



Office of the Attorney General: Charitable Enforcement

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Overview

- ▶ What are we enforcing?
- ▶ How does charity enforcement work in Texas?
 - Charitable trust enforcement
 - Enforcement under the Deceptive Trade Practices Act
- ▶ What relief and remedies do we seek?
- ▶ Coordinated enforcement and other trends
- ▶ Questions



Enforcement Authority: Constitutional Roots

- ▶ It is an official function of the office of the Attorney General to protect and enforce charitable trusts. *Boyd v. Frost National Bank*, 145 Tex. 206, 196 S.W.2d 497, 503 (1946); *Hill v. Lower Colorado River Authority*, 568 S.W.2d 473, 478 (Tex.Civ.App.-Austin 1978, writ ref'd n.r.e.)
- ▶ Article IV, Section 22 of the Texas Constitution, states that the Attorney General shall:
 - “take such action in the courts as may be proper and necessary to prevent any private corporation from exercising any power . . .not authorized by law.”
 - “perform such other duties as may be required by law.”



Enforcement Authority: Common Law

- ▶ 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).
- ▶ The Attorney General’s 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).



Focus Areas for Charity Enforcement

- ▶ Nonprofit corporate governance
- ▶ Charitable trust compliance
- ▶ Fraudulent representations
- ▶ Sham charities
- ▶ Registration



Mechanisms for Charity Enforcement

1. Complaint review
2. Informal consultations
3. *Cy pres*
4. Health care transaction review
5. Education/outreach
6. Notice review
7. Investigations
8. Litigation
9. Registration

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