



# 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.
- ▶ 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.

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

*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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Also available as part of the eCourse

[A Discussion with the Texas Attorney General's Office: Charitable Trusts, Fundraising Fraud, and Multi-State Charity Enforcement Actions](#)

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36<sup>th</sup> Annual Nonprofit Organizations Institute session  
"Discussion with the Texas Attorney General's Office"