Perspectives from the Office of the Attorney General Nonprofit Organization Oversight

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Overview

- Attorney General's authority
- How can the AG help? How can you help the AG?
- Tips to facilitate communication with the AG and assist with your trust proceeding
- Common concerns: restricted gifts and unnecessary modifications
- Questions

Attorney General Authority

- The power and authority of the Attorney General in matters involving charitable trusts is deeply rooted in Texas common law.

  Coffee v. William Marsh Rice University, 403 S.W.2d 340,343 (Tex. 1966).

- This broad authority and duty to protect the public interest in charity by suing in courts of equity is routinely and uniformly recognized by Texas courts.

  Powers v. First National Bank of Corsicana, 161 S.W.2d 273, 284 (Tex. 1942); *Carroll v. City of Beaumont,* 18 S.W.2d 813,820 (Tex. Civ.App.-Beaumont 1929, *writ ref'd*).

Constitutional Roots of AG Authority

- Attorney General's authority to protect the public interest in charity is a function belonging to the AG's office under the Constitution and laws of this state. *Hill v. Lower Colorado River Authority*, 568 S.W.2d 473, 478 (Tex.Civ.App.-Austin 1978, *writ ref'd n.r.e.*)

- Such authority falls under the umbrella clause in Article IV, Section 22 of the Texas Constitution enumerating AG's specific duties and stating that the Attorney General shall: "perform such other duties as may be required by law."

Statutory Authority

Chapter 123 of Texas Property Code codifies AG's common law authority.

- Attorney General's participation in "proceedings involving charitable trusts."
- Attorney General is a proper (not a necessary) party and may join and enter into settlements and judgments in the proceeding. § 123.002

Notice to the Attorney General – Chapter 123

Notice of the proceeding must be given to the Attorney General:

- Within 30 days of filing of the petition initiating the proceeding involving a charitable trust;
- But no less than 25 days prior to a hearing in the proceeding. § 123.003(a);
- Send copy of petition by registered or certified mail;
- Execute affidavit attaching signed return receipts and file with the court.

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