paul," but every intervention into litigation impacts one or both sides. Unless the Managers mean to suggest that the Attorney General is allowed to intervene into litigation involving a charitable entity only in support of that entity—a position squarely at

odds with the Constitution's directive that the Attorney General must litigate to "prevent any private corporation from exercising any power . . . not authorized by law," Tex. Const. art. IV, § 22—Article I entirely fails to explain how the Attorney General abused his authority to litigate on behalf of the State in the interest of the general public in charitable trusts.

Article II claims the Attorney General directed the issuance of a legal opinion regarding foreclosure sales that utilized a strawman requestor, disagreed with some subordinate's legal conclusion, and benefited Nate Paul. Putting aside that during the COVID-19 pandemic, restrictions on foreclosure sales were commonplace nationwide, Article II does not explain how any of these three alleged facts rendered the resulting informal legal guidance letter illegal. Every legislator is aware that numerous entities work with authorized requestors to seek official Attorney General opinions on a variety of topics. Tex. Gov't Code §§ 402.042, 402.043. But no one has previously suggested that such attempts are illegal—or that they are made illegal by being "concealed." Exhibit A, Art. II. Disagreeing with a subordinate's conclusion cannot possibly give rise to an impeachment, or every elected official commits a dozen impeachable acts daily. (Indeed, Article II does not so much as allege that the legal guidance issued was wrong.) And the Article does not articulate a theory as to how the legal guidance issued improperly benefited Paul, as opposed to benefiting anyone facing a potential foreclosure sale at the time.

Articles III, IV, V, and XVII fail the same way. Article III does not describe how the refusal to render an open records decision was illegal—it just asserts it was "contrary to law." Nor does it explain how another decision it issued was "contrary to law and applicable legal precedent." Nor, for that matter, does it specifically identify which records requests are the ones in question. Article IV does not explain how the Attorney General purportedly "improperly" accessed one unidentified file, why that access was improper, or what non-public information he allegedly desired to provide to Nate Paul. Exhibit A, Art. IV. Article V fails to identify the laws allegedly violated by appointing Brandon Cammack, why the purported "baseless complaint" central to this charge was baseless, how Cammack violated the law (if at all) by seeking subpoenas, and how those subpoenas improperly benefited "Paul or Paul's business entities." Exhibit A, Art. V. And Article XVII,

entitled "Misappropriation of Public Resources," provides the Attorney General no specifics: it claims the Attorney General "misused his official powers by causing employees to perform services for his benefit and the benefit of others." Exhibit A, Art. XVII. Which employees, how the Attorney General caused them to act, how they acted, why it was illegal, what those benefits were, and why they were improper—all missing. This vagueness is constitutionally forbidden.

C. Articles I, II, III, IV, VI, VII, VIII, and XVII Fail to Identify Key Individuals or Actions Involved in Any Alleged Misconduct.

Articles I, II, III, and IV involve alleged misconduct by the Attorney General's unnamed subordinates. Articles VI, VII and VIII relate to alleged retaliation against and termination of unnamed subordinates. The House should be required to identify each of these individuals.

It is necessary for the charging instrument to identify individuals when it goes to the heart of the alleged offense, such as the manner and means of how the offense was committed. For example, in *Swabado*, the Court of Criminal Appeals held that the indictment was constitutionally deficient because it failed to set forth the names of the nurses who were falsely reported as employees and therefore failed to provide the defendant with sufficient notice of the charges against him. 597 S.W.2d at 364; *See also Doyle v. State*, 661 S.W.2d 726, 730 (Tex. Crim. App. 1983) (failure to identify to whom the threat was conveyed required quashing the indictment). Here, Attorney General Paxton should not be left to guess or speculate about which employees he allegedly retaliated against. *Cooke v. State*, 824 S.W.2d 334, 338 (Tex. App.—Houston [1st Dist.] 1992, pet. ref'd). Similarly, Articles II, VII, and XVII assert that the Attorney General should be impeached for "causing" unnamed employees to perform unspecified services (Article XVII), take unspecified actions (VII), or change their legal conclusions (Article II). The House should be required to identify these employees so that the Attorney General can prepare a defense.

D. The Specific False Statements Underlying Articles VII and XV Must Be Identified.

When a charge depends on a false statement, the charging document must specifically identify the alleged false statements. *Amaya v. State*, 551 S.W.2d at387 (reversing conviction for

making a false statement because the charging instrument made "no attempt to set out the specific 'willfully false statement' the [defendant] was alleged to have made."). Articles VII and XV allege that false or misleading statements were made in a written report, but then each fails to specify the false or misleading statements. The accused is "entitled, upon proper exception, to know which false statement or statements the State would rely upon for conviction." *Id.* at 387. The Texas Court of Criminal Appeals has also held, for example, that the indictment for false entries in a governmental record had to precisely identify which entries related to which employees on which records were allegedly false. *Swabado*, 597 S.W.2d at 364.

For Articles VII and XV, the Attorney General cannot be "forced to speculate which particular entry might form the basis of the [House's] case." *Cooke*, 824 S.W.2d at 338. The Attorney General is entitled "to know which false statement or statements the [House] would rely upon for conviction." *Amaya*, 551 S.W.2d at 387. And again, he cannot be required to look beyond the Articles. *Terry*, 471 S.W.2d at 852; *Swabado,* 597 S.W.2d at 364. The House made no effort to identify the alleged false or misleading statements underlying Articles VII and XV, and the Court should quash these Articles.

E. Bribery Must Be Alleged with Particularity in Articles IX and X.

Article IX and X fall far short of the level of particularity Texas courts require for bribery indictments. For example, in *Bates v. State*, an indictment was found sufficient only because it alleged the date the bribe was allegedly solicited, from whom the bribe was solicited or accepted, what was accepted (money), and for what the bribe was specifically accepted (a favorable sentence in a specifically identified felony case). 587 S.W.2d 121, 129 (Tex. Crim. App. 1979). An essential element of a bribery charge is a bilateral agreement, "in effect an illegal contract to exchange a benefit as consideration for the performance of an official function." *McCallum v. State*, 686 S.W.2d 132, 136 (Tex. Crim. App. 1985). Nothing less than setting forth the specifics of each element for bribery, including the bilateral agreement, will suffice. *Mustard v. State*, 711 S.W.2d 71, 76 (Tex. App.—Dallas 1986, pet. ref'd). The Senate should require the House to amend Articles

IX and X to specify when the alleged bribe was solicited or accepted, how and when the illegal agreement necessary for a bribe was formed, for what the alleged bribe was specifically accepted, and how the purported benefit was allegedly conferred on Nate Paul.

F. Article XVI Does Not Allege Any Elements of Conspiracy with Specificity.

It is unclear if Article XVI asserts a conspiracy in violation of Texas Penal Code Section 15.02, which is itself fatal. But if the crime of conspiracy is asserted, none of the elements are described with any particularity.[2] One essential element of conspiracy is an agreement to commit a crime. *Brown v. State,* 576 S.W.2d 36, 43 (Tex. Crim. App. [Panel Op.] 1978). Here, the intended felony is not identified, the purported co-conspirators are not identified, the agreement is not described, and no overt act is specified. Article XVI must be quashed.

G. Articles XVIII, XIX, and XX are Hopelessly Vague.

The final three Articles are downright formless. Article XVIII alleges that Attorney General Paxton acted "contrary to the public interest" by violating one or more of "the Texas Constitution, his oaths of office, statutes, and public policy" by committing "acts described in one or more articles." Exhibit A, Art. XVIII. This is little more than a statement that the Attorney General did something that violated some law and was bad in some way: if this is sufficient for a charging instrument, then the constitutional and statutory requirements of specificity and fair notice are meaningless. Article XIX is somehow even more vague, accusing the Attorney General of being unfit for office because of "misconduct, public or private," that shows "his unfitness for office, as shown by the acts described in one or more articles." Taken at face value, this Article could refer to literally anything the Attorney General has ever done that the prosecution conceives of as "misconduct." And Article XX is equally all-encompassing. It claims the Attorney General "used, misused, or failed to use his official powers" in some illegal manner that undermined public confidence in the government. A charge that is premised on the accused either acting, partially

[2] A criminal conspiracy requires that: (1) a person; (2) with intent that a felony be committed; (3) agrees with one or more persons that they or one or more of them engage in conduct that would constitute the offense; and (4) he or one or more of them performs an overt act in pursuance of the agreement. Tex. Penal Code Ann. § 15.02(a).

acting, or not acting, without more, can be based on anything at all. That does not suffice. *Posey*, 545 S.W.2d at 163. All three must be quashed.

II. The House Should Be Required to Amend the Articles or Be Barred from Prosecuting Them.

The State is bound by its allegations in the Articles and must prove them beyond a reasonable doubt. *Moore v. State*, 531 S.W.2d 140 (Tex. Crim. App. 1976); Senate Rule 25. The Court should require the House to amend the Articles to provide the level of specificity required under the United States Constitution, Texas Constitution, and Texas law so that Attorney General Paxton can adequately prepare his defense and, when acquitted, bar future proceedings based on the same conduct. It should prohibit the House from prosecuting the Articles that fail to rise to the required level of specificity and hold such Articles in abeyance until the House amends them in a manner that complies with the Senate's rules.

If the Court finds that requiring amendment or quashing the Articles is not appropriate here, *cf., e.g.*, Senate Rule 12, then it can order that the House file a bill of particulars. The Texas Court of Criminal Appeals has at times allowed bills of particulars in unusual circumstances, even though the Code of Criminal Procedure does not provide for it. *See, e.g.*, *Ex parte Perry*, 483 S.W.3d 884, 899-900 (Tex. Crim. App. 2016). At a minimum, one is necessary here. The Articles fail to allege with even a semblance of particularity the manner and means by which Attorney General Paxton committed an impeachable offense, depriving him of the constitutionally required notice sufficient to prepare his defense.

CONCLUSION AND RELIEF REQUESTED

Attorney General Paxton respectfully requests that the Court grant his Motion Quashing the Articles of Impeachment and order the House to produce a new charging document consistent with the Senate Rules or hold the Articles of Impeachment in abeyance until and unless the House does so.

Respectfully submitted.

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CERTIFICATE OF SERVICE

This Motion was served via email on the Senate, the Lieutenant Governor, and the House Board of Managers through their counsel, Rusty Hardin and Dick DeGuerin, on July 24, 2023.

/s/ Judd E. Stone II

Judd E. Stone II

EXHIBIT A

H.R. No. 2377

RESOLUTION

1 BE IT RESOLVED by the House of Representatives of the State of
2 Texas, That Warren Kenneth Paxton Jr., Attorney General of the
3 State of Texas, is impeached and that the following articles of
4 impeachment be exhibited to the Texas Senate:

5 ARTICLES OF IMPEACHMENT

6 Exhibited by the House of Representatives of the State of
7 Texas in the name of itself and of all the people of the State of
8 Texas against Warren Kenneth Paxton, Attorney General of the State
9 of Texas, in maintenance and support of its impeachment against
10 him.

11

12 ARTICLE I

13 (Disregard of Official Duty

14 Protection of Charitable Organization)

15 While holding office as attorney general, Warren Kenneth
16 Paxton violated the duties of his office by failing to act as public
17 protector of charitable organizations as required by Chapter 123,
18 Property Code.

19 Specifically, Paxton caused employees of his office to
20 intervene in a lawsuit brought by the Roy F. & JoAnn Cole Mitte
21 Foundation against several corporate entities controlled by Nate
22 Paul. Paxton harmed the Mitte Foundation in an effort to benefit
23 Paul.

ARTICLE II

(Disregard of Official Duty Abuse of the Opinion Process)

While holding office as attorney general, Warren Kenneth Paxton misused his official power to issue written legal opinions under Subchapter C, Chapter 402, Government Code.

Specifically, Paxton caused employees of his office to prepare an opinion in an attempt to avoid the impending foreclosure sales of properties belonging to Nate Paul or business entities controlled by Paul. Paxton concealed his actions by soliciting the chair of a senate committee to serve as straw requestor. Furthermore, Paxton directed employees of his office to reverse their legal conclusion for the benefit of Paul.

ARTICLE III

(Disregard of Official Duty Abuse of the Open Records Process)

While holding office as attorney general, Warren Kenneth Paxton misused his official power to administer the public information law (Chapter 552, Government Code).

Specifically, Paxton directed employees of his office to act contrary to law by refusing to render a proper decision relating to a public information request for records held by the Department of Public Safety and by issuing a decision involving another public information request that was contrary to law and applicable legal precedent.

ARTICLE IV

(Disregard of Official Duty Misuse of Official Information)

While holding office as attorney general, Warren Kenneth Paxton misused his official power to administer the public information law (Chapter 552, Government Code).

Specifically, Paxton improperly obtained access to information held by his office that had not been publicly disclosed for the purpose of providing the information to the benefit of Nate Paul.

ARTICLE V

(Disregard of Official Duty Engagement of Cammack)

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

Specifically, Paxton engaged Brandon Cammack, a licensed attorney, to conduct an investigation into a baseless complaint, during which Cammack issued more than 30 grand jury subpoenas, in an effort to benefit Nate Paul or Paul's business entities.

ARTICLE VI

(Disregard of Official Duty Termination of Whistleblowers)

While holding office as attorney general, Warren Kenneth Paxton violated the duties of his office by terminating and taking adverse personnel action against employees of his office in violation of this state's whistleblower law (Chapter 554, Government Code).

Specifically, Paxton terminated employees of his office who made good faith reports of his unlawful actions to law enforcement

1 authorities. Paxton terminated the employees without good cause or
2 due process and in retaliation for reporting his illegal acts and
3 improper conduct. Furthermore, Paxton engaged in a public and
4 private campaign to impugn the employees' professional reputations
5 or prejudice their future employment.
6
7 ARTICLE VII
8 (Misapplication of Public Resources
9 Whistleblower Investigation and Report)
10 While holding office as attorney general, Warren Kenneth
11 Paxton misused public resources entrusted to him.
12 Specifically, Paxton directed employees of his office to
13 conduct a sham investigation into whistleblower complaints made by
14 employees whom Paxton had terminated and to create and publish a
15 lengthy written report containing false or misleading statements in
16 Paxton's defense.
17
18 ARTICLE VIII
19 (Disregard of Official Duty Settlement Agreement)
20 While holding office as attorney general, Warren Kenneth
21 Paxton misused his official powers by concealing his wrongful acts
22 in connection with whistleblower complaints made by employees whom
23 Paxton had terminated.
24 Specifically, Paxton entered into a settlement agreement
25 with the whistleblowers that provides for payment of the settlement
26 from public funds. The settlement agreement stayed the wrongful
27 termination suit and conspicuously delayed the discovery of facts

and testimony at trial, to Paxton's advantage, which deprived the electorate of its opportunity to make an informed decision when voting for attorney general.

ARTICLE IX

(Constitutional Bribery Paul's Employment of Mistress)

While holding office as attorney general, Warren Kenneth Paxton engaged in bribery in violation of Section 41, Article XVI, Texas Constitution.

Specifically, Paxton benefited from Nate Paul's employment of a woman with whom Paxton was having an extramarital affair. Paul received favorable legal assistance from, or specialized access to, the office of the attorney general.

ARTICLE X

(Constitutional Bribery
Paul's Providing Renovations to Paxton Home)

While holding office as attorney general, Warren Kenneth Paxton engaged in bribery in violation of Section 41, Article XVI, Texas Constitution.

Specifically, Paxton benefited from Nate Paul providing renovations to Paxton's home. Paul received favorable legal assistance from, or specialized access to, the office of the attorney general.

ARTICLE XI

(Obstruction of Justice Abuse of Judicial Process)

While holding office as attorney general, Warren Kenneth Paxton abused the judicial process to thwart justice.

After Paxton was elected attorney general, Paxton was indicted by a Collin County grand jury for engaging in fraud or fraudulent practices in violation of The Securities Act (Title 12, Government Code). Paxton then concealed the facts underlying his criminal charges from voters by causing protracted delay of the trial, which deprived the electorate of its opportunity to make an informed decision when voting for attorney general.

ARTICLE XII

(Obstruction of Justice Abuse of Judicial Process)

While holding office as attorney general, Warren Kenneth Paxton abused the judicial process to thwart justice.

Specifically, Paxton benefited from the filing of a lawsuit by Jeff Blackard, a donor to Paxton's campaign, that interfered with or disrupted payment of the prosecutors in a criminal securities fraud case against Paxton. Blackard's actions caused protracted delay in the criminal case against Paxton, including the delay of discovery of facts and testimony at trial, to Paxton's advantage, which deprived the electorate of its opportunity to make an informed decision when voting for attorney general.

ARTICLE XIII

(False Statements in Official Records
State Securities Board Investigation)

While holding office as attorney general, and prior to,

Warren Kenneth Paxton made false statements in official records to mislead both the public and public officials.

Specifically, Paxton made false statements to the State Securities Board in connection with its investigation of his failure to register with the board as required by law.

ARTICLE XIV

(False Statements in Official Records
Personal Financial Statements)

While holding office as attorney general, and prior to, Warren Kenneth Paxton made misrepresentations or false or misleading statements in official filings to mislead both the public and public officials.

Specifically, Paxton failed to fully and accurately disclose his financial interests in his personal financial statements required by law to be filed with the Texas Ethics Commission in furtherance of the acts described in one or more articles.

ARTICLE XV

(False Statements in Official Records
Whistleblower Response Report)

While holding office as attorney general, Warren Kenneth Paxton made false or misleading statements in official records to mislead both the public and public officials.

Specifically, Paxton made or caused to be made multiple false or misleading statements in the lengthy written report issued by his office in response to whistleblower allegations.

ARTICLE XVI

(Conspiracy and Attempted Conspiracy)

While holding office as attorney general, Warren Kenneth Paxton acted with others to conspire, or attempt to conspire, to commit acts described in one or more articles.

ARTICLE XVII

(Misappropriation of Public Resources)

While holding office as attorney general, Warren Kenneth Paxton misused his official powers by causing employees of his office to perform services for his benefit and the benefit of others.

ARTICLE XVIII

(Dereliction of Duty)

While holding office as attorney general, Warren Kenneth Paxton violated the Texas Constitution, his oaths of office, statutes, and public policy against public officials acting contrary to the public interest by engaging in acts described in one or more articles.

ARTICLE XIX

(Unfitness for Office)

While holding office as attorney general, Warren Kenneth Paxton engaged in misconduct, private or public, of such character as to indicate his unfitness for office, as shown by the acts

described in one or more articles.

ARTICLE XX

(Abuse of Public Trust)

While holding office as attorney general, Warren Kenneth Paxton used, misused, or failed to use his official powers in a manner calculated to subvert the lawful operation of the government of the State of Texas and obstruct the fair and impartial administration of justice, thereby bringing the Office of Attorney General into scandal and disrepute to the prejudice of public confidence in the government of this State, as shown by the acts described in one or more articles.

PRAYER

Accordingly, the House of Representatives of the State of Texas, reserving to itself the prerogative of presenting at any future date further articles of impeachment against Warren Kenneth Paxton; of replying to any answer he makes to these articles; and of offering proof to sustain each of the above articles and to any other articles which may be preferred, requests that Warren Kenneth Paxton be called upon to answer these articles of impeachment in the Texas Senate, and that in those proceedings the examinations, trials, and judgments be conducted and issued in accordance with law and justice.

Murr
A. Johnson of Harris
Geren
Longoria
Spiller

H.R. No. 2377

Speaker of the House

I certify that H.R. No. 2377 was adopted by the House on May 27, 2023, by the following vote: Yeas 121, Nays 23, 2 present, not voting.

Chief Clerk of the House

EXHIBIT A