Protect The Hersheys' Children, Inc.
P.O. Box 1305, Severna Park, MD 21146 • 717-298-0105 • info@protecthersheychildren.org

PROTECT THE HERSHEYS' CHILDREN

November 11, 2014

The Honorable Eric H. Holder, Jr.
Attorney General
The United States of America
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Re: Children Suffering Discrimination Over Depression And Other At-Risk Children Need Your Help

Table of Contents

Exhibit Binder

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Re: Children Suffering Discrimination Over Depression And Other At-Risk Children Need Your Help

Dear Attorney General Holder:

We, Protect The Hersheys' Children, Inc. ("PHC"), write to you on behalf of a group of needy children facing unlawful discrimination, merely because they suffer from depression. Their mistreatment is at the hands of the $12 billion Milton Hershey School Trust ("MHS" or "Hershey"), a child welfare charity located in Hershey, Pennsylvania that is otherwise beset with problems. PHC is a nonpartisan child welfare advocacy group comprised of volunteers.

We also write on behalf of other at-risk children facing related Hershey mistreatment, including tens of thousands being denied essential services and hundreds who are hurt annually by bad practices.

MHS is an IRC §501(c)(3) charity that provides K-12 residential care to children with certain socioeconomic needs.[1]

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[1] MHS was founded as an orphanage in 1909 by philanthropist and candy magnate Milton S. Hershey, together with his wife Catherine, who bequeathed their entire fortune to the care of orphan children. MHS today describes itself as a residential school serving "pre-kindergarten through 12th grade [children] from income-eligible families." The school enrolls children who live in residence at MHS group homes from the age of 4 until high school graduation, with some students staying longer. Approximately 1,890 children now reside at MHS. During the students' enrollment, MHS pays all food, housing, clothing, medical, dental, education, extracurricular, and other expenses. MHS also has a college scholarship program that provides students with secondary education funds.

The school is awash in cash, with 2,086 employees, and spends some $100,000 per child annually. MHS owns a controlling interest in the candy-manufacturer the Hershey Company. It is also the sole owner of the Hershey Trust Company ("HTC"), a non-chartered state bank, as well as Hershey Entertainment & Resorts ("HERCO"), a resort company. A structure chart of the Hershey charity is provided in Exhibit A.

Hershey is nominally under the oversight of the Pennsylvania Office of Attorney General ("OAG") and the Dauphin County Orphans' Court (the "Orphans' Court"). But neither of these act in the interests of needy children when doing so contravenes local, non-child interests. This has created a legal anomaly wherein the beneficiaries of a §501(c)(3) charity, needy children, have been stripped of the state-law *parens patriae* appointee that ordinarily

With its vast resources, MHS should be the greatest savior of needy children in history. In reality, it is anything but: for decades, MHS has operated in disregard of legal, child welfare, civil rights, education, and charitable trust norms, careening from one scandal and failed program to another and failing to meaningfully evolve. Paradoxically, the charity's extraordinary wealth allows its stewards to conceal grave problems, including by means of a billion dollars or more in dazzling construction spending that distracts from program failures, as described below.

PHC has repeatedly raised these matters with Pennsylvania authorities, who concede the problems and have promised reforms for 15 years. But each of these promises has been broken. Instead, the charity has been steadily converted into a bipartisan political slush fund, in contravention of IRC §501(c)(3), also as described below. Federal intervention is the only way that Hershey change will be achieved, abuses of children will stop, and MHS resources will be returned to strict use for needy children, consistent with the charity's charter.

Make no mistake, the Commonwealth of Pennsylvania has abrogated its duties to needy children in this matter and you are their last hope.

Accordingly, we are seeking Department of Justice ("DOJ") action to end Hershey discrimination and to address systemic problems flowing from the same root cause: a grossly flawed governance structure that has been corrupted to serve the interests of connected insiders and politicians, in derogation of the §501(c)(3) rights of needy children.

A. Request For Narrow Action On Behalf Of Children Subjected To Unlawful Discrimination

Our first request for action is clear-cut. The DOJ is empowered to remedy discrimination against children with certain disabilities, including ones facing treatable depression, whether in education or housing. Bright-line discrimination of this type is openly directed by Hershey at the children in its care on a staggering and systemic scale.

This unlawful conduct is akin to open Hershey discrimination that the DOJ remedied earlier. Specifically, the DOJ compelled MHS to end blanket rejection of children based on their HIV status. (*See, e.g., "Hershey settles HIV suit with 14-year-old student denied school admission," AP News Wire,* September, 13, 2013. (Copy included in Exhibit B Tab 1.))

Hershey discrimination against children facing depression, who are in the school's care, is in the same vein, though the numbers are vastly larger. This is illustrated by the cases of the late Abbie Bartels and Adam Dobson.

Abbie Bartels: *"Being at Milton Hershey is a privilege, not a right."*

Abbie Bartels was enrolled in Hershey at the age of five, after her family's personal difficulties prevented them from providing her with adequate care. Abbie then spent the next nine years of her life in Hershey's group homes.

Abbie was an honor roll student, tenderhearted, and loved by all. She was a member of an anti-bullying group and put other children first.

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represents their interests. In other words, Hershey presents the only known case where children who were literally orphaned were subsequently also legally orphaned too, and left with no one to protect their interests in courts of law. As one prominent charitable trust scholar described it, *"The Hershey case shows each of the three branches of Pennsylvania government acting illegitimately. The attorney general practically treated the Hershey assets as his campaign funds. The Orphans' Court's long experience with the Hershey Trust only served to continue a history of usurping the board's discretion... The Hershey case illustrates that the value of narrowly-confined [child welfare] assets does not disappear—it just gets appropriated by those with power at their disposal."* (Brody, Evelyn (2004) *"Whose Public?: Parochialism and Paternalism in State Charity Law Enforcement,"* 79 Ind. L.J. 937 (2004).

But in the spring of 2013, Abbie experienced depression, doing her best to overcome it.

Receiving help, Abbie began repairing her self-esteem and was on her way to recovery. She was also excitedly anticipating her 8th grade graduation, together with her Hershey classmates, whom she thought of as family.

Then tragedy intervened: ignoring the advice of the professionals who were treating Abbie, Hershey administrators told Abbie she would not be permitted to return to MHS after a brief stay at a local mental health facility. This was a mere two days before Abbie's 8th grade graduation.

The administrators also informed Abbie's family that Abbie could not even attend her upcoming graduation ceremony, nor her group home graduation picnic, gratuitously compounding Abbie's pain. The administrators actually threatened to call security if Abbie showed up, treating a tender and harmless child like a pariah. When Abbie's family pleaded about how devastating the heartless snub would be to Abbie, the imperious administrators robotically responded, *"Being at Hershey is a privilege, not a right."*

Even Hershey staff were startled by the administration's posture. Abbie's MHS psychologist reportedly broke down and cried on the phone over it. However, he and other staff were powerless to question Hershey leaders, whose actions are shielded by Pennsylvania officials, no matter how wrong.

With nowhere to turn, Abbie's fragile psyche could not withstand the added blows: a week after being expelled from MHS, Abbie took her own life, after telling her brother that she had cried all night and wanted only to return to Hershey, the place she called home.

Hershey administrators thereafter relented and did allow Abbie to return, to be buried in the Hershey Cemetery, where she now rests.

A CNN piece devoted to Abbie can be viewed at: http://goo.gl/6ZCHKY. The CNN story transcript is included in Exhibit B Tab 2.

Adam Dobson: ***From MHS Poster Child to Homeless Cast-Off***

Adam Dobson's story paralleled Abbie's. Adam was enrolled in Hershey in 2004, when he was in the third grade, having already suffered much in his young life. But Hershey provided Adam with refuge and he flourished in its structured environment.

Soft-spoken and self-effacing, Adam spent the next 9 years in Hershey's group homes and also came to view MHS as home, like Abbie and other Hershey children.

Adam was also a good student and was regularly presented by MHS officials at the school's "enrollment fairs," where his life story was used to persuade families to enroll their children too. Indeed, blowup photos of Adam to this day appear on at least two Hershey school vans, as advertisements highlighting the school's happy and successful students.

Adam also worked for MHS during the last three years of his attendance. Adam's part-time job entailed assisting at the MHS admissions office for 13 to 16 hours per week, every week, without any compensation. Adam was often also called upon to give up his full Saturday, as part of his uncompensated duties, and to work as late as 10 or 11 PM, even on school nights. Once, when Adam was visiting family during the Christmas holiday, the administration summoned him to appear for another all-day enrollment fair, and Adam dutifully accommodated the request. In every case, Adam did as he was told, striving for the school's approval.

Adam also ran cross country, was consistently given awards for good conduct, and otherwise had an unblemished record, nurturing dreams of graduating from Hershey and attending college.

Nonetheless, Adam suffered occasional bouts of adolescent depression that manifested in his junior year (2012-2013), even as he maintained high standards. But when Adam's depression led to a second short-term stay at a local mental health facility in the last month of his junior year, Hershey administrators callously and abruptly expelled him.

The administrators did not even bother to meet with Adam first nor afford him a chance to plead his case. They did not even consult with the facility's professional staff. They did not even spend five minutes to evaluate Adam and see whether expulsion was really warranted. Instead, they just abandoned Adam and said that he had to go, despite his having spent over half of his life at Hershey, and with only his senior year remaining.

Just like that, Adam was expelled. This occurred a month before Abbie was expelled, when Adam was 17 and Abbie was 14. After all that Adam had done to promote his school and please MHS administrators, no adult was willing to break ranks and speak up for him; no one pleaded his case; and no one troubled to look in on him later. Like Abbie, this boy was just callously kicked to the curb, amidst a Hershey culture where staff are conditioned to suppress all qualms about how children are treated.

The impact on Adam was simply devastating. His whole world was suddenly taken from him, including his housing and his entire support structure.

Adam thereafter was thrown to the wolves. He eventually ended up fending for himself during his senior year of high school. This included changing schools depending on where he could find shelter and struggling just to survive. At one point, Adam became homeless, begging strangers to help him pay for housing. MHS was completely indifferent to Adam's every request for help.

Soldiering on, Adam managed to finish high school and is presently a freshman in college. But there was simply no legitimate reason why this young man and fine student was deemed unfit to remain at Hershey and complete his education, and thereafter proudly join the ranks of the school's alumni. This expulsion also separated Adam from his twin brother, who remained in residence at the school after his own graduation.

Importantly, by virtue of Hershey's charter and mission, MHS assumes full responsibility for each child's total care. This includes housing, food, clothing, and every aspect of nurturing. Thus, when MHS discriminates against such children as Abbie or Adam by expelling them, it is generally far more damaging than would be the case for children elsewhere, who are more likely to have an alternative place to go. However, for Hershey children, many of whom are at the school specifically because they needed refuge from their home environments, expulsion can be permanently damaging, if not fatal.

It is for this reason that PHC has pleaded for nearly a decade with the Pennsylvania OAG to address this discrimination and the ongoing damage it does to children. Tragically, successive state attorneys general have turned deaf ears, with heartbreaking consequences.

Other Mistreated Children: *"These kids aren't disposable."*

PHC was told by a former MHS board member that children suffering from depression are expelled by Hershey primarily to protect its pristine image; i.e., these children are systematically removed lest any of them even conceivably harm themselves while on school grounds. MHS is thus making expulsion decisions based not on what is best for children, but on what the school leaders feel is most likely to foster a favorable public impression. This approach helps explain why so many of these children are mechanically removed, without any meaningful evaluation, and even though there is no legitimate reason why they should not be permitted to stay at Hershey.[2]

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[2] The board member who revealed this was Mr. Robert Reese, including describing a meeting where the MHS administrator responsible for student health services, Mr. Peter Gurt (discussed below), explained the policies to the board. Mr. Reese thereafter became a whistleblower and filed a related lawsuit that raised many of the issues that

One particularly irrational aspect of this discrimination is a so-called "two-hospitalization rule," wherein any MHS child who accumulates two visits to a mental health facility during his or her residence at MHS is summarily expelled. This is without regard to the child's specific circumstances, or whether the expulsion otherwise makes sense. The child is simply ordered to leave and it makes no difference that the child has nowhere else to go: Hershey's administrators have made it clear that these children will become someone else's responsibility, regardless of what awaits them beyond Hershey.

The following examples illustrate this ongoing pattern of discrimination. These accounts are drawn merely from postings to social media that emerged after Abbie's case became public, and from reports by families of mistreated children; i.e., this list does not reveal the full extent of the problem.

(1) **Katrina Rohlf, Lancaster, PA.** "Because I had been hospitalized in a psychiatric hospital more than twice in the same year [8th Grade], I was terminated."

(2) **Gretchen Rohlf, Lancaster, PA.** According to mother, Ms. Christina Rohlf: "My two daughters, Gretchen and Katrina Rohlf were both terminated from [MHS] because of depression and multiple psychiatric hospitalizations. Katrina was terminated one month before her eighth grade graduation, and was not allowed to graduate with her class."

(3) **Avery Everett, State College, PA.** "They did not hear me when I told them I was struggling with anorexia and depression. Instead, they pushed me out, back to an abusive family, and I, too, almost took my own life in the fall of my junior year."

(4) **Nancy Heuser, Landisburg, PA.** "I was there from 5th grade until 9th-10th grade. I too had mental health issues and had gone for help that the school had provided payments for. But after a while I was told I could not return that they could no longer hold my bed."

(5) **Sarah Carver, Agawam, MA.** "I was one of these children who was also 'kicked out' of the school I loved so much. I was a 4.0 student and top of my class. One summer while home for break my grandmother passed away. I had missed approximately the first 2 weeks of school. I too suffered from depression and had been diagnosed bipolar disorder. I was in a very fragile state. I had notes from medical professionals begging for the school to allow me back in but they didn't. My heart was broken. The fact that the school I loved so much and called home for so long would just kick me to the curb devastated me. I too thought about taking my own life."

(6) **Jane Doe, Location Unknown.** According to aunt, Ms. Kathleen Smith, from Camden, NJ: "I have a niece that went to Hershey and she is crying out now, and trying to commit suicide. Abbie's story is the same as hers. Please help!"

(7) **Elizabeth Green, Alamogordo, NM.** "I was terminated from MHS because after my mother died I was suicidal and went to a psychiatric care facility 2 times in one year."

(8) **John Doe, Location Unknown.** According to sister, Ms. Mindy Lu, from Los Angeles, CA: "The school also forced my brother out when they suspected him of being schizophrenic. My mother

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PHC has raised. Despite the gravity of Mr. Reese's allegations and his willingness to testify, the Pennsylvania OAG failed to pursue the matter to any credible degree, as described below. In fact, when Mr. Reese learned what current Attorney General Kathleen Kane had instituted as purported Hershey "reforms" to address his concerns, he was flabbergasted and reduced to citing George Orwell: *"There are spectacles before which satire herself stands mute."* (For a thorough account of the period leading up to General Kane's ostensible reforms and an analysis of each provision, *see, "Open Letter to Attorney General Kathleen Kane,"* and *"Three Strikes & You're Out!,"* May 29, 2013. (Copies provided in Exhibit C Tabs 1 and 2, respectively.))

was told that she could withdraw him or he would be terminated. The problem is that with the merit system, a mentally ill child can be deducted for not living by the rules."

(9) **Jane Doe, Location Unknown.** According to aunt, Ms. Mayling Bittner, from Carlisle, PA: "My niece was one of the 2,034 children that were removed from the school. She was homesick and depressed, but doing well otherwise. Since then, she has been in one foster situation after another. Sad to say she is 20 now and sitting in jail. These kids aren't disposable."

(10) **Jada Brown, Taylor, PA.** According to grandmother, Ms. Patty Wylam: "My [13-year-old] granddaughter, too, was kicked-to-the-curb just recently...home one day…and attempts suicide. I begged them not to send her home…what home? Mother is homeless…father is dead…everyone has let this child down."

(11) **Habibatu Yanni, New York, NY.** According to mother, Ms. Khadija Yanni: "My daughter was expelled because the school suspected her of suffering from depression. But once she was home I took her to a doctor and it turned out she had undiagnosed mononucleosis that MHS failed to detect — her physical lethargy, mistaken for depression, was treated as grounds for expelling her."

The pattern that emerges is clear: children facing treatable depression, often triggered by a painful life incident such as the loss of a loved one or rejection by family, and who otherwise are doing fine or are even model students, are quickly shown the door. This occurs the moment that MHS administrators even suspect that the child may engage in self-harm, as the school's image is elevated above all else. The opinions of professionals treating the children are ignored. A mechanically-applied "two-hospitalization rule" is often to blame — and this policy is applied unthinkingly to children who by definition are very likely to bring painful emotional baggage to Hershey, such that bouts of depression are only natural.

Expelled children are then immediately forgotten and replaced by the legions of poor children desperately waiting for a bed at Hershey — a dynamic that allows MHS to boast of its "high enrollment."

Once these children have been expelled, no one does a thing for them nor provides any support. The children are barred from even setting foot on the MHS campus and are virtually cut off from their lifelong friends. They are deemed unfit even to participate in an imminent graduation ceremony, as though maximizing their pain were the goal.

Most insidious of all, failing MHS programs (discussed below) contribute to the depression that MHS children face. So the school itself is causing many psychological problems and then covering up its own failures by expelling children, rather than helping them and remedying program deficiencies. Indeed, the combination of a student population prone to experience depression, the size of Hershey's enrollement, and irrational practices assures a veritable epidemic of mistreated children, with the cases noted here being merely the tip of the iceberg.

Based on Hershey's staggering expulsion figures and an average of one removed child every school day (discussed below), we can extrapolate that there are probably at least a hundred or more additional victims suffering in silence right now, many alone and lacking anyone in the world to care for them. Tragically, this is a full-on crisis that has gone under the radar due Hershey's unique circumstances and lack of accountability, no matter how many children are hurt.

We thus urge your office to subpoena Hershey records in order to identify all of the victims of these policies, so that they can at least receive help and some acknowledgement from MHS that the children themselves did nothing wrong. Alleviating the stigma visited on these blameless children, with its otherwise lifelong consequences, requires nothing less. It is simply indefensible that the Pennsylvania

OAG itself has not already pursued this matter-of-course inquiry, despite numerous reports about the problem, the publicly-reported death of at least one child, and repeated requests for action.

We also respectfully ask you to appreciate, General Holder, the overwhelming disparity in power that informs these circumstances: MHS children are from at best impoverished backgrounds; many of them lack family to care for them; and they often have no home or housing other than at Hershey.

Suddenly, when they are at their most vulnerable, they are ordered to leave the school — even though an abundance of resources is available to care for them at the world's wealthiest child welfare charity. Their expulsion is for nothing that they did wrong — and perhaps even after learning that they had just made the honor roll or received some other award. They are not even afforded time to pack their things (which are sent to them later) nor even to say goodbye to their lifelong friends, teachers, coaches, mentors, or houseparents. They are not even consulted on the decision. They have no input into the process. They have no right of appeal. Often, they have the decision conveyed to them not by the school itself, but by a third party. Frequently, they are confronted with the surrealistic ultimatum of either leaving "voluntarily" or facing expulsion and a permanent negative mark on their academic records. They go from years spent in a safe environment with three healthy meals a day, clean clothes, a roof over their heads, and a sound education, to utter chaos, possible stints in foster care or homeless shelters, or worse — and all merely because they had the misfortune to suffer treatable depression.

Conversely, the entity that makes these expulsion decisions is a $12 billion charity that answers to no one, never has to explain its actions, faces no "PTA" or parent-selected school board of any kind, has an infinite pool of desperate applicants who will swell enrollment no matter how badly MHS is managed, and otherwise rules with an iron fist. Even the most heartless expulsion is to be accepted with no more of an explanation than the bromide *"Being at Milton Hershey is a privilege, not a right."* The children being expelled have no legal recourse whatsoever nor any state official looking out for them, Pennsylvania authorities having long since abandoned them.

This abandonment is why we are turning to you.

B. Request For Broader Action To Remedy Systemic, Historic, And Ongoing Problems

Discrimination against MHS children who suffer from depression is a symptom of a larger illness. While ending this discrimination is imperative, to do no more would leave the illness untreated. A meaningful cure is needed.

Accordingly, our second request concerns broader Hershey problems that can be addressed within the same DOJ remedial action. For discrimination against MHS children suffering from depression — as with Hershey's earlier discrimination against HIV+ children — is merely one manifestation of crude Hershey practices, unqualified leadership, and systemic breakdown.

These negative attributes all flow from a chokehold on MHS decisions that is applied by those in control — individuals who are drawn to the charity by its fantastic wealth and power, rather than by any commitment to needy children, the charity's sole lawful beneficiaries. In other words, those in charge are attracted to MHS by *what it owns* and how they can profit from it, not by *what MHS (purportedly) does* and how this can help children.

This corruption of mission is caused by grossly flawed MHS governance, a board that is riddled with conflicts of interest, and OAG oversight dereliction. The result is sustained, historic, and unlawful deviation from the charity's charter.

The degree to which this is happening, with full cooperation from Pennsylvania courts, the OAG, and even the state's governors, is evidenced by such transgressions as the 1963 removal of $50,000,000 from the charity's corpus along with 543 acres of prime orphanage land. These assets were used to build Penn State University a medical school, in complete disregard of children's rights and the law of charities.

To be sure, Pennsylvania public officials were able to accomplish this stealth act only because the group whose assets were appropriated happened to be powerless children lacking any champion in state government — and these children lacked such a champion because the OAG has defaulted in its *parens patriae* duty to serve that role.

Had the mirror scenario unfolded, with a group of Hershey orphans making a baseless request to raid Penn State's endowment to build an orphanage branch, we are confident that the state's governor, OAG, and Orphans' Court would have shown greater respect for the law of charities and donor intent.[3]

The imprint of the 1963 fundamental corruption of the Hershey charity's mission has led to an unbroken string of poor decisions, scandals, sexually abused children, and countless other hurt children, spanning decades — notwithstanding the tremendous good that MHS also managed, thanks to its wealth.

To be clear, once Pennsylvania officials determined that it was permissible to elevate non-child interests above those of children in operating MHS, it was inevitable that the school's leadership and programs would be shifted to reflect this structural warping. Likewise, few observers have cared enough

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[3] For a historic overview of Hershey trust departures from charitable intent and the consequences for needy children, *see, e.g.,* Fouad, F. Frederic, *Making Bitter Chocolate Sweet: The Milton Hershey School's Past and Hoped for Future,"* Harvard Law School, 29 Oct. 2013. Lecture. (Video available at: http://youtu.be/eRLrzcHx4Z4.)

There is one shining exception to the otherwise monolithic closing of ranks by Pennsylvania officialdom as concerns Hershey charitable abuses. This is the state's Commonwealth Court, which issued, among other exemplary rulings, a historic *en banc* decision in 2005 that might have led to Hershey reforms, had it not later been reversed by the state supreme court. (*See, In re Milton Hershey Sch.,* 867 A.2d 674 (Pa. Commw. Ct. 2005), *rev'd In re Milton Hershey Sch.,* 2006 Pa. LEXIS 2515 (Pa., Dec. 28, 2006).) The Commonwealth Court opinion was authored by the Honorable Dante Pellegrini and received nationwide praise from charitable trust scholars. Even a judge who dissented from the ruling called it, *"one of the finest pieces of legal scholarship that I have read in my 25 years on the bench."* The opinion reversing the Commonwealth Court was authored by state supreme court justice the Honorable J. Michael Eakin.

The legal proceeding at issue concerned historic MHS governance reforms that would have better protected needy children and improved the charity, including by ending Hershey's pernicious conflicts of interest. The reforms had been promulgated to much fanfare in 2002 by the OAG, following intense lobbying by Hershey reform activists. At the time, the OAG publicly represented that the measures would greatly improve the lives of disadvantaged children.

Thereafter, the reforms were baldly rescinded by the OAG and MHS, acting jointly, without explanation. This rescission allowed MHS board members to enrich themselves even further (including board members who had just been named, and who were close political allies of the OAG). Among the more disturbing aspects of reform rescission was cancellation of certain child safety promises; e.g., commitments to end dangerous mixing of children across wide age ranges. These commitments had been included in the reforms due to a spate of sexual assaults in so-called *"multi-age housing;"* i.e., a reckless residential experiment that placed younger, more vulnerable children in the same group homes as older, more aggressive ones, despite warnings from child welfare professionals.

Judge Pellegrini's Commonwealth Court ruling, in essence, would have required the MHS board and OAG to defend their joint rescission of reforms in a hearing that examined the propriety of the act. This was due to a *prima facie* showing that the reforms were essential to protecting needy children's safety and economic interests. Justice Eakin's State Supreme Court decision, in essence, said that the OAG and MHS board had no such duty to explain their act, thereby removing the last remaining barrier to the problems described here. For instance, dangerous *"multi-age housing"* continued.

With this state high court ruling, one that broke with existing precedent, the Pennsylvania judiciary in essence stripped needy children of the last remaining state-law check on what the MHS board and OAG may decide, ripening the questions now before the DOJ. (The Commonwealth Court ruling is attached as Exhibit D. The State Supreme Court ruling is attached as Exhibit E.)

about this matter to wage the sustained effort needed to remedy the flaw, since those harmed by it are destitute children and families without power, and since many children were helped despite shortcomings.

Hershey thus presents a perfect storm of insidious problems, failed government oversight, and defenseless child victims, with billions of dollars at stake. In this equation, it was inevitable that children would suffer.

To illustrate, the following is a mere sampling of the incidents that have tainted this charity over the last 15 years alone:

• Serial child molester Charles Koons II used his access to MHS elementary school children to sexually abuse numerous students. His offenses continued for 20 years after MHS children first reported him, and for at least 10 years after he was reported to MHS and local officials by means of a sworn affidavit from a complaining parent. Koons' known victims (within and without MHS) number 31, though the actual number is presumed to be larger. (*See, e.g., Sex abuse case shatters Hershey school, Philadelphia Inquirer,* May 20, 2010. (Copy included in Exhibit B Tab 3.)) No Hershey administrators were held accountable for lapses related to Koons.

• In 2011, the MHS administrator tasked with training Hershey group home houseparents, William Charney, Jr., was sentenced to more than seven years in prison for possessing 700 images and 20 videos of child pornography. (*See, e.g., "How child porn case led to Hershey school, Philadelphia Inquirer,* October 30, 2011. (Copy included in Exhibit B Tab 4.))

• After an MHS girl was the subject of a humiliating incident where MHS high school boys video-recorded three-on-one sex with her during a school trip to an Ohio amusement park, Hershey senior administrator Mr. Peter Gurt made a crude joke about it in front of the girl's entire class, leading the girl's outraged friends to report him. (*See, supra, "How child porn case led to Hershey school." ("[The incident] became the topic of conversation at Senior Recognition night, an annual convivial gala for graduating students. In a speech at the alumni house, Gurt told the group of seniors that one of the boys in the class who participated in the foursome had 'the best ride in Ohio' […] A 2005 graduate who witnessed Gurt's comment said […] We laughed hysterically about it because some of the kids involved were in our class.'"*).) Mr. Gurt reportedly explained that the joke was his way of, in essence, "bonding with the boys." Rather than summarily terminating Mr. Gurt, the board gave him repeated promotions and raises, eventually naming him the school president. (*Ibid., "[S]chool spokeswoman McNamara said the Board of Managers 'took this allegation very seriously and hired an outside attorney to conduct a thorough investigation of the matter. Beyond that, we do not comment on personnel matters.'"*).)

• MHS program deficiencies are notorious and too numerous to catalogue here. But one glaring example was *"Springboard Academy,"* a reckless experiment that housed children in 20-child bedrooms. The experiment was abandoned almost immediately, in 2010. It entailed a waste of some $40 million, with virtually no salvage value. (*See, e.g., "A costly experiment ends," Philadelphia Inquirer,* April 18, 2010. (Copy included in Exhibit B Tab 5.))

• For well over a decade, MHS children were subjected to *"multi-age housing,"* wherein younger and more vulnerable children were forced to live under the same roof as older and more aggressive ones. This policy was pursued over the objections of knowledgeable child welfare professionals, leading to a spate of sexual assaults. In 2002, MHS made promises to end the practice, but these promises were broken. This led to more children being abused, including a particularly disturbing 2012 case where several young children were sexually assaulted by an older boy. The older boy would not have been housed in the same group home as his younger victims had MHS promises been kept. The child who perpetrated the acts was charged with criminal offenses — but no MHS administrators were held accountable for placing children in these circumstances.

• While the full toll on needy children from Hershey's failed and amateurish programs is unknown, one startling barometer of the harm being done is shocking attrition: over the last twelve years alone, over 2,400 children have been removed from MHS. This constitutes an average of more than one child removed each school day. The number of children removed thus *exceeds* those successfully graduating, despite $100,000 in per-child annual spending. But the exodus of damaged children is hidden from the public, since local media never report it and the children being removed have no legal recourse. Indeed, MHS uses its vast wealth to purchase a constant stream of favorable media exposure, creating an illusion of smooth functioning. MHS also hides behind misleading comparators; e.g., using past MHS attrition figures, or those from New England prep schools, and glossing over the apples-to-oranges nature of such comparisons. Put simply, a competently-run child welfare charity with a $100,000 per-child annual budget would never face the mass exodus of children witnessed at Hershey.

• Children are often expelled willy-nilly by administrators who answer to no one and act arbitrarily. Invariably, these expulsions occur after "enrollment reviews," where the child's fate is decided without any input from the children or their families, without any representation, and without any right of appeal or due process. The related stories are chilling. The jarring dislocation entailed in these removals has devastating consequences on children and their families. Indeed, it is arguable that, net-net, Hershey today is damaging more children than it helps. But rather than address program failures that cause attrition, MHS continues simply to expand enrollment, pointing to numeric growth as its sole measure of "success." It is as though a hospital with an astronomical patient fatality rate were to defend itself by saying, *"But we've built two new wings and will be able to take in even more patients now — so we're actually serving more patients, even if you deduct the ones that we're losing."*

• Self-enrichment, cronyism, and misuse of charitable resources by the MHS board have been rampant. For instance, several MHS board members have amassed over $1 million in total pay for their Hershey "charitable" part-time board service. (*See, e.g., "High Cost of Hershey School-Related Boards," Philadelphia Inquirer,* July 25, 2010 (Copy included in Exhibit B Tab 6.))

• The MHS board has also used child welfare money to purchase a failing luxury golf course at a grossly-inflated price, bailing out local investors, including a board member who had invested in the project. The course was also reportedly favored by board members who wanted to keep it open for their own use, and who spent additional charitable funds to subsidize millions of dollars in operating losses. Naturally, all play by MHS board members, and their guests, was compliments of the charity. The board also wasted another $5,000,000 to add a luxurious "Scottish-themed" clubhouse, sparing no expense at what they treated as their own private playground. (*See, e.g., "Hershey school's purchase of golf course helped investors," Philadelphia Inquirer,* October 3, 2010. (Copies included in Exhibit B Tab 7.)) The money-losing course has closed, but the lost child welfare dollars cannot be recovered.

• Political abuses of the MHS charity are legion and are the primary reason for failure by Pennsylvania oversight officials to pursue genuine reforms, as described below. For instance, the charity has been used for political fundraisers (at no charge to the organizers), to reward cronies of successive Pennsylvania Attorneys General, and to reward businesses friendly with public officials. (For Republican abuses, *see, e.g., supra, "High Cost of Hershey School-Related Boards;" see, also, "Hershey's Charity for Children Became GOP Slush Fund," The Nation Magazine,* October 17, 2012. (Copy included in Exhibit B Tab 8.) For Democratic abuses, *see, e.g., "Hershey charity hires former Rendell aide," Philadelphia Inquirer,* October 9, 2011 (Copy included in Exhibit B Tab 9.); *see, also, supra, "Open Letter to Attorney General Kathleen Kane,"* May 29, 2013.)

We turn next to the impact of political abuses on state oversight of the Hershey charity.

C. Pennsylvania Oversight Of the MHS Trust Is Hopelessly Compromised

As noted in footnote 3 *supra* and Exhibits D and E, Pennsylvania courts have created a legal regime wherein OAG and MHS jointly-agreed actions, no matter how improper, are beyond the reach of any conceivable challenge. Even where a decision puts children at known risk of sexual abuse — such as by allowing *"multi-age housing"* to continue — or where a decision restores pernicious conflicts of interest, both as happened in Hershey, the state's highest court has expressly stated that no one has standing to question it.

A corollary is that by removing barriers between the OAG and MHS, and in essence bleeding the two entities together into one friendly whole, the state supreme court ruling facilitates a scenario wherein the very concept of oversight is rendered meaningless.

This outcome has effectively been accomplished in Hershey, by using the school's vast wealth to politicize the charity and seduce the OAG into non-action.

The following examples illustrate how this has been occurring:

• When Republican Attorney General (now 3rd Circuit Judge) the Honorable D. Michael Fisher's subordinates were investigating the Hershey charity in 2002, and conducting a related key meeting with MHS reform activists, General Fisher himself was at the very same moment at Hotel Hershey, an entity owned by HERCO — one of the MHS companies then under OAG investigation. General Fisher was at Hotel Hershey passing the hat for his gubernatorial race, at a campaign fundraiser hosted by a HERCO-affiliated PAC. In other words, the state's highest judicial officer was: (a) collecting campaign money from executives who worked for a company that he was investigating; (b) collecting this money on the very grounds of a hotel owned by that company; and (c) engaging in this activity while his own staff were simultaneously conducting a meeting related to the investigation.

• When the MHS board was reconstituted in the fall of 2002 — a bellwether event in Hershey history — and ten members were forced to resign, questions arose as to which political party would be able to name the lucky appointees to the newly-vacated (and soon to be even more highly lucrative) board seats. In the case of the HERCO board, a compromise was apparently struck: Republican insider Lynn Swann (who later ran for governor on the GOP ticket) was eventually named to the board, together with Democratic insider Sheila Dow-Ford, the latter having been a close ally of Democratic Governor Ed Rendell. Mr. Swann and Ms. Dow-Ford were appointed to these positions despite neither having had any notable qualifications for serving on the board of an entertainment and resort company. Naturally, HERCO's hefty director fees ultimately come from the pockets of needy children, despite virtually nonstop losses suffered by the company.[4]

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[4] This pivotal 2002 MHS board reconstitution was pursued by oversight officials for entirely non-child reasons. It occurred after the board tried to diversify the charity's highly-concentrated portfolio. Diversification meant seeking to sell the charity's controlling interest in the Hershey Company, raising fears that local jobs might be put at risk. The resultant public outcry led then Attorney General Fisher — who was running for governor and thus eager to please local voters — and Orphans' Court Judge Warren G. Morgan to force off the board the ten individuals viewed as the most "culpable;" i.e., those who had been the most determined to fulfill their fiduciary duty to diversify. Conversely, the worst offenders on child welfare matters were left in place, in a complete inversion of oversight logic.

General Fisher and Judge Morgan pursued the reconstitution of the MHS board in the context of an Orphans' Court action that the OAG had filed seeking to stop the proposed sale. Their unprecedented conduct did in fact stop the sale, inviting scathing nationwide criticism from charitable trust scholars. (*See, e.g.*, *supra,* Brody, *"Whose Public?: Parochialism and Paternalism in State Charity Law Enforcement;" see, also,* Jonathan Klick and Robert H. Sitkoff, *"Agency Costs, Charitable Trusts, and Corporate Control: Evidence from the Hershey's Kiss-Off,"* 108 Columbia Law Journal 749 (2008) (describing how Pennsylvania officials destroyed roughly $2.7 billion in shareholder wealth, much of it intended to benefit needy children).)

At no time in the process were the public officials responsible for the matter willing to consider naming even one child welfare professional to the reconstituted board. Rather than taking needy children's interests into account in any way, the sole goal proved to be assuring control of the charity on a going-forward basis by people who would put local economic interests above those of children.

(footnote continues next page)

• In 2007, while Ms. Dow-Ford was a HERCO director, the company made a $10,000 political donation to then Governor Rendell's reelection campaign. (See attached Exhibit F.) It was later revealed, in 2010, that Governor Rendell himself reportedly had designs on a Hershey board position, and that he went so far as to express such to the MHS board chair while still serving as governor. If true, this would help explain why Governor Rendell ignored repeated requests to come to the aid of MHS children during his own governorship.

• Also in 2007, then MHS board chair (and former Republican Pennsylvania Attorney General) LeRoy Zimmerman organized a Republican fundraiser on MHS property, with Karl Rove as the guest of honor. Subsequently, a related $15,000 political contribution to the Republican State Committee of Pennsylvania was arranged from an entity owned by MHS, apparently at the direction of Mr. Zimmerman. For reasons that have never been publicly explained, the contribution was tied to the event and appears to have been disguised as an *"invoice,"* as though the charity itself should be required to pay for the privilege of hosting a Republican fundraising dinner. (See attached Exhibit G.)

• While Mr. Zimmerman served on the MHS board, prominent Republican and former George W. Bush cabinet member the Honorable Tom Ridge was appointed by the board to a lucrative seat on the Hershey Company board, together with Mr. Zimmerman himself and other of his associates.

• During the most recent and particularly crucial period of OAG activity as concerns Hershey (when current Democratic Attorney General Kathleen Kane was concluding an investigation that presented the charity with one of its greatest opportunities ever for meaningful reform), General Kane selected as her chief of staff an individual, Mr. Adrian King, whose brother-in-law, Mr. John Estey, was then working at the highest levels of MHS. Mr. Estey was thereafter named the MHS interim president, despite his lack of any apparent background in child welfare. Mr. Estey was also Democratic Governor Ed Rendell's former chief of staff; and Messrs. Rendell, King, and Estey were also all law partners at the same prominent Philadelphia law firm, Ballard Spahr. (*See, e.g., "Clout: Kane team shows Harrisburg can be a small circle," Philadelphia Inquirer,* January 11, 2013 (Copy included in Exhibit B Tab 10); *see, also, supra, "Hershey charity hires former Rendell aide."*)

Nor is this list by any means exhaustive.

The picture that emerges is a thoroughly ugly one, wherein needy children's interests are trampled in a stampede of Pennsylvania politicians frenetically trying to access Hershey's $12 billion of child welfare lucre, oblivious to any semblance of propriety. This in turn has made a mockery of OAG oversight, even when children's safety is at stake. There has simply never been even one act by any Pennsylvania attorney general that actually put Hershey children's interests above all others — and the last 15 years epitomize this fact.

The bottom line is that missing state oversight engenders and enables Hershey policies that: (a) discriminate against children in housing and education; (b) subject children to knowingly dangerous circumstances; (c) foster incidents of emotionally or physically abused children; and (d) of central

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(footnote continued from previous page)

Shortly thereafter, MHS and the OAG followed up by jointly rescinding the reforms discussed at footnote 3 *supra*, another act that received the Orphans' Court's blessing. In response, MHS alumni reform advocates tried in vain to restore the reforms.

The result of all this was a child welfare catastrophe from which the charity has yet to recover — although many who precipitated it ended up fabulously wealthy as a direct result. The latter included one group of Hershey alumni who helped the MHS board erase the reforms, and who would thereafter play a particularly disappointing role in the saga, as described below. The price that the MHS board paid this group for cooperating in rescinding reforms included placing them in charge of MHS, whether or not they had the necessary qualifications. It is this group's policies, discriminatory and otherwise, that are at issue here.

concern to this letter, yield gross inadequacy at the MHS leadership level to a degree that the charity's §501(c)(3) child welfare mission is vitiated.

We turn now to the subject of Hershey leadership inadequacy, the lynchpin failure causing all other Hershey problems, including the discrimination at issue here.

D. A $12 Billion Child Welfare Charitable Board Without *Any* Child Welfare Experts

Leadership inadequacy, Hershey's central problem, is a function of the lack of any child welfare professionals on an MHS board that is otherwise riddled with conflicts of interest. This deficiency exits despite over 15 years of pleading with public officials to rectify the matter — and for a *$12 billion* charity, the sole lawful purpose of which is *child welfare.*

But proven child welfare experts just never seem to find their way onto the self-selecting MHS board — a board that not only chooses its own members, but also operates in complete secrecy, holds no open meetings, faces no accountability for child welfare failures, and declines to name even one candidate with a record of service in child welfare.

Instead, cronies of MHS board members and public officials, along with lackeys and otherwise compliant individuals, are named to what have become embarrassingly lucrative "nonprofit" board positions. Left to their own designs, the MHS board members simply keep choosing new additions based strictly on what will reinforce their grip on wealth and power, seeking only clones of themselves. They do this rather than adding knowledgeable individuals who could actually rectify the charity's child welfare deficiencies, but who might also press for change to a highly lucrative status quo. This is the only known child welfare charity that pays its part-time board members exorbitant fees, in this case, from the assets of poor children.

Naturally, bona fide child welfare professionals would also gladly serve without compensation — as they do on virtually every other charitable board, including at all major universities that are responsible for far larger budgets and vastly more complex operations. (*See,* chart comparing MHS board pay with that of nation's 10 largest universities, Exhibit C Tab 2, *"Three Strikes & You're Out,"* p. 10.) This is likely another reason why such individuals are eschewed by the MHS board, since their volunteerism would embarrass MHS board members who are committed to retaining their rich Hershey incomes.

The result is a $12 billion child welfare charitable board without a single child welfare expert — and oversight officials who refuse to do anything about it.

Most recently, current Attorney General Kathleen Kane publicly, solemnly, and repeatedly promised that such child welfare professionals would be named to the MHS board. General Kane made these promises in the context of what she trumpeted as a May 8, 2013 "reform" package that she insisted would require such appointments.

However, ***over 550 days later,*** the MHS board has still failed to name even a ***single*** such professional.

This is precisely what PHC predicted at the time, when we tried to warn the public that General Kane's claims about her reform agreement did not square at all with its plain language.[5]

Again, the MHS board refuses to close its knowledge gap despite more than one child removed from Hershey each school day, the death of a child like Abbie, mistreatment of countless children suffering from depression, primitive HIV prejudices, and reckless housing "experiments" — that is, the MHS board refuses to close a knowledge gap that must be closed if it is to fulfill its *sole lawful duty.*

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[5] For a detailed account of Attorney General's Kane's conduct and a dispositive analysis of her ostensible "reforms," *see, supra, "Open Letter to Attorney General Kathleen Kane"* and *"Three Strikes & You're Out."*

Competent child welfare professionals would understand all of Hershey's problems in a way that prevented children from being hurt at all — but the MHS board apparently would rather that children continue to be hurt than introduce expertise with the potential to jeopardize its highly lucrative arrangements.

"Zimm's Palace"

But to appreciate how utterly cavalier the board has become and the sheer hubris of those running MHS today, please see the photo in Exhibit B Tab 11, showing six board members posing under a sign that says "*Zimm's Palace.*" The photo was taken at the entrance of Hotel Hershey, rechristened here. Each board member pictured has amassed a total of *at least one million dollars or more* from MHS board "service."[6]

By way of explanation, *"Zimm"* refers to then MHS board chair Mr. Zimmerman — featured in the photo — and the *"Palace"* is Hotel Hershey. Mr. Zimmerman reportedly insisted on $70,000,000 of lavish renovations to the hotel, which HERCO executives felt to be economically irrational, according to a subsequently filed whistleblower lawsuit. Given HERCO's lack of meaningful profits, the $70,000,000 might instead have gone to help needy children — this disturbing failure in priorities is what was at issue.

The photo was reportedly staged by board member Mr. Robert Cavanaugh, as a "joke" about the renovation costs and Mr. Zimmerman's extravagances during his many stays at the hotel, all expenses paid by the charity. This was even though Mr. Zimmerman resides in the area and hardly needed to lodge himself at a five-star hotel for all Hershey board meetings. Mr. Cavanaugh also appears in the photo and is the present MHS board chair, having succeeded Mr. Zimmerman in this role — and he and Mr.

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[6] The MHS board is able to pay itself these lavish sums through a combination of directorships on controlled company boards (the Hershey Company, HERCO, and HTC), hefty "per diems" for board meetings, and other "special" payments (e.g., extra money for serving as board committee chairs). (*See,* Exhibit C Tab 2 *"Three Strikes & You're Out,"* explaining these matters in detail.)

In broad terms, the HTC and HERCO fees are artificial given the economics involved. For instance, HERCO has lost money for decades, at times having to be bailed out by the MHS charity itself and otherwise sucking cash and land resources away from needy children. In essence, HERCO enriches its executives and directors, while failing to provide needy children with any meaningful revenues.

HTC director fees are similarly dubious: the board members simply do not earn them, a fact that the OAG itself conceded earlier.

As for the Hershey Company, while its directorships would warrant compensation if they were filled by outside directors, to allow MHS board members to fill these positions on a compensated basis (or to name cronies to fill them in exchange for favors elsewhere) creates glaring conflicts of interest; e.g., this arrangement gives MHS board members *personal financial* incentives to have MHS retain ownership of the Hershey Company, notwithstanding any competing interests of the charity's needy child beneficiaries.

The "per diems" endorsed by General Kane are particularly embarrassing and work out to *over $1,000 per hour* (if one reads the fine print concerning them). In any case, MHS is a charity and there is no reason why its board cannot be fully volunteer. This is even where board members serve on related company boards — just as is the case in countless other, properly-administrated nonprofits.

Put differently, if MHS had a board comprised of individuals truly devoted to needy children's interests, the board members would not engage in tortured arguments trying to rationalize obscene board pay. Instead, they would insist that every available penny be used strictly to help destitute children and families, contributing their own funds to the mission, just as virtually every other child welfare charitable board does. It is only Hershey where high-paid lawyers are brought in to help the board devise every conceivable artifice for putting charitable dollars into the pockets of board members, a substantial number of whom have had political connections to the OAG.

Zimmerman were also regular golfing partners, including on the luxury course that they had MHS spend millions to purchase and upgrade.[7]

Among other indulgences that the board members charged to the charity during their stays at *"Zimm's Palace"* were spa treatments, luxury golf fees for themselves and their friends, and hefty liquor and meal tabs (at times for accompanying family members too), and all apparently without reporting it as income.

This *"La Vida Loca"* behavior was considered a *"laughing matter"* by those responsible for $12 billion of resources intended for impoverished children, as though they were playing with Monopoly money.[8]

Mr. Cavanaugh himself has amassed over three million dollars in total MHS pay, despite having been responsible for virtually every MHS board blunder over the last 14 years. Mr. Cavanaugh's pay actually skyrocketed during this time, thanks to the reform rescission that he and his fellow board members engineered. It is as though the more that MHS board members err, the more that they pay themselves.

To be clear, whether it was children being sexually abused in *"multi-age housing"* or recklessly crowded into *"Springboard Academy,"* the final decision-makers in every instance were MHS board members who are still on the board and are today led by Mr. Cavanaugh — smiling front and center in the *"Zimm's Palace"* photo. These individuals stood by while children were hurt, but their outrageously high pay rose even further — and all while refusing every plea to make changes, heed basic safety warnings, or even abide by their own safety promises. Throughout all this, no MHS board members were held accountable in any way nor compelled by state officials to at least seek out qualified guidance on Hershey school policy.

Other than Mr. Zimmerman, all of the smug and recalcitrant individuals pictured in the photo continue to serve on the MHS board, making decisions that affect thousands of children's lives. This includes naming MHS senior executives, the item that most starkly reveals Hershey's decision-making dysfunction. For MHS is a charity where vital personnel selections rest entirely in the hands of an insular, self-enriching, spendthrift, golf-obsessed, secretive, and self-indulgent board — a board that answers to no one, ignores warnings about reckless policy, possesses no child welfare qualifications, and thinks that squandering resources intended for destitute children is a laughing matter, in a nation where 20% of our children live in poverty and 1.3 million children are homeless.

It is no surprise at all that a board with these characteristics consistently fails to get even the most basic MHS leadership choices right. The board's poor senior leadership choices in turn create a downward cascade of MHS problems that afflict the school at every level, including engendering the discrimination at issue here.

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[7] A codicil to the luxury golf course purchase story was the MHS board's *ex post facto* rationalization, fancifully claiming that the purchase was actually *"for MHS children's housing needs."* This demonstrable fiction fooled no one, as explained *supra, "Open Letter to Attorney General Kathleen Kane"* at p. 11 and *et passim.*

[8] *See, e.g., "Ousted Hershey trust president tells court of serious financial irregularities," Philadelphia Inquirer,* February 11, 2011 (*"The just-dismissed top executive of the multibillion-dollar Hershey charity for poor children describes in a court filing widespread financial irregularities at the philanthropy, including the use of charitable assets for free rounds of golf, spa treatments, limousine rides, and excessive compensation for board members. […] The Hotel Hershey recently underwent a $70 million upgrade, the court petition said, 'so that trustees could enjoy their stays and experiences there.' Among the new amenities: an infinity-edge swimming pool, 10 private cottages, a year-round skating rink, and a 130-seat restaurant. The court petition says the $70 million investment was opposed by managers at the for-profit subsidiary that operates the hotel 'because the investment would never have a payback to justify it.'"*). (Copy included in Exhibit B Tab 11.)

But every child hurt, and every dollar wasted, is a completely predictable consequence of who is choosing MHS leaders, and how they are choosing them — while compromised Pennsylvania officials turn a blind eye.

E. Unbroken String of MHS Presidential Selection Debacles

With $12 billion at its disposal, Hershey would be the premier savior of at-risk children if it were managed by quality leaders. Such leaders would know how to end policy failures and implement rational and empirically-tested programs, effectively deploying all resources to save as many children as possible.

Quality leaders would also not discriminate against children on the basis of crude prejudices, nor expel children in an arbitrary manner. Such leaders would cease "recruiting" children who do not necessarily need residential care, and would not lightly expel children who do need it.

In countless ways, large and small, professionals with proper backgrounds, genuine child welfare learning, and impeccable character would retool the Hershey charity to put an end to its failures — instead of continuing a practice of using Hershey's startling wealth to just camouflage all problems.

Standing alone, an MHS attrition rate of one child removed per school day — or over 200 children each year, despite $100,000 in per-child annual spending — should sound alarm bells and alert those in charge of the imperative to rethink policy.

But rather than remedying program failures or naming accomplished child welfare professionals to turn matters around, the MHS board has made a set of mystifying presidential selections that mirror the board's own self-selection practices; i.e., the board members choose MHS leaders *not* for child welfare reasons, but strictly on the basis of what will best help them maintain intact their lucrative status quo. The latter includes satisfying alumni demands that alumni be promoted.

Such selections in turn lock in failed practices, under virtually the same group of leaders — individuals who nowhere else would even be taken seriously. These leaders implement policies that range from thoroughly discredited or dangerous to exercises in rank charlatanism, usually imposed on bewildered staff with silly slogans that are supposed to assuage employee concerns.

Worse still, each of the last three MHS presidents was selected after costly, lengthy, showy, but ultimately sham "nationwide searches." These "searches" mislead employees and the public into believing that change might actually follow. But in every instance, transparent charades produced "leaders" with dubious qualifications — individuals whose primary attribute turned out to be demonstrated commitment to helping the board maintain the status quo. Indeed, what constructive change can come about at the MHS administrative level from school leaders selected by a board that is itself committed to *preventing* change, and that has every financial incentive to prevent change? It is like asking Congress to vote itself a pay cut.

Each of the MHS board's last three presidential choices reflect this, and had obviously been pre-selected before the staged "searches" even began. In fact, each "search" was managed by the same executive recruiting firm. Likewise, in the MHS board's lexicon, "nationwide" is apparently defined as the town of Hershey, since every selection also came from within the town's confines, and from within the school itself.

In short, all that the board's resource-wasting "presidential search" ruses have accomplished is to exacerbate malaise among employees, conditioning them to abandon hope, but invariably saddling the school with the same failed leadership, one presidential cycle after another.

Without breaking this cycle, it is inevitable that more children will be hurt and more wrongs will occur, whether due to unlawful discrimination, ill-advised child-crowding, or whatever new dubious idea Hershey's unqualified leaders next conceive. The MHS board's last three presidential choices fully bear this out.

Johnny O'Brien: *"Mediocre staff and street-smart kids"*

The first recent hire to illustrate this occurred in 2003, when the MHS board named Hershey alumnus Mr. Johnny O'Brien as president. Mr. O'Brien was chosen by the board over nationally-prominent education leaders with stellar records of accomplishment, and who were ostensibly also search finalists. But in reality, they were mere props in the board's theater — a transgression repeated enough times now to damage future MHS recruitment efforts, since credible candidates have certainly come to distrust what is a blatantly rigged game.

Mr. O'Brien was hired despite the board having learned during the vetting process that he had a history of making false claims about his graduate degree. He also lacked any experience running a child welfare organization, any educational facility, or even any organization with more than a handful of employees — his career had consisted primarily of giving leadership seminars.

Mr. O'Brien's primary connection to child welfare, ironically, was a consulting job for MHS: he had been paid hundreds of thousands of dollars by the failed MHS administration that he replaced, seeking to help it sell poor policy proposals to skeptical employees.

Mr. O'Brien's tenure as MHS president commenced with an expensive and ostentatious "inauguration." This included the processional that he chose, *"When Johnny Comes Marching Home!"*

Mr. O'Brien had campaigned for the job with commitments to act as a humble *"servant leader"* — one who would *"live in a shack anywhere on campus"* and break with the self-enriching practices of his immediate predecessor. The reality was starkly different.

For instance, while Mr. O'Brien had loudly criticized his predecessor's $400,000 in annual compensation, he proceeded to negotiate a package for himself that eventually rose to $664,000.

The "shack" that Mr. O'Brien promised to live in turned out to be a mini-estate, with a stand-alone guest house, that was purchased by MHS for his use at a price of $700,000. The total cost rose to well over a million dollars after the lavish renovations that Mr. O'Brien required were completed. Certain construction needed for MHS children had to be delayed, so that Mr. O'Brien's home could receive priority.

Mr. O'Brien engaged in these indulgences while insisting that employees and students tighten their belts, and while cutting student services. The latter included eliminating certain summer programs, ending several student activities, and even diminishing the quality of the food served. As Mr. O'Brien put it, he expected MHS students to *"show more gratitude and less attitude."*

But this maxim apparently did not apply to Mr. O'Brien and the entourage of dubiously-chosen alumni whom he brought on board with him, many receiving compensation packages that had previously been beyond their wildest dreams. This included one individual who confided that he had to hire a financial advisor to help him manage his newly-acquired wealth, another senior administrator who had previously been fired by MHS, and several more who became part of the alumni senior leadership core.

This group showed scant grasp of child welfare matters but were eminently effective in helping the MHS board ram through its agendas — including pursuing its luxury golf acquisition, fighting off the small group of alumni reform activists, and raising board pay. At every turn, Mr. O'Brien and his alumni administrative team proved staunch allies to the MHS board — and the board reciprocated by overlooking spiraling MHS problems and paying these alumni administrators increasingly lavish sums.

In terms of the MHS climate that this fostered, the O'Brien administration's hypocrisy cast a dispiriting shadow throughout the school. This includes the manner in which Mr. O'Brien viewed MHS employees and even students. A book describing these matters and what Mr. O'Brien pledged to change once he took charge is illustrative:

"'All the money and potential that were there had given people an entitlement mind-set.' This was especially true for the school's leaders and staff, added O'Brien. *'They began running things with the adults as the priority, not the kids, and the focus was maintaining control, not preparing needy kids to be good citizens and leaders.'* […] O'Brien said he found a *'traumatized culture'* at the school and *'a place where mediocrity was acceptable.'* All the money had led both staff and students to expect big rewards for little effort, said O'Brien. *'The kids were expecting to be given things like laptop computers when they were too young to handle them.'* One result, he noted, *'was that a lot of street-smart kids sold their laptops within a couple of weeks of getting them.'"* (*See,* D'Antonio, Michael, *"Hershey: Milton S. Hershey's Extraordinary Life of Wealth, Empire, and Utopian Dreams,"* Simon & Schuster (2007).)

Thus, the problem, according to Mr. O'Brien, was that MHS children were ingrates pampered with undeserved laptops that they deviously sold for quick profits; the staff were self-obsessed and mediocre; but Mr. O'Brien and his crack team of alumni leaders were going to turn all this around.

Mr. O'Brien's right-hand man was his fellow alumnus Mr. Peter Gurt, who scrupulously implemented all of Mr. O'Brien's directives — and was in turn rewarded with equally soaring compensation, eventually rising above $400,000. According to whistleblower Mr. Reese, this included a generous early retirement package for Mr. Gurt's wife, then also an MHS employee.

Mr. O'Brien was eventually released by MHS, after such fiascos as the 20-child bedrooms of *"Springboard Academy."* This idea was apparently conceived by him because he thought it would solve the school's soaring attrition problem — a ridiculous proposition to anyone with even a modest degree of knowledge about residential education for at-risk youth. The board nonetheless backed Mr. O'Brien on the ill-advised scheme, even though it turned the child welfare clock back one hundred years.

Mr. O'Brien's behavior otherwise contributed to plummeting employee morale and a litany of other problems, many of which still burden MHS. At one point, a local newspaper reported that houseparent morale had sunk to a new low, leading Mr. O'Brien to retort, *"When I arrived, houseparent and employee morale were at rock bottom, so I don't know how it can go lower than that."* (*See, Harrisburg Patriot-News,* July 25, 2005, *"Hershey school morale low, houseparent say — Hershey school houseparents tell of turmoil."*)

Since being released, Mr. O'Brien has criticized the MHS board, reversed his earlier endorsement of such decisions as the board's luxury golf course purchase, and reportedly insisted that he should have been named to a lucrative MHS board seat himself. He has also written his own book about all this, apparently describing how he saved MHS. (*See,* "*Semi-Sweet: An Orphan's Journey Through the School the Hersheys Built,"* Rowman & Littlefield (2014).)

Anthony Colistra: *No Joking Matter*

Thereafter, the MHS board conducted another sham "nationwide search." This was also replete with lofty representations about seeking out the best leader in the nation along with another hefty expenditure to hire the board's go-to "search firm." But the board members did not have to look far: they settled on *their fellow board member,* and another Hershey alumnus, Dr. Anthony Colistra, in 2010.

Dr. Colistra's checkered history was so pronounced that the OAG attorney primarily responsible for Hershey matters, when alerted to what the board was secretly planning, *refused to believe it.* Indeed, this OAG attorney initially burst out laughing when told that Dr. Colistra would be named, convinced that the PHC board member who made the disclosure was just joking — until being informed that it was no joke, and that the OAG had to act before another MHS leadership debacle occurred.

Even then, the OAG staff member flatly refused to believe the warning — until the actual announcement was made. But by that time, it was too late to prevent another failed MHS leadership cycle.

Dr. Colistra's tenure was precisely what the OAG's own staff would have predicted: policies remained deficient, large numbers of children were subjected to appalling treatment, massive attrition continued, and staff morale declined further. But as always, the school's vast wealth and material abundance assured a steady stream of desperately poor children eager to replace those who were leaving.

One particularly troubling case was that of model student, accomplished chess player, and multilingual campus leader Cesar Escudero, who was expelled in a seemingly arbitrary manner. Cesar's every effort to have his expulsion reviewed was frustrated by the MHS senior leadership. According to a *pro se* lawsuit that Cesar filed, Dr. Colistra allegedly hid the fact that video evidence exculpating Cesar existed.[9]

As with Mr. O'Brien, Dr. Colistra's right-hand man was the same Mr. Peter Gurt, who was intimately involved in executing all MHS policy while being steadily groomed as a successor.

Dr. Colistra had earlier participated in every questionable MHS board decision for over a decade, from child-crowding to the luxury golf course purchase — while amassing several million dollars in MHS compensation. Dr. Colistra's very presence on the board was irrational, which explains why the OAG had difficulty taking seriously the mere possibility that he would be named as the next MHS president.

Dr. Colistra's tenure bore out every fear about how he would lead the school — and more than two thousand MHS children were removed during his combined board/administration watch, including Abbie, Adam, Cesar, and many others whose fates remain unknown.

Peter Gurt: *"We call this 'Back to the Future!'"*

Capping the MHS board's run of dubious school presidential choices was the selection this summer of but another accommodating Hershey alumnus, Mr. Peter Gurt; i.e., the administrator whose "joke" about an MHS child was reported in the *Philadelphia Inquirer.* (*See, supra, "How child porn case led to Hershey school."*)

Nor was this incident an aberration or the sole reason that Mr. Gurt's selection was questionable: Mr. Gurt's crude "humor" is notorious; and his record includes over 20 years of endorsing virtually every MHS major misdeed, so long as it advanced his career.

For instance, when MHS sought to implement the ultra-crowding that relegated children to the 20-child bedrooms of *"Springboard Academy"* and to 30-child "block" housing, Mr. Gurt promoted the proposals with such glib phrases as, *"We call this 'Back to the Future!'"* In other words, Mr. Gurt actually boasted about going back in time to discredited practices that dangerously crowd children.

In a similar vein, when the MHS board sought to divert $100,000,000 or more to build a research institute in 1999, the project required persuading the Orphans' Court that MHS *"could not expand to serve more children."* Such a claim was rank fiction given the legions of poor children desperately seeking access to MHS. But a court finding to that effect would have allowed purportedly "surplus" funds to go to non-child purposes, since MHS would then have *"run out of needy children to serve."* Mr. Gurt was the school's star witness testifying in support of this fiction, one that the court had no difficulty summarily rejecting.

Further, Mr. Gurt's court testimony was provided in his capacity as the MHS director of enrollment. This was at a time when MHS was eliminating the poorest and most socially disadvantaged children, such as foster care children or wards of the court, and seeking to replace them with a "better

[9] *See, Cosme Cesar Escudero-Aviles, et al., vs. Milton Hershey School, et al.,* No. 1:11-CV-1858, United States District Court for the Middle District of Pennsylvania, complaint filed October 7, 2011. Cesar's case was ultimately dismissed for being filed in federal rather than state court, after Cesar was unable to find *pro bono* counsel.

class" of child. As the director of enrollment, Mr. Gurt dutifully implemented these noxious policy changes.[10]

More recently, when the MHS board squandered millions of dollars of charitable assets on a failing luxury golf course, swanky clubhouse, and money-losing operation, Mr. Gurt fawningly defended the decision to the public, praising it as *"brilliant."* (*See, e.g., "Milton Hershey School trustees defend purchases that critics call wasteful," Harrisburg Patriot-News,* November 21, 2010 (Copy included in Exhibit B Tab 12.))

But while Mr. Gurt demonstrates servility towards his superiors and willingness to promote virtually any policy no matter how bad for children, his treatment of subordinates is a different matter. This has helped foster a climate of fear and intimidation such that employees are afraid to break ranks, even when a child's wellbeing is at stake, such as that of Abbie Bartels.

While the mistreatment of MHS staff is beyond the scope here, we would be remiss not to at least mention that hundreds of loyal and caring employees have departed over the last eleven years, as the school environment has steadily worsened.[11]

As concerns this letter's core discrimination issue, Mr. Gurt's duties during the rampant mistreatment of depressed children described here included responsibility for all MHS health services. Mr. Gurt is thus one of the architects of the key decisions affecting children suffering from depression (as well as for Hershey's earlier HIV discrimination). This includes crafting and implementing the irrational "two-hospitalization rule" and approving the massive number of expulsions under these chilling policies. Mr. Gurt is apparently convinced that MHS actions under his control are not discriminatory, and that it has been acceptable to treat children suffering from depression in the manner described here.

To recap, the MHS board's latest presidential selection is an individual who: (a) participated in mocking a vulnerable teenage girl; (b) was willing to dissemble under oath about Hershey's purported inability to serve larger numbers of children; (c) led the way in rejecting applications from the neediest children; (d) endorsed dangerous child-crowding and multi-age housing; (e) has a special skill for flattering his bosses; (f) believes that children suffering from treatable depression should be kicked to the curb; and (g) fosters an MHS climate of fear and divisiveness. And he touts this "experience," along with responsibility for the health of Hershey children, as rendering him suitable to lead the school.

The MHS board also expected people to believe that Mr. Gurt was the most qualified candidate that could be found to run a $12 billion child welfare charity — and that the board determined this after a year-long bona fide search that did everything possible to identify and interview all of the best available candidates from across the nation in a genuinely fair process. The very suggestion strains all credulity.

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[10] *See, e.g., "Market Plan for Milton Hershey School,"* prepared by Independent School Management (Select pages provided in Exhibit H.) This marketing plan was used by the MHS enrollment office as a blueprint for rejecting the neediest applicants and instead *"recruiting"* children from *"a new market segment."* The very last criteria for *"awarding scholarships"* was financial need. Foster care children, wards of the court, and other of the most disadvantaged children are not even mentioned. The overall goal was, *"To attract more able students and shed the 'orphanage' image."* This document was actually leaked by Mr. Gurt himself, in an effort to spite his then former employer; i.e., after Mr. Gurt's personal difficulties reportedly led to his departure from MHS in 2002, he supplied the document to Hershey reform activists, who had been seeking proof of the enrollment policy changes that the MHS leadership had been publicly denying. Once Mr. Gurt was rehired by MHS in 2003, under newly-installed President O'Brien, he reverted to his earlier endorsement of the board's positions.

[11] Other than local defenders of the status quo, who benefit richly from perpetuation of Hershey's flawed governance structure, the primary group endorsing these Hershey alumni presidential selections are other alumni. Further, it appears that Presidents O'Brien, Colistra, and Gurt, who have devoted themselves to helping the MHS board fight off governance reforms, were chosen primarily because their selection was thought by the board to be essential to pacifying alumni.

On the contrary, the decision demonstrates the board's complete failure to discharge even the most basic of its duties, such as hiring a qualified and credible school president. With this latest selection, the MHS board has hit rock bottom and abandoned even the pretense of fulfilling its obligations.

And the reason for this failure is equally clear: as presently constituted, the MHS board simply cannot and will not make proper decisions consistent with its narrow tax exempt *child welfare* purpose. Instead, whether it is choosing new board members or picking MHS presidents, the board has shown that it will cling to wealth and power at all costs, making *every* decision strictly on the basis of how it can accomplish the board members' own financial/personal goals, in disregard of MHS children's interests.

Nor will this change until the board is fully reconstituted along child welfare lines, requisite child welfare expertise is added, and all board conflicts of interest are purged — together with ending the self-enrichment, cronyism, and insularity that have been the board's hallmarks.

Put differently, the Pennsylvania OAG has failed to alter the fundamental makeup or governance of the MHS board: the people who made the worst mistakes are still in charge today, and are still operating within the same flawed governance framework — one that pits board member personal/economic interests against the best interests of children. Yet, the OAG remains passive while the board repeats its past mistakes, and makes new blunders that hurt even more children.

Indeed, the board members have a tacit reason for eschewing any outside and credible MHS president: such an individual, if properly managing the school, would no doubt begin by cleaning house and thereby put at risk the many patronage jobs and contracts that infest the Hershey charity today. One need merely review the MHS IRS Form 990 for a list of these individuals and businesses — the transparency of this connected-insider *"Who's Who?"* would be comical if not for the harm that this inflicts on children and the financial waste it causes.

Further, a credible outside leader would also expose the MHS board's own string of policy failures, simply by introducing the elementary changes that the board itself has stubbornly refused to implement over time.

However one views it, Hershey's problems all flow from a flawed MHS board structure that simply must be overhauled before any positive change can follow.

Tragic Missed Opportunities To Help Needy Children

The modern tragedy of the Hershey charity is that oversight officials had an epochal opportunity to achieve just the needed MHS overhaul in 2002, when the board was reconstituted. But these officials chose instead to break in the opposite direction, stacking the MHS board with political cronies, erasing the reforms that had been achieved, and retooling the charity as a slush fund and protector of local jobs.

A similar opportunity to bring about change was then again squandered in 2013, leading to an uncannily similar outcome.

With the symmetry of Greek drama, the first of these missed chances was on the watch of Republican Attorney General Mike Fisher; and the second was on the watch of Democratic Attorney General Kathleen Kane — that is, the failure in state oversight of Hershey is perfectly bipartisan: neither party cares enough about needy children's interests to put an end to Hershey dysfunction, because doing so would gore the ox of powerful figures to whom the state's attorneys general are politically beholden.

General Fisher needed goodwill among prominent Republicans in 2002 for his political aspirations — just as General Kane needs goodwill today among prominent Democrats. Neither of them — nor any Pennsylvania attorney general before them — has had the courage to disregard the political costs of siding with needy children, the way that Judge Dante Pellegrini and the Commonwealth Court have done (only to have their work erased by state supreme court justices whose own decisions have been questionable at best).

Most frustrating of all, if any of these politicians looked past their immediate short-term goals and considered what Hershey's $12 billion would do for Pennsylvania if properly utilized, they would understand that the state would be immeasurably better served if MHS simply fulfilled its child welfare legal obligations. For such an outcome would make Pennsylvania the greatest savior of at-risk children in the nation, lifting tremendous financial and social burdens from the shoulders of state taxpayers. Regrettably, state oversight officials have proven completely incapable of this kind of thinking.

As concerns last year's watershed missed opportunity under Attorney General Kathleen Kane, it is worth emphasizing who was helping lead MHS at the time, and setting the stage for the board's latest president-selection debacle: this individual was connected Democrat Mr. John Estey; i.e., Mr. Gurt's tenure immediately follows the "interim presidency" of the *brother-in-law* of current Attorney General Kane's own former chief of staff, as the charity now is being infiltrated by Pennsylvania Democrats seeking a larger share of MHS spoils, following a period when Republicans got the lion's share.

This unseemly fact illustrates how incestuous the Hershey insider game is, and the degree to which OAG oversight of Hershey has been rendered meaningless.[12]

Only the glaring conflicts of interest that burdened General Kane in regard to Hershey can explain why she declined to make use of the ample means available to her for producing meaningful change in 2013. These means included an embarrassment of evidentiary riches, numerous civil claims that could have been brought against individual MHS board members (and that could thus have been used as leverage to secure *genuine* reforms), and a whistleblower prepared to testify.

Never before in charitable trust history were so many billions at stake, with so much to gain for impoverished children, and with such powerful reform tools available to oversight officials, would only that they bothered to use them.

But rather than deploying these enforcement assets effectively in a way that would rescue needy children, General Kane instead settled for ersatz "reforms" that left the charity in worse shape than before she acted. General Kane failed even to compel the board to add a single child welfare professional, or replace MHS leaders whom the OAG staff itself considered, literally, a joke, or enforce promises to end *"multi-age housing,"* or end MHS board self-enrichment. General Kane's public statements indicate that she may have not even read the document she signed, so wildly unbridgeable was the gap between what she claimed and what the document in fact said.

For its part, the general public was hardly going to scrutinize the matter or research complex issues that did not affect them directly — even when, a month later, Abbie Bartels ended up dead, or a month after that, Mr. Estey was named the MHS interim president, or shortly thereafter, Adam Dobson became homeless, or, over time, countless other MHS children and employees faced the consequences of sustained systemic breakdown — all of which illustrates how the Hershey vicious cycle is perpetuated by compromised state oversight officials with no check whatsoever on their actions.

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[12] General Kane's staff contacted PHC, at General Kane's direction, in 2012, when the hiring of Mr. King as her chief of staff became public. This call was made to assure PHC that the selection of Mr. King would have no impact on General Kane's handling of the MHS investigation, and that Mr. King himself would be "screened off entirely" from all Hershey matters. General Kane's representations notwithstanding, PHC was subsequently informed by a first-hand source that one of Mr. Gurt's close alumni allies was in fact in talks with Mr. King about the Hershey matter in 2013. These talks reportedly included the future composition of the MHS board along with potential use of the loud and aggressive local alumni contingent to pressure the board, should this have been necessary to obtain what these alumni and the OAG wanted. While it was not expressly stated that the subject of Mr. Gurt as the next MHS president was discussed, it appeared from the context that this was in fact the case. PHC would be happy to share more information about this alleged breach of protocol with your office. It was also brought to General Kane's attention, without any response.

General Kane's kid gloves treatment of Hershey wrongdoers did, however, leave the door wide open to the predations of her Democratic allies, who are now supplanting Republicans at the Hershey charitable trust trough, in an utterly transparent manner.

The result is the selection of an MHS president, Mr. Peter Gurt, who epitomizes the worst aspects of the Hershey charity, whose publicly-reported behavior is a disgrace, and who is a one-person thread of program-failure consistency running through the past *seven* MHS administrations.

This is what MHS has been reduced to under Pennsylvania's interpretation of its charitable trust oversight duties.

The complete disregard by Pennsylvania officials for needy children's interests could not possibly be more obvious. It is surpassed only by the MHS board's own disregard for its child welfare duties.

The combination of MHS board member incentives to put their own interests above those of needy children, OAG oversight dereliction, and state high court precedent that shields these cozy arrangements from scrutiny means that Hershey children will continue to be hurt, and child welfare resources will continue to be misused, unless an outside authority intervenes. Further, this status quo has persisted for decades, producing a child victim trail of tears while minting many a local millionaire.

The Department of Justice is simply the last hope to remedy this state of affairs, for all of the above reasons — and the Department should not merely treat the latest Hershey discrimination *symptom*, like HIV discrimination before it, but this time also cure the underlying *flawed governance illness*, too.

When Milton and Catherine Hershey bequeathed their entire fortune to the care of needy children in a startling act of kindness, they could not possibly have fathomed that state oversight officials would one day let their charity be retooled as a piggy bank for connected adults, or a place that gratuitously hurts vast numbers of children, year in and year out. But this is precisely what has happened, as Pennsylvania oversight officials defaulted in their duties.

It is thus up to federal authorities to step in now, if our nation's civil rights and nonprofit laws are to have any meaning at all.

F. Conclusion And Request for Action

<u>Authority to Act</u>

The DOJ has full authority to compel an end to bright-line education and housing discrimination against large numbers of Hershey children who suffer from treatable depression, just as it ended Hershey's HIV discrimination. The DOJ can accomplish this by fashioning an equitable remedy that addresses leadership changes as part of the solution — because an administration that openly discriminates against HIV+ children, against hundreds of children with mental health needs, and against children with physical limitations (e.g., ones who require wheelchairs) simply cannot remain in place.

Because MHS, an IRC §501(c)(3) charity, is in gross violation of the narrow child welfare mandate of its charter, the DOJ also has the authority to compel such governance changes as are necessary to bring the charity into compliance with this charter, pursuant to federal law.

<u>Action Requested</u>

Accordingly, we respectfully call on the DOJ to:

1) Compel MHS to: (a) end unlawful discrimination against children suffering depression; and (b) seek out all MHS children who have been harmed by these discriminatory policies, to assure that they all receive assistance in healing.

2) Compel MHS governance reforms that will end systemic, child-harming, and asset-wasting abuses, including removing all MHS board conflicts of interest.

3) Compel MHS leadership change, including: (a) replacing MHS board members with full volunteers who have shown genuine commitment to the interests of needy children, at least some of whom possess essential child welfare or educational expertise; (b) replacing MHS senior leaders with credible leaders untainted by any history of misconduct or blatant violations of federal law; and (c) retaining a proven educational institution turnaround expert to lead the school as its next president.

In closing, we respectfully request an opportunity to meet with you or your staff at your earliest convenience, to elaborate further on these complex issues and answer any questions you have.

In the meantime, thank you for your attention to this matter.

Sincerely yours,

Protect The Hersheys' Children, Inc.

Ric Fouad *MHS Alumnus*	Kenneth O. Brady *MHS Alumnus*	Kenneth D. Beasley, PhD, PE *MHS Alumnus*	Robert A. Chalmers *MHS Alumnus*
Harry Chalmers *MHS Alumnus*	Linda Gunderson Remsburg *Concerned PA Citizen*	George W. Cave *MHS Alumnus of the Year 2001*	Charles E. Hill *MHS Alumnus*

Enclosures:

Exhibit A: MHS Trust Structure Chart

Exhibit B Tabs 1–12: Miscellaneous Hershey News Articles

Exhibit C Tabs 1 and 2: *"Open Letter to Attorney General Kathleen Kane"* and *"Three Strikes & You're Out"*

Exhibit D: *In re Milton Hershey School Trust* (Pennsylvania Commonwealth Court Ruling)

Exhibit E: *In re Milton Hershey School Trust* (Pennsylvania State Supreme Court Ruling)

Exhibit F: HERCO INC PAC $10,000 Political Contribution to Edward Rendell For Governor

Exhibit G: Republican State Committee of Pennsylvania $15,000 Invoice

Exhibit H: Market Plan for Milton Hershey School (selected pages)