

UT LAW 2022 Nonprofit Organizations Fundamentals Workshop IRS and AG Oversight January 12, 2022

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Susan Staricka spent the majority of her legal career overseeing the charge of the Texas Attorney General to protect the public interest in charity, including nonprofit organizations and charitable trusts. As Chief and Senior Attorney with both the Consumer Protection Division and the Financial Litigation and Charitable Trusts Division of the Office, she served under four Texas Attorneys General and oversaw teams of investigators and assistant attorneys general. As part of her duties at the OAG, Susan lectured frequently at nonprofit conferences, training sessions for nonprofit associations and trusts, the LBJ School of Public Affairs and UT School of Law, amongst many others. She served on the Board of the National Association of State Charity Officials and was a frequent speaker at its annual conferences dedicated to education and training.

Susan owns Staricka Law PLLC, a consulting firm offering consultation and legal services to nonprofit organizations and their legal counsel in a variety of matters utilizing her skills and expertise to assist and guide nonprofit organizations. She has also served as adjunct faculty in Nonprofit Law at the University of Texas School of Law.

Presenters



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Tama's legal tax practice focuses on both the domestic and international aspects of estate planning and family wealth transfer and tax-exempt organizations. Tama began her legal career with Vinson & Elkins in the Probate, Trusts & Estates Group of the Tax Section. After ten years at Vinson & Elkins, Tama continued her legal practice with Klosek Howes LLP and formed Klosek & Associates PLLC in June 2013. Tama has developed extensive experience in income, nonprofit (including private foundations), estate, gift, trust and generation-skipping transfer taxation and marital property planning. Tama has used life insurance extensively in her practice which focuses on advising high net worth and ultra-high net worth clients. Tama is a graduate of Harvard Law School and earned her undergraduate degree in Economics with honors from Columbia University. Tama is Board Certified in Estate Planning and Probate Law by the Texas Board of Legal Specialization and has been widely recognized in Houston and in the State of Texas by her peers and her clients as an outstanding attorney in her field. Tama has received a Chambers Ranking for High Net Worth—Private Wealth Law in Texas. Tama has many local and regional professional affiliations and has presented seminars on a range of topics related to her area of expertise to numerous groups in Houston, Texas and nationally. Tama joined Treyled Life Settlements LLC in March 2021 as a Managing Partner while continuing her trust and estates practice.

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Discussion Outline

Basis of Regulatory Powers and Authority of the State's AG and the IRS

IRS and AG Oversight of Nonprofit (Tax-Exempt) Organizations

Enforcement/Issues and Topics of Interests

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Attorney General Authority: Texas Constitution and Case Law

- AG represents public interest
 - Stands in the shoes of stockholder in for profit context.
- The authority of the Attorney General in Texas is embedded in the Texas Constitution, as interpreted by Texas courts.
 - This authority falls within Article IV, Section 22's umbrella clause.
 - Article IV, Section 22 of the Texas Constitution enumerates the AG's "specific" duties and further states that the AG shall "perform such other duties as may be required by law."

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Attorney General Authority: Texas Constitution and Case Law

- Power and authority of the Attorney General in the regulation of nonprofit, tax-exempt entities is deeply rooted in Texas common law.
 - *Coffee v. William Marsh Rice University*, 403 S.W.2d 340, 343 (Tex. 1966); *Hill v. Lower Colorado River Authority*, 568 S.W.2d 473, 478 (Tex. Civ. App.-Austin 1978, writ ref'd n.r.e.)
- 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).

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First appeared as part of the conference materials for the
2022 Nonprofit Organizations Fundamentals Workshop session
"IRS and AG Oversight"