September 14, 2011

Hershey School Scandal Underscores Need for Watchful Governance

Chocolate magnate Milton Hershey (left) founded his school in 1909.

Enlarge Image

By Pablo Eisenberg

Read the Hershey Trust's response to this column.

For two decades neither the Pennsylvania Attorney General's Office nor the Internal Revenue Service has been willing to take serious action to remedy the abuses that have plagued one of the wealthiest nonprofits in America, the Milton Hershey School for poor children.

It is one of the longest lingering scandals in the modern nonprofit world and one of the most glaring examples of the abuses of the public trust that can happen when regulators fail to keep a close eye on a charity's governance.

To be sure, the Pennsylvania Attorney General's Office is about to announce the results of its yearlong investigation of the $7.5-billion organization that could force it to make some changes.

But few observers believe that regulators will do more than slap the organization's wrist or impose modest fines. Odds are that the state will leave the Hershey School's structure, governance, and practices essentially intact.

This pattern of state inaction was the case even before 1993, when Adam Bell, then a reporter for *The Patriot-News,* in Harrisburg, wrote a three-part exposé of the Milton Hershey School, shining a national spotlight on how a big nonprofit can abuse its assets.

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The articles portrayed a huge, complex institution run by a board composed almost exclusively of people no regulator would want to take action against—including members of Pennsylvania's professional and social elite and people with close connections to Republican politicians who have long been powerful in the state.

The board, whose members today each receive annual payments of more than $95,000, was rife with conflicts of interest that led to questionable investments and a total lack of public accountability. In the years since the articles were published, things have grown worse.

Milton Hershey, the founder of the chocolate empire that bears his name, left substantial sums to create the school, which started operations in 1909. The school, started originally to serve poor white male orphans, is now an institution that has more than 1,800 students, both male and female, white and minority, in kindergarten through 12th grade.

Mr. Hershey's bequest created the Hershey Trust Company, which currently controls an endowment of $7.5-billion, far more than almost any university endowment in America.

The trust controls two for-profit subsidiaries, including the Hershey Foods Corporation and the Hershey Entertainment and Resorts Company, the conglomerate that runs Hershey Park, several golf courses, and numerous businesses.

Hershey Trust owns nearly 10,000 acres of prime land, an area twice the size of Harrisburg, the state's capital, as the *Patriot-News* has noted.

The 10 board members of the Hershey Trust are also the managers of the school.

Almost all of the trustees are either lawyers or businesspeople; not one is a specialist in residential child care, pedagogy, or the needs of young people who have faced serious challenges.

They are a self-appointed group, led by its chair, LeRoy S. Zimmerman, a former Pennsylvania attorney general and prominent Republican party stalwart.

In the words of Protect the Hersheys' Children, an effective watchdog organization composed primarily of Hershey alumni that has studied the school's operations, "board appointments to cement political ties, advance nonchild agendas, and strengthen the control of the charity by a core of political operatives" are at the core of how the organization works.

Their lack of management savvy has been detailed by *The Philadelphia Inquirer,* which has reported on wasteful expenditures the school has made on dormitories it eventually had to shutter, real-estate deals benefiting board members and their friends, high salaries for school administrators, and the use of Hershey School properties for political fund-raising events.

Also attracting attention has been Anthony Colistra, a longtime educator with an undistinguished resume, whom the school's board selected to head the organization two years ago without a genuine national search. Mr. Colistra served on the school's board for 10 years, several as its chair, when many of the board's questionable investment and real-estate decisions were made.

Perhaps the most devastating critique of the school has been focused on the number of children who have been removed or dropped from the school from 2003 through 2010. According to Protect the Hersheys' Children, the 1,141 children who left far exceeded the 786 students who graduated.

About 55 percent to 72 percent of each entering class remains at the school through graduation, the watchdog group says, a disturbingly low figure given the unlimited resources that Hershey has to pay for students to get counseling and other support.

While educational practices at the school are a serious problem, it is the institution's questionable real-estate deals that have probably drawn the greatest attention of the news media. In 2006 the school bought the money-losing Wren Dale Golf Club at a price that was at least two times the market rate, according to *The Inquirer.* The board then authorized an additional expenditure of $5-million to build a fancy clubhouse.

The board said it needed to pay that much so it could secure the golf course to serve as a buffer of land to guarantee school safety. But that seems to contradict Milton Hershey's original directive that all the school's money should be spent on the care and education of students.

The investment bailed out 40 to 50 investors in the golf course, *The Inquirer* said, some with ties to the school, including one of the school's board members, Richard H. Lenny, at that time also chair of the Hershey Chocolate Company.

Other real-estate deals, such as a proposed $100-million development of the old chocolate factory, has also raised questions about the motives of the trust and its fidelity to Milton Hershey's philanthropic intentions.

While Hershey School board members are not compensated for time spent on school matters, they are richly rewarded as part-time trustees of the Hershey Trust, the school's investment arm, or as board members of the Trust's for-profit subsidiaries. Many board members receive compensation for their service on several of these boards.

Mr. Zimmerman, the current chair, has received about $500,000 for each of the past two years, according to informational tax returns filed by Hershey entities.

Other Hershey trustees, like James Nevels, a Philadelphia investment manager who received $541,519 for his services on two of the boards connected to Hershey nonprofits and the Hershey bank, have also been paid handsomely for very part-time work. Mr. Nevels worked just five hours a week on Hershey business, according to the informational tax returns.

High compensation has not been limited to Hershey board members; some of its top administrators are also handsomely paid. The school's former in-house general counsel, James Sheehan, received $405,505 in 2010. He is now a member of the school's board.

It has been clear for many years that the interlocking board members of the Hershey School, most of them politically connected Republicans, have controlled the affairs of the school, the trust, and its for-profit subsidiaries.

The arrangement periodically gets public scrutiny, such as in February, when Robert Reese, a former trust and school board member, sued the Hershey Trust, accusing it of financial irregularities and paying too much to board members. He subsequently dropped his lawsuit because of health reasons.

But local residents don't hear much about the Hershey Trust from their hometown newspaper. The Harrisburg *Patriot-News* appears to have abandoned the investigative zeal that prompted its aggressive coverage in the early 1990s. The paper now typically takes the side of the board of directors in its news articles and editorials.

It is worth noting that the former publisher of the newspaper, Raymond Gover, was a member of the Hershey Trust board until last year, while a former employee of the newspaper, Connie McNamara, is now the vice president for communications at the Hershey Trust.

The Philadelphia Inquirer, on the other hand, has pursued the case much more fiercely and with greater objectivity.

The high-profile coverage it has given the trusts may well be the major reason that last year, when Tom Corbett, a Republican, was campaigning to ascend from his job as attorney general to become governor, he announced an investigation of the Hershey School's purchase of the Wren Dale golf course at a price higher than market rate.

The Attorney General's Office has refused to comment on the content of the investigation or when it will be completed, but past behavior and the close ties of the board to Governor Corbett's office make it seem unlikely that the nonprofit or its board will be forced to make serious changes.

If the attorney general, Linda Kelly, were serious, she would order that the board restructure itself to include a majority of members with expertise in education and child welfare and a real concern for the future of the school. She would also force the board's chair, Mr. Zimmerman, to step down, along with his longtime cronies on the governance bodies.

The new chair should be a person of high standing with no political agendas who would protect the interests of the school and its students. The current manager of the school needs to be replaced by an educator who could better serve the needs of both students and faculty.

And state regulators should impose tight restrictions on self-dealing, conflicts of interest, and compensation.

The operation of the Hershey School and its endowment is a national scandal. The fact that it has been allowed to fester for so long reflects a failure of both federal and state government oversight and enforcement. It signals a triumph of politics, greed, and cynicism over the needs of Hershey's students and Pennsylvania taxpayers.

Protect the Hersheys' Children has asked the Internal Revenue Service to take action, charging that the attorney general's office has spent years mostly looking the other way when it comes to abuses at the Hershey nonprofits.

The IRS doesn't typically announce investigations of nonprofits, but no signs suggest it has decided to open an inquiry.

If neither the Pennsylvania Attorney General's Office nor the IRS is willing to demand that Hershey change its operations, then it will be up to the public to take action.

Citizen groups, nonprofits that focus on education, professional associations, the news media, and concerned politicians will all need to press the Hershey School to transform itself to become a model institution where reason rules, educational excellence is the goal, and transparency and accountability are the norm.

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