

# AN OVERVIEW OF CHARITABLE FRAUD IN COLORADO



**Alissa Hecht Gardenswartz**  
**Senior Assistant Attorney General**  
**Colorado Department of Law**

# Agenda



- **Attorney General Oversight of Charities**
- **Factors Indicating Fraud**
- **Recent Enforcement Actions**

# Attorney General Charity Oversight



- **AG has general responsibility to protect charitable assets**
  - “Common Law”
  - Represents the public as beneficiaries
  - Protects donors

# Attorney General Oversight



- **AG has specific statutory authority to investigate and prosecute charitable fraud**
  - Colorado Charitable Solicitations Act, C.R.S. §6-16-101 *et seq.* (“CCSA”)
    - ✦ Share enforcement authority with Secretary of State and district attorneys
    - ✦ Any violation of the CCSA also violation of the Colorado Consumer Protection Act, C.R.S. §6-1-101 *et seq.* (“CCPA”).
    - ✦ CCPA allows the AG to investigate if we have reason to believe someone is engaged in “charitable fraud”
    - ✦ What constitutes “charitable fraud” laid out in §6-16-111(1)(a)-(p) and (1.5)(a) and (b)

# Attorney General Oversight



- AG has various civil remedies for CCSA charity fraud violations
  - ✦ AG can obtain injunctive relief, civil penalties, consumer restitution and/or disgorgement.
  - ✦ Up to **\$2000** civil penalty per violation.
  - ✦ Cap on possible civil penalties recently increased to **\$500,000** for any related series of violations, §6-1-112(1)(a) (up from \$100,000).
  - ✦ Costs and attorney fees awarded to AG if AG prevails in any enforcement action under the CCPA. §6-1-113(4).
- CCSA charitable fraud violations also subject to criminal penalties
  - ✦ §6-16-111(1)(b), (c), (d), (f) or (g) (felony)
  - ✦ §6-16-111(1)(a), (e), or (h-p), §6-16-111(1.5) (misdemeanor)
  - ✦ AG or district attorney can prosecute criminally

# Attorney General Oversight



- Colorado Revised Nonprofit Corporations Act, C.R.S. §7-121-101 *et seq.*
  - ✦ AG may bring action for judicial dissolution of nonprofit if nonprofit obtained articles of incorporation through fraud, or if corporation “has continued to exceed or abuse the authority conferred upon it by law.” §7-134-301(1)
  - ✦ *State v. Colorado Humane Society* (2008) – Took position that soliciting while suspended under CCSA (i.e., committing charitable fraud) rose to level of continuing to exceed or abuse authority conferred by law.

# Factors Suggesting Charitable Fraud



- Failure to register under the CCSA
- Lack of Transparency
- Lack of Board Oversight
- Bad bookkeeping
- Comingling funds
- High administrative and fundraising expenses, low program service expenses
  - View on the IRS 990 tax form or the Secretary of State website



Colorado  
Secretary of State  
Scott Gessler



## Summary Page

Home  
Create an Account  
Charitable Search  
Login

**For this Record...**  
Certificate of Registration  
View Form 990s  
Search IRS Publication 78  
View History and Documents

Registration No.: 20023004300  
FEIN: 84-6049811  
Organization Name: UNIVERSITY OF COLORADO FOUNDATION  
Street Address: 4740 WALNUT STREET BOULDER CO 80301 US  
Mailing Address:  
County: BOULDER  
Telephone: 303-541-1200  
Registration Status: GOOD AS OF 12/07/2012  
Initial Registration Date: 07/18/2002  
Web Site: WWW.CUFUND.ORG  
Email:

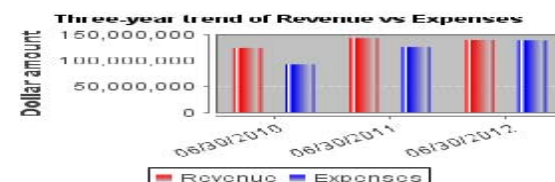
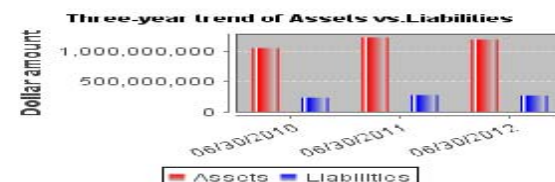
Statement of Charitable Purpose:

THE UNIVERSITY OF COLORADO FOUNDATION WAS CREATED IN 1967 TO PROMOTE THE GENERAL WELFARE, DEVELOPMENT, GROWTH AND WELL-BEING OF THE UNIVERSITY OF COLORADO. THE FOUNDATION FUNCTIONS AS THE PRIMARY FUNDRAISING ARM OF THE UNIVERSITY AND IS EXEMPT FROM FEDERAL INCOME TAXES UNDER SECTION 501(A)

Type of Entity: Nonprofit Corporation  
Date Established: 03/28/1967  
State Established: Colorado  
NTEE Code 1: PHILANTHROPY,VOLUNTARISM,& GRANTMAKING  
NTEE Code 2:  
NTEE Code 3:  
Also Known by These Names:

Financial Information for Fiscal Year Ending: 06/30/2012

Revenue:		Expenses:	
Contributions:	\$107,240,934.00	Program Service:	\$109,482,115.00
Government Grants:	\$0.00	Admin Mgmt General:	\$14,454,436.00
Program Service Revenue:	\$7,392,337.00	Fundraising:	\$15,513,472.00
Investments:	\$24,157,850.00	Payments to Affiliates:	\$0.00
Special Events:	(\$33,392.00)	Other expenses:	\$0.00
Sales:	\$0.00		
Other:	\$1,077,812.00		
<b>Total Revenue:</b>	<b>\$139,835,541.00</b>	<b>Total Expenses:</b>	<b>\$139,450,023.00</b>



**Financial Ratios:** [FYE 2010-2012] [Ratios Discussion Paper](#)

Program Services to Total Expenses: 77%  
Fundraising Expenses to Contributions: 14%



# Recent Enforcement Actions



- *State v. Fired Up For Kids, Inc. (2011)*
  - Action to dissolve charity for both obtaining articles of incorporation through fraud and abusing authority conferred upon it by law
  - Saw:
    - ✦ No board oversight
    - ✦ Comingling of funds
    - ✦ Lack of transparency
    - ✦ Bad bookkeeping

# Recent Enforcement Actions



- **Trinidad Catholic Cemetery Association (2012)**
  - Not a filed case – Assurance of Discontinuance/Voluntary Compliance entered with nonprofit cemetery
  - Saw:
    - ✦ Lack of board oversight
    - ✦ Lack of transparency
    - ✦ Bad bookkeeping

# Recent Enforcement Actions



- *State v. Full Spirit Ministries d/b/am Open Door Mission (2012)*
  - Action under CCPA and for waste and misuse of charitable assets against homeless shelter in Fort Collins
  - Saw:
    - ✦ Lack of board oversight
    - ✦ Comingling of funds
    - ✦ “Founder’s syndrome”

# Recent Enforcement Actions



- *People v. Candice Jenkins (2012)*
  - Criminal prosecution against individual pretending to be affiliated with legitimate charity
  - Saw:
    - ✦ **Just plain fraud**

# Questions?

