

**Texas Association of Public Employee  
Retirement Systems**

**Annual Conference**

**April 4, 2022**

Just When You Thought It was Safe Again  
New Perils for Fiduciaries

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# Crypto or No Crypto? That is the Question

- Compliance Assistance Release No. 2022-01
- “Exercise extreme care”
- Speculation. Custody. Valuation. Advice.

## What if My Plan Has a DC Component?

- Hughes v. Northwestern University, 142 S.Ct. 737 (2022)
- Do I have a duty to inform?
- Can there be too much information?

## Is Divestment a Good Idea?

- Government Code 809.051
- Government Code 809.005
- Article XVI, Section 66 Texas Constitution
- Texas Uniform Prudent Investor Act

## What About Lawsuits?

- Discretionary Immunity
- Texas Tort Claims Act
- Jones v. TRS, 2019 WL 4458790 (Tex. App. – Austin 2019)
- ERF of Dallas v. City of Dallas, 636 S.W.3d 692 (Tex. App. – Dallas 2021)

# What is Going On Elsewhere?

- Trustee Investigations
- Muth v. Public School ERB, 2022 WL 776672
- O'Neal v. Stanislaus County ERA, 2021 WL 5817325 (Cal. App. 2021)
- Baldauf v. Vermont State Treasurer, 255 A.3d 731 (Vt. 2021)

## So What Did We Learn?

- Prudence
- Trust but Verify
- Full Disclosure
- Follow the plan document
- And last, but not least – Education **is** a fiduciary duty

# Thank You !

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