

Protect The Hersheys' Children, Inc.

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May 29, 2013

Open Letter to Attorney General Kathleen Kane
Re: *Hershey Advisory Council/Squandered Opportunity*
To Achieve Milton Hershey School (MHS) Trust Reform

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Exhibit A: “Three Strikes & You’re Out: AG Kane’s Hershey Agreement Constitutes Latest OAG Reform Failure; A Paragraph-By-Paragraph Analysis”

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May 29, 2013

The Hon. Kathleen Kane
Attorney General
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

***Re: Hershey Advisory Council/Squandered Opportunity
To Achieve Milton Hershey School (MHS) Trust Reform***

Dear General Kane:

Your election inspired great hope among those concerned with child welfare, particularly Hershey reform advocates. The reasons included your claims of commitment to defenseless children, your insistence that you are a “prosecutor, not a politician,” and your projected idealism. Most encouraging of all, these intangibles were combined with your having fortuitously inherited an open investigation by the Office of Attorney General (“OAG”) of the MHS Trust. The latter empowered you to make MHS changes beyond the reach of any of your predecessors, in a way that would finally unleash the child-saving potential of the world’s wealthiest child welfare charity. The Hershey hope that you fostered led many Pennsylvania Republicans to cross party lines and vote for you, contributing to your historic victory.

But on May 8, 2013, you dashed those hopes by failing to change the Hershey *status quo* at all.

This letter and its attachment are to make clear the sobering magnitude of your failure, by placing your conduct in historic context.

By way of summary, your recent announcement misstates the record in that you claim to have “promulgated reforms” and “set a new standard for charitable organizations.”

You did no such thing: MHS reforms were promulgated in 2002, but then rescinded in 2003. The latter opened the gates to the travesty of the last ten years, from shocking self-enrichment to reckless housing policies that caused children to be sexually abused. Rather than achieving reform, your May 2013 agreement simply ratified the 2003 *reform rescission* –your public claims stand the truth upside down.

Exhibit A to this letter, “*Three Strikes & You’re Out*,” is a paragraph-by-paragraph analysis that fully demonstrates the emptiness of your claims: of your agreement’s 18 paragraphs, almost all are verbatim recitations of the 2003 Agreement, one that *rescinded* reforms.

You failed to restore even the most basic child-safety promises present in the 2002 Agreement. Even worse, you weakened the 2003 Agreement’s child-safety language, which will lead to more children being sexually abused. We wonder whether you even understood this, which was why we made available to you the independent expert advice that you declined even to hear.

And while you have stated in the media that you got “tough” with the board, we believe the public will see it differently when they learn what this actually entails; e.g., annual compensation exceeding

\$100,000; daily meeting “fees” of \$1,000 per hour; and “limiting” spa treatments and luxury golf to board members, their spouses, and children –that you “draw the line” for charity-paid indulgences at grandchildren, cousins, and other relatives is not likely to impress anyone who examines the details.

1. Historic Hershey Crossroads/Inherited Investigation

The Hershey investigation that you inherited was opened in 2010 by then Attorney General (now Governor) Tom Corbett. This was only after intense public scrutiny left him with no alternative. For the matter involved some of Governor Corbett’s close Republican allies and conduct that crossed serious lines. But with massive amounts of child welfare money having been squandered on luxury golf while needy kids got short shrift, Governor Corbett’s eve-of-election announcement that he would finally investigate his cronies was the only option available to him.

Subsequently, Governor Corbett’s hand-picked Republican replacement, interim Attorney General Linda Kelly, took over the investigation. All signs pointed to a wrist-slap conclusion during her term. This would have left the Hershey *status quo* intact before you could take office, thereby wasting an unprecedented opportunity to achieve genuine MHS overhaul.

But then what appeared to be a mini-miracle took place: Attorney General Kelly and the MHS Board did not agree to resolution of the matter, despite the investigation having entered its third year.

This placed the open investigation squarely in your hands. Given the flagrant behavior of the MHS Board and its public record of misconduct, hurt children, and squandered resources, an unparalleled chance to achieve transformative Hershey change was afforded to you.

This was why, subsequent to your election, your former campaign manager, Charlie Lyons, and our group, Protect The Hersheys’ Children, Inc. (PHC), had excitedly begun coordinating a meeting between you and the Hershey Advisory Council, to help you take advantage of this historic opportunity. Based on Charlie’s guidance, we spent many hours lining up the experts who would serve on this panel, persuading them that you truly were a credible agent of change and not just another defender of the *status quo*.

But after leading us to believe you were earnest about this promising initiative, Charlie abruptly informed us, on February 12th, that you had decided not to proceed. Thereafter, efforts to assist you in adding child welfare professionals to the MHS Board were also rebuffed by you.

In the meantime, numerous additional Hershey child tragedies were occurring, including another case where your subordinates declined to assist the child in question.

Thereafter, on May 8, 2013, you concluded the Hershey investigation and announced what you claim to be MHS reforms. You did this without having even heard the independent advice that had been made available to you.

As we will explain here, the hollowness of your reforms and your failure to improve Hershey matters confirmed our worst fears. By refusing even to listen to what outside experts had to say, and relying instead on the advice of discredited individuals with an unbroken record of Hershey failure, you have denied countless poor children and families life-saving aid, consigned bullied MHS staff to further mistreatment, and preserved a system that is hurting children on a daily basis.

2. Post-Election Concerns: Appointment of Mr. Adrian King

We had worried earlier about just such a turn of events, after news surfaced in November that you had selected Mr. Adrian King as your Chief of Staff. Many who follow Hershey matters were also troubled by this appointment. Several attacked you publicly. But our group remained quiet and trusted you –let no one say we were not patient and completely respectful of you, placing our faith in you at least to hear outside expert advice before deciding how to proceed, pursuant to your representations.

The concerns about your selection of Mr. King were not unwarranted and our silence was difficult to maintain. After all, Mr. King's brother-in-law, Democratic insider John Estey, had earlier been given the top leadership position at the Hershey Trust Company, in a move that naturally raised eyebrows.

When we learned that the MHS Board had decided not to resolve the investigation before Attorney General Kelly handed it to you, it was clear that the board believed they would do better once you took control –and everyone knew why: the family connection within your own office, which was a harbinger that insiders were positioning themselves to alter the Hershey outcome.

But Charlie called us at the time of Mr. King's appointment, reportedly at your direction. Charlie assured us that you were still committed to the Hershey Advisory Council meeting, and that you were sincere about Hershey reforms. Charlie also said that Mr. King would be screened from Hershey matters. We told Charlie we appreciated your having asked him to reach out, and that we would trust you to keep your word.

We said this because you still struck us as the genuine article –someone whose own early life struggles, and being a mother yourself, would render you sensitive to the needs of at-risk kids and poor families; i.e., the groups whose interests we Hershey reform advocates have labored to advance, but who have nary a champion in the Pennsylvania halls of power. It seemed to us that if anyone would afford these groups their first fair shake as concerns Hershey, surely it would be someone with your experiences and outlook.

We were thus taken aback and, frankly, stung by the abrupt turn when Charlie informed us that you had suddenly and inexplicably decided not to meet with the Hershey Advisory Council after all. Our concerns increased as reports surfaced of Mr. King's involvement in Hershey matters.

This letter is to make clear what transpired and what a wasted opportunity your recent Hershey actions constitute. We want to emphasize that the investigation you inherited had created a unique chance to pursue genuine Hershey reforms, backed by the force of law and the full weight of your office.

This investigation was in addition to the as yet unresolved allegations asserted in Mr. Robert Reese's 2011 litigation, which you were also positioned to pursue. These allegations constituted a laundry list of MHS wrongdoing as witnessed by a former board member. From gross self-enrichment to reckless housing policy, the case provided ample grounds for removing board members and seeking restitution.

Mr. Reese has stated that he withdrew his case only because of failing health, relying on the OAG to carry his action forward. Thereafter, Attorneys General Corbett and Kelly both declined to pursue Mr. Reese's case, disappointing Hershey observers and Mr. Reese himself. This appears to be why Mr. Reese contributed \$100,000 to your campaign last fall, in the faith that you would take up his case after your predecessors failed to do so.

But you also betrayed Mr. Reese's faith and, according to Mr. Reese, misled him about it when you called to explain what your agreement purportedly says.¹

Between the open investigation that you inherited and the Reese litigation that you were legally empowered to pursue, no prior Attorney General had ever been handed such powerful reform tools in the

¹ Mr. Reese's failing vision prevented him from reading the agreement himself. When we went over it with him, paragraph-by-paragraph, he expressed outrage at the manner in which he said you had mischaracterized everything from board compensation to child welfare expertise requirements –he insists that you said nothing about \$4,500 per half-day meeting "fees," \$5,000 committee chair "fees," a \$10,000 board chair "fee," or any other "add-ons." He also iterated his view that the only way to solve these problems is to end *all* board compensation. If Mr. Reese does not issue a public statement saying so, we surmise it is because he has reached a point of complete disgust with Pennsylvania public officials and wants nothing further to do with any of you. Mr. Reese's level of disappointment was captured by his quoting the following passage, from George Orwell, upon hearing how your agreement addresses spa treatments, luxury golf, and three-per-day meal "limitations" for board members and their families: "*There are spectacles before which even satire herself stands mute.*" We couldn't agree more.

Hershey case. But you squandered this epochal opportunity for reform and instead consigned the dysfunctional Hershey charity to perpetuation of ongoing failures.

When viewed against the backdrop of this charity's deeply disturbing history, your decisions were breathtakingly ill-considered, starting with reneging on your commitment to meet with the Hershey Advisory Council.

3. MHS Trust Quagmire: Historic Overview

To frame the matter broadly, the goal of the Hershey Advisory Council – comprised of six of the nation's leading child welfare and charitable trust experts – was to provide you with fresh thinking on a subject that had to be addressed comprehensively at the crucial juncture that just passed. Virtually all knowledgeable observers have been troubled by MHS decisions that fail to put children first, despite the charity's explicitly-mandated child welfare mission. The puzzle is why this is so, and what to do about it.

This grave and complex matter constitutes a national scandal and calls for independent and expert guidance, just as we had warned you. Tragically, it centers on an OAG that has promoted non-child interests, while needy children suffered, and notwithstanding OAG legal obligations to put children first.

Thus have we seen the rise of the Hershey Medical Center (with funds improperly diverted from the MHS Trust), growth of a local entertainment and resort industry (owned by the MHS charity and with losses subsidized using child welfare monies), an irrational multibillion dollar construction bonanza (paid for with funds earmarked for needy kids), the minting of dozens of local millionaires, and decades of luxury golf subsidization, as though only play money were involved.

Parallel to these non-child trends, MHS has been grossly mismanaged on a child welfare level. Indeed, the school has at times been led by people with falsified academic degrees, checkered backgrounds, or histories of abusing children. Starting as far back as the 1950's, quality leaders have been kept in check or driven away. Conversely, those loyal to the *status quo* have been promoted even when they engaged in shocking conduct.

This has yielded squandered resources, traumatized staff, and hurt children. From all too common pedophilia to physical and emotional abuse, the MHS missing element has always been a credible child welfare regime. This startling incongruity persists even though MHS is the world's largest child welfare charity, with tragic consequences.

We described one such recent tragedy to Charlie, when Charlie reported your reversal on the Hershey Advisory Council meeting. This incident concerned a boy whose father is deceased and whose mother is in prison. The boy had been removed from MHS without proper deliberation, but was denied reenrollment after several missteps. The latter included an administrator's calculated falsehood about enrollment procedure, which was demonstrated by an email that the boy retained. As we told Charlie, we brought this matter to the attention of an MHS Board member. But the outcome was negative, as have been all such appeals to the MHS Board.

This is but one among thousands of mishandled MHS cases. The school is in disarray, but the board is preoccupied with non-child agendas and the OAG fails to act. From sexually abused kids to improper expulsions, we have encountered dozens of these tragedies during our time as Hershey reform advocates.

Just last summer, we were contacted by the guardian of a 5-year old victim in but another sexual abuse case. This was a mirror image of an incident from eleven years ago, to which we will return below.

The list keeps growing because MHS programs have been ill-considered for decades; and they will remain so for as long as the present system is intact. Those in charge, especially on the MHS Board, do not even recognize that problems exist, let alone understand how to solve them: the wrong people with the wrong motives persist in the wrong policies and rely on the wrong guidance.

Board composition alone demonstrates this: not one person on the board has any idea what he/she is doing, and the most recent string of bungles shows it; e.g., the rejection of an HIV+ child for enrollment in what became a national embarrassment, compounded by the unleashing of a hate campaign that terrified this poor boy and those of us who stood by him.²

In this way, generations of bad decisions are layered one on another. The result is that cover-ups, irrational initiatives, and non-child goals substitute for proper decisions and healthy program evolution. This is also at a tremendous waste of resources that alone should spur hard-hitting OAG action.

4. Broken System Hurts Needy Kids

Make no mistake, the MHS system is horribly broken and needy kids pay the price.

Consider, for instance, that 84 MHS houseparents departed last year, or that three committed suicide of late, so dysfunctional is the employment environment and so intense the leadership bullying.

Consider also that more than one child is removed from MHS every school day, on average, with the total removed far exceeding those graduating. This is despite \$100,000 in per-child annual spending and thus evidences one of the worst failure rates anywhere, when factoring in resources expended.

Put another way, some \$25 million is squandered annually on kids that MHS cannot retain or help, a shocking waste of funds.

When such fantastic per-child sums are spent only to hurt more kids than help, rational allocators of child welfare resources know that programs must be reexamined fundamentally and immediately.

But no one in Hershey even admits that problems exist. Instead, those in charge pour more money into keeping the public in the dark and maintaining a veneer of campus nirvana. This includes recruiting politically-connected insiders to aid the effort, as certainly appears to be the case with Mr. Estey. Conversely, child welfare professionals are barred from leadership roles, thus preventing program improvement. Smiling children are then paraded in front of cameras, while child victims are sent away quietly and never heard from again: *over 2,000 MHS children were removed in the last ten years alone.*

MHS also had its own recent Sandusky-type of serial molestation. This involved a perpetrator, Charles Koons, who abused dozens of children long after his crimes were reported by MHS students. Koons avoided timely apprehension and continued to prey on children because Hershey and local officials failed to investigate. This shocking lapse remains unaddressed to this day, as no one in authority has been held responsible. One of Koons' MHS victims later committed suicide.³

There was also a recent child pornography scandal at MHS, involving William Charney, an administrator tasked with training houseparents. Charney was arrested, convicted, and imprisoned for these offenses.

Another senior administrator, Peter Gurt, remains employed at MHS despite conduct that includes the ridiculing of a young girl about a serious sexual matter (the video-recording of three-on-one sex with her). Mr. Gurt reportedly did this in front of the victim's entire class, to elicit laughs from the high school boys in attendance, while the girl was on suicide watch. Mr. Gurt has a history of questionable behavior but retains his position and has even been promoted since this incident.

There have also been a disturbing number of suicides by former students, without meaningful reflection by MHS leaders as to why this is so or corresponding program changes.

In sum, MHS is in a sustained state of grave dysfunction and crisis.

² PHC alone among Hershey-related organizations spoke out in defense of this child, facing intense attack for it.

³ For your information, MHS sexual abuse victims have contacted PHC to describe their anguish at seeing your media statements and action on Penn State, but with no mention by you of the equally egregious Hershey abuses.

5. OAG “Duty” Definition “Accordion:” Expands To Aid Businesses/Contracts To Hurt Kids

But where are the alarm bells? Where are the OAG’s own requests for expert help? The office has never taken any special effort to understand these problems nor assist MHS victims. Nor have OAG officials interviewed removed kids or their families, despite repeated requests for meetings.

Instead, the office hides behind the handwringing rationalization that the OAG “does not micro-manage.”

But when a corporate or political issue has been involved, the OAG has had no qualms about “micromanaging,” including sprinting to court on a moment’s notice, concocting baseless legal “theories” for acting, or removing MHS Board members on the flimsiest of pretexts.

The OAG policy has clearly been that local jobs require greater protection than child safety; and the office expands or contracts its job description, like an accordion, to suit this bias; i.e., it defines its duties broadly to protect economic interests, but narrows the definition when kids’ lives are at stake.

The pattern is blatant and the present OAG staff are among the worst offenders –the very staff on whom you relied in making your recent decisions.

The sum total is that local businesses improperly anchored in Hershey wealth are flourishing; but needy kids, who are supposed to be the sole legal beneficiaries of the Hershey charity, are suffering grievously.

6. Multi-Age Housing Epitomizes MHS Generational Failure and OAG Dereliction

The practice of multi-age housing illustrates the core problem.

Taking a step back, in December 2001, several of us attended a key meeting led by OAG attorney Mark Pacella. As you know, Mark has headed the OAG Charitable Trust and Organizations Section for 15 years or more.⁴

The meeting in question was convened amidst an explosion of physical and sexual abuse incidents that were caused in large part by “multi-age housing.” This reckless practice entails placing younger and more vulnerable children in the same group homes as older and more aggressive ones, where the older children, predictably, victimize the younger ones.

This retrograde living arrangement was reintroduced at MHS in the late 1990’s, over the protests of knowledgeable child welfare professionals. MHS had actually moved away from the practice decades earlier, due to the large number of abuse incidents. But the new crop of MHS leaders did not know this or understand the risks, notwithstanding how elementary such knowledge is.

In reference to the new round of multi-age housing sexual assaults, Mark admitted, “*We know that the hours between 10 PM and 6 AM pass very slowly for some of these kids.*”

Nonetheless, Mark said that the office would not intervene immediately. He explained that this was because the OAG focused only on broad governance issues, promising reforms the following year.

Imagine being told by a state’s highest judicial office that children must suffer *ongoing sexual abuse*, merely because public officials felt it would be a breach of protocol to intervene immediately.

⁴ Mark is highly-regarded in state attorney general circles, to a degree where he has apparently been able to enlist support from parallel offices in other states, without the latter having investigated the facts. We believe this because we called some of them randomly, and confirmed their lack of Hershey knowledge, despite their willingness to lend the OAG a hand (most likely as a professional courtesy to Mark); e.g., the MA Attorney General filed an *amicus* brief in a Hershey proceeding in 2005; but the official responsible for this, when questioned by phone, conceded he had never even read the underlying briefing. Similar *amici* were filed by the Attorneys General of ND, ME, and NH, states with no interest whatsoever in Hershey matters, but who nonetheless lent support to Mark and the OAG. We intend to contact these offices and inform them of what their involvement in Hershey has unwittingly fostered. It seems that Hershey is a cautionary tale on many levels, including a too-friendly state attorney general network.

It is inconceivable that then Attorney General Mike Fisher would have taken the same hands-off approach had it been the children of wealthy or powerful people in MHS multi-age group homes. But for impoverished, powerless, and often minority MHS children, lower OAG standards apply.

Around the time of the December 2001 meeting, we assisted one such 12-year old boy, who had been sexually assaulted in a multi-age setting.

This boy had been placed at MHS after losing both parents to AIDS. He was even expelled by MHS after the assault, for “acting out,” behavior not uncommon among sexual abuse victims.

No one at the OAG did a thing for this boy. He received help only because his guardian came into contact with us, and we assisted, including advancing funds for housing.⁵

On July 31, 2002, an MHS reform agreement was indeed signed and it did include promises to end multi-age housing, along with other safety commitments, just as Mark had indicated. As they say, better late than never.

But eleven months after that, in June 2003, the safety promises were inexplicably eviscerated when the second OAG “reform” agreement was signed, one that *rescinded* reforms and that you have just ratified.

This occurred merely because local officials had hand-picked some new board members to replace ones who had tried to sell the Hershey Company; i.e., the safety promises were erased with full approval of Mark and the OAG. It was as though Penn State were permitted to renege on its child safety commitments.

Compounding matters, the OAG and local Orphans’ Court permitted the safety promises to be erased despite having earlier refused to name *even one* child welfare professional to the reconstituted MHS Board, having opted instead for connected insiders.

In other words, public officials denied MHS children the board expertise necessary to generate informed decisions; they then shielded improper decisions from scrutiny, in what constitutes a vicious cycle of poor board selections/bad decisions that persists to this day.⁶ Your “reform” agreement, refusal to remove wrongdoers, and failure to name even one credible child welfare professional to the MHS Board assures that this pernicious cycle will continue.

7. Blue Ribbon Task Force: Safety Advice Recklessly Ignored

The 2003 sequence of events troubled many people at the time, including David Barrish, a prominent local attorney. Mr. Barrish had led a Blue Ribbon Task Force that examined the MHS group home safety crisis; and he took it upon himself to plead with MHS officials to restore the safety measures.

In fact, Mr. Barrish’s Blue Ribbon Task Force had been commissioned by the school itself, to generate the safety recommendations at issue. These recommendations were endorsed by the OAG too.

But Mr. Barrish’s pleas to honor the safety commitments also fell on deaf ears.

And what was the result?

Fast forward to last summer, when we were again asked to assist another boy who had been sexually assaulted in a multi-age setting. This boy too was thereafter expelled, and also for “acting out.”

⁵ So the record is clear, this assistance was entirely *pro bono*, as with every action any of us have undertaken on behalf of MHS children over the last 14 years.

⁶ To be clear, the OAG refuses to “micromanage” by banning multi-age housing or other flawed programs. But it simultaneously refuses to “*macro*-manage” by creating a competent board that would implement proper programs. Simultaneous pursuit of these two mutually exclusive tenets constitutes an OAG Kafkaesque failure, visiting grave harms on children.

This time, the victim was only 5 years old and one of several similarly-abused children in the same group home. The boy's guardian was only informed of the repeated sexual assaults after his expulsion, when the police contacted her to alert her of an investigation. *MHS itself never even bothered to inform her.*

You should know that this is only one of many instances where adults who place children at MHS face unbearable guilt later, after MHS failures damage their children. These poor guardians, often single mothers convinced by slick advertising to enroll their children needlessly, simply have no idea what is in store at MHS, how the school's administrators conduct themselves, or how public officials will stonewall them no matter what happens to their children; e.g., no one in your office, including you, even bothered to reach out to this family or make any credible investigation of what happened –we surmise this letter is the first time you are even learning of this, since you declined the meeting where you would have been briefed on the problem and provided with expert guidance on how to avoid further harms.

This mirror outrage of the earlier sexual assault came a full eleven years after the age disparity danger had been re-identified, and long after it and other unsafe practices should have been addressed.

Most chilling of all, the second victim was half the age of the perpetrator and had been repeatedly abused during “*the hours between 10 PM and 6 AM;*” i.e., the very time frame that Mark had explicitly acknowledged as passing “*very slowly for some of these kids.*”

If there is a starker example of oversight official neglect, we are unaware of it –and your recent agreement blesses the very housing arrangement that causes it.

One can only imagine how many more MHS children have been suffering silently in a similar manner since the safety measures were rescinded, their futures darkened by avoidable trauma.

And of these children, how many are likely also being expelled by MHS, for “acting out,” in keeping with the MHS practice of blaming child victims and then “dumping” them, like discardable objects?

The key question though is how the OAG (and MHS) can permit multi-age housing to continue, despite knowing its dangers.

But instead of objecting, the OAG looked away when the MHS Board, starting in 2003, hiked up its own pay while economizing on child safety –these safety measures are *still* not in place.

As in the Sandusky case, MHS children expecting the authorities to protect them were met instead with foot-dragging, indifference, and a closing of ranks among the powerful; i.e., once again, they were treated as children of a lesser god by lackadaisical Pennsylvania officials.

The Pennsylvania Supreme Court itself contributed to the Hershey travesty by sanctioning the fiction that the OAG is doing its job; that is, the court declared that third parties have no standing to be heard in courts of law on Hershey matters, no matter how egregious the MHS/OAG joint misconduct. In doing so, the court reversed a landmark Commonwealth Court ruling to the contrary.⁷

There are many damaged children who likely wish the Pennsylvania Supreme Court had concluded otherwise. This includes victims of sexual abuse in multi-age housing, children being denied basic due process before being expelled, the HIV+ boy whose enrollment was rejected, and countless other children who have been subjected to indefensible treatment.

Bullied MHS staff forced to implement amateurish policies no doubt also question the court's ruling, as do virtually all outside observers familiar with Hershey breakdown.

⁷ This Commonwealth Court ruling was bravely authored by Judge Dan Pellegrini and constitutes the sole exception to the otherwise unbroken string of Pennsylvania public official endorsement of MHS misdeeds.

But to the core point of this letter: *How can needy kids rely in vital Hershey reform matters on public officials with this deplorable record of failure? How can such officials even understand MHS problems without expert advice, let alone achieve the comprehensive change needed to solve them?*

Indeed, decades of MHS dysfunction have been permitted by OAG officials who have shown themselves unable to grasp key concepts, and who lack uncompromised commitment to needy kids. An office that is institutionally inclined to let kids face sexual abuse in multi-age housing – despite explicit warnings, expert reports, and several scandalous examples of related harms – can no longer be trusted to get things right on its own.

Nor are we singling out Mark Pacella and the current OAG staff: there have been 60+ years of MHS abuses, with ample warning signs. This was ignored by successive Attorneys General and the local Orphans’ Court –and this was all while Pennsylvania’s leading lights treated MHS cash, land, and facilities as their own personal resources, even using MHS kids as waiters and parking lot attendants for semi-public events.

Or, to put matters in the words of a leading charitable trust scholar: *“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—and this time it was even less justifiable... The Hershey case illustrates that the value of narrowly-confined [i.e., child welfare] assets does not disappear—it just gets appropriated by those with power at their disposal.”*⁸

In short, Pennsylvania authorities have abjectly failed needy Hershey kids in a manner that disinterested observers have had no difficulty recognizing. Your own “reform” agreement confirms this: even on the bright-line issue of child safety, you failed to restore meaningful protections and children will *without doubt* be sexually abused as a result, on your watch.

To be clear, and focusing solely on child safety for a moment, the circumstances that you faced upon entering office required you, presumably, to do one of the following: (1) improve the elementary safety measures promulgated in 2002; (2) restore the 2002 minimum safety measures that were rescinded in 2003; or (3) ratify the 2003 rescission of safety measures. But you surprised everyone by coming up with an option (4): you actually *further watered down the 2003 safety measure rescission language*, which can only be because you did not understand the issue. But you had every means for understanding it, had you merely fulfilled your fall commitments to listen to what independent experts had to say.

8. The Hershey Advisory Council

All of this informed the thinking behind the Hershey Advisory Council that Charlie and our group had been working to convene for you since your election last fall.

The idea was to provide you with the credible guidance that you needed, beginning with stepping back from the Hershey quagmire. We wanted to allow you to commence your MHS Trust efforts with a 20,000-foot overview, before deciding how best to utilize the open investigation that you inherited; i.e., we wanted to facilitate a fundamental reexamination of:

- (1) How child welfare has evolved *everywhere other than Hershey*;
- (2) How the Hershey failure to evolve is hurting children and squandering child welfare resources; and,
- (3) What a healthy charitable trust governance structure would look like in Hershey, *if the interests of needy kids came first*, rather than other interests continuing to take precedence.

⁸ (Brody, Evelyn (2004) “*Whose Public? Parochialism and Paternalism in State Charity Law Enforcement*,” *Indiana Law Journal*: Vol. 79.)

Without asking these questions, it is impossible to know what is required for draining the Hershey swamp and turning around this dysfunctional charity.

And why outside experts? Because expertise, distance, and detachment are essential to rethinking decades of Hershey mistakes –and because the ideas at the OAG and among MHS leaders (particularly the alumni opportunists promoted by them), are stale, antiquated, and bent by self-interest or political motives. Housing policy is only one example: the entire constellation of decision-making is grossly flawed.

But when all participating voices and all vested interests benefit from retaining the *status quo*, it is a matter of course that no fresh thinking will be introduced. Instead, everyone will close ranks to block new ideas and preserve a collectively-rewarding arrangement, as though six decades of child-harming decisions have not transpired.

In the existing environment, it was a matter of course that no one would advocate for dramatic change that puts kids first, as Hershey history demonstrates.

Whatever Mark Pacella and his OAG colleagues may understand about charitable trust enforcement in a narrow clinical sense, they have proven unable to make progress on MHS child welfare issues. In fact, during the last 15 years, when OAG involvement has been at its most pronounced, Hershey has badly *regressed*: programs have worsened; the leadership has deteriorated; partisan political influence has increased; bullying of staff has intensified; compensation at the top has exploded (while those below are ordered to economize); and spending has become more irrational.

Hershey presents the absurdity of grossly-conflicted and child welfare-blind authorities overseeing a grossly-conflicted and child welfare-blind MHS Board, with thousands of kids systematically hurt by it and countless poor families paying the price. But with MHS and the OAG reinforcing their own poor decisions – patting each other on the backs in the manner epitomized by your own recent action – there is no mystery as to why improvement does not take place.

With few if any net program gains over several decades, it is as though Hershey were caught in a child welfare time warp, obsessively promoting – and even worsening – one archaic arrangement (the large group home model), without implementing other, more rational programs or advances.

But an endless supply of impoverished children who are treated like fodder allows this; i.e., desperately poor parents continue to enroll their children, no matter how flawed MHS policies are. These severely disadvantaged parents are simply dazzled by MHS riches, promises of MHS-funded college education, the lure of new clothes for their children, and other bewildering enticements that persuade them that institutional care is somehow better for their children –an absolutely absurd proposition among credible child welfare professionals.⁹

⁹ An indication of how misguided the MHS leadership is can be gleaned from their own media puff pieces, boasting of “exemplary” programs. A May 8, 2008 *Harrisburg Patriot-News* article reveals this in heartbreaking detail. The article describes enrollment of a 4-year-old girl, who is being removed from her mother and placed in an MHS group home. The article describes a perfectly adequate, albeit economically disadvantaged, mother who has been persuaded to surrender her child to MHS. Among other things, MHS President and alumnus Johnny O’Brien (who was discovered to have been falsely claiming a graduate degree in psychology) weighs in with the boast that MHS will provide the child with “*Ivy League treatment in kindergarten*,” asserting this will help the child “*form better self-confidence*.” The article describes a four-to-six week initial period of no physical contact with the mother, and only one phone call a week, “*to ease transition*.” Administrator Myron McCurdy, another alumnus, is quoted as saying, “*Focus on your dreams and goals. Don’t give in to the temporary pain and sadness*,” and this, to a four-year-old who has just been irrationally wrenched from her mother. What is actually happening is a willful rupture of the mother-child bond, by individuals who have no idea how primitive their views are, yet who are able to entice desperately poor mothers into surrendering their children to group home settings. This news article is must reading for anyone seeking to understand how MHS has been operated, under stewards who have no idea what they are doing and who dangle material goods in front of impoverished families to assure a steady supply of children.

A massive PR budget then covers up the number of children hurt as a result, even though attrition figures sound alarm bells exposing the severity of the problems, if anyone paid attention.

None of this would continue under a credible child welfare regime that would immediately recognize and address these problems.

Nonetheless, the self-selecting MHS Board has refused to add even one child welfare expert to its membership. Instead, the board chooses politicians, the well-connected, alumni lackeys, and sundry lawyers with no child welfare skills of any kind –there is not even the pretense of a children-first policy and your agreement’s utterly meaningless “best efforts” clause perpetuates this arrangement.

In fact, under the terms of your settlement, the very persons who committed the most egregious mistakes – from the 20-child bedrooms of “Springboard Academy” to multi-age housing – remain in their positions, making a mockery of the notion of board overhaul just when MHS children most need help.

The MHS Board also selected unqualified alumni as the past two MHS Presidents, eschewing experts in the field, and again with disastrous consequences. Indeed, many of the worst MHS problems, such as increased child-crowding, multi-age housing, irrational enrollment practices, or retrograde discipline policies, derive from an alumni leadership who promote programs that they themselves endured as children. This constitutes a sickening childhood abuse-loop that has been explained repeatedly to OAG staff, without their comprehending or acting on it.

Yet, Mark and his discredited team guided your recent Hershey decisions; but those who truly understand these issues, and who could have offered genuine solutions, were not allowed to give you even one syllable of guidance.

The result was utterly predictable: the OAG’s unbroken history of MHS failure was extended on your watch, just as we had warned. The analysis of your “reforms” appended to this letter demonstrates that, net-net, you changed nothing –and this is because you restricted the views you heard to those of individuals who have shown they have no idea what changes need to be made: the current OAG staff.

9. Your Lenient Treatment of Hershey Links Abuses Is Indefensible

The continuation on your watch of the clubby relationship between MHS and the OAG, and your failure to exploit the opportunity presented to you, is glaringly evident from your treatment of the Hershey Links golf course travesty.

MHS said it will close this luxury golf course in order to build student housing, as though this resolved everything. The announcement was coupled with the farfetched rationalization that student usage had been “planned all along,” and that the \$5 million “Scottish-style” clubhouse was actually constructed “for MHS students” –and you accepted these preposterous explanations.

Your action epitomizes the way the OAG has permitted the MHS Board to use children to rationalize indefensible decisions and avoid responsibility. Indeed, when the golf-loving board – including current chairman and avid golfer Robert Cavanaugh – spent \$12 million to buy the insolvent \$4 million property, the board’s initial claim was that MHS children *needed the course kept open*, as “buffer land,” a rationalization that was greeted with derision.

The fanciful nature of the freshly-minted “child-usage” claims are exposed merely by examining what the MHS Board was publicly saying at the time they embarked on this lark.

For instance, golf enthusiasts may recall an October 21, 2005 piece in the widely-read *Golfer’s Magazine* titled “*Hershey Trust Company and Wren Dale Golf Club Owners Reach Agreement to secure Long-Term Future of Course.*” The article confirmed that the actual intended use of the golf course was as a golf course. The article explained that the Hershey Trust Company’s involvement “ensures the long-term future” of the course and “provides an open buffer of green space for the planned expansion” of the MHS campus “*on adjacent property.*” (Emphasis added.)

In fact, at the time, MHS was in the process of buying the *actual* expansion land, just as the article indicated. Mr. Robert Vowler, another of the Trust board's golf-lovers, was also quoted as saying, "Wren Dale is *right next* to where [MHS] will be housing many Middle Division kids, and obviously, open space like this will provide an appropriate buffer for our students." (Emphasis added.) Mr. Vowler further stated, "the community can rest assured that this property will remain open space. This will not become another housing development."

So the record shows: (1) Payment of triple the course's appraised value, or \$12 million; (2) construction of a \$5 million luxurious clubhouse; (3) subsidization of annual losses of \$1 million; (4) numerous public representations declaring that the course will stay open; and (5) purchase of contiguous land for MHS group homes (which would have been unnecessary if the golf course were indeed intended for student housing).

Balanced against this mountain of evidence, not one fact from the time in question even hinted of non-golf usage for the course.

It is difficult to imagine circumstances that might have made the case any stronger against the MHS Board's later-introduced fiction. In fact, at around the same time, the ever-accommodating MHS Administration had introduced a new policy of naming MHS group homes for *professional golfers*—this is how blatant the golf-crazed MHS Board's conduct was: they even used MHS children's *housing* as billboards for professing their love of golf.

In sum, there is no hint anywhere of the new child-use rationalizations that suddenly emerged after public scrutiny became focused on this matter—the entire record proves the opposite.

Simply to evade responsibility and save their financial skins, the board today makes up fantastic new claims—and you are accepting these fictions despite the damning public record exposing their falsity; i.e., you are asking Pennsylvania citizens to swallow the squandering of **\$25 million** of child welfare funds by charitable stewards who pay themselves millions, buy themselves a private golf playground, and then concoct shape-shifting rationalizations for their misdeeds after they are caught red-handed.

Because the OAG team that brought us here—still led by Mark Pacella—and the connected MHS leaders who committed these wrongs were left to their own designs in fashioning a "solution," there was no accountability nor restitution of any kind, just as we had warned.

Standing alone, this signal act of misspending—the investigation of which you fortuitously inherited—provided more than ample grounds for OAG action to replace the full board, on pain of your office seeking personal restitution from those responsible.

At a minimum, you could have leveraged the threat of legal action to secure the immediate naming of child welfare professionals to the MHS Board, or any of a number of other bedrock changes.

But instead, you threw away this opportunity and the wrongdoers all evaded liability—it is little wonder that the MHS Board has been even louder than your office in trumpeting your praises in this regard, they are simply delighted with the outcome of the investigation.

Your decision is simply indefensible. Even if, as someone new to your position, you can be excused for not entering office knowing of the solid evidence contradicting the MHS Board's recently-contrived claims, you cannot be excused for failing to discover what a simple google search would have shown; i.e., that the MHS Board's past statements trapped them—all you had to do was use their own words against them in a court of law, something that any prosecutor knows.

Contrast the leniency you showed here with 2002, when **ten board members** were removed without a shred of legal basis, and in what hindsight shows to have been a deliberate undermining of MHS as a child welfare charity by public officials.

It is also worth iterating why you inherited this investigation at all: the MHS Board members rejected the offer of your predecessor, interim Attorney General Kelly, to resolve the investigation. They did so *in the belief that they would do as well as or better under you*, no doubt relying in part on the convenient naming of Mr. Estey to his present position and your later selection of Mr. Estey's brother-in-law, Adrian King, as your Chief of Staff.

With your recent announcement, you have shown that the board's calculation paid off. The golf course controversy was a litmus test of your resolve, and you failed it.

10. Asking The Right Questions: A Child Welfare & Charitable Trust "Dream Team"

As we conveyed to Charlie, before we can talk about specific Hershey changes or item-by-item improvements, it is necessary first to leave the swamp of tired non-thinking and reexamine matters anew.

We need to ask ourselves why Hershey, with its \$10.5 billion, is serving only 1,800 kids, even though Boys Town, with \$1 billion, is serving some **25,000** kids.

We need to ask why MHS is doing such a poor job that more kids leave each year than graduate.

We need to ask why, rather than discussing residential program advances utilized elsewhere, the Hershey conversation focuses on assigning blame for the 20-child bedrooms of "Springboard Academy," a facility that entailed \$40 million of squandered resources, contravened basic child welfare norms, and was promoted by silly slogans nowhere else taken seriously.¹⁰

We need to ask why poor single mothers are still being seduced into senselessly surrendering young children to MHS, only to have their purportedly "homesick" children expelled and damaged for life after irrational and multiple dislocations –and this, while foster care children and wards of the court are no longer being served.

But you won't get answers to these questions – nor to other essential questions – when no one involved understands to ask them and everyone instead strives to avoid "dangerous" thinking.

We wanted to provide you with the tools for an intellectual starting point that asks these very questions, relying on the thoughtful guidance of outside experts.

On that basis, we recruited a distinguished and independent line-up spanning from Honolulu, HI to Cambridge, MA, just as Charlie had begun discussing with us since you were elected.

This Hershey Advisory Council "*Dream Team*" included one of Boys Town's leading experts on cutting-edge programs for at-risk youth and families – Dr. Ron Thompson – along with the academic and civic leader who helped bring about Bishop Estate reform – the renowned Randall Roth. It also included the dean of orphanage studies himself, Matthew Crenson (now retired from Johns Hopkins University),

¹⁰ An example of these slogans was provided by alumnus administrator Peter Gurt. In promoting increased child-crowding, a grinning Mr. Gurt told a large audience, "*We call this 'Back to the Future!'*" He illustrated his point with a photo of a multi-age 30-child MHS group home from the 1950's. In other words, Mr. Gurt actually *boasted* that MHS was reverting to discredited past practices, and defended such by saying, in essence, "*This is how we did it back in the day!*" In this way, charlatan slogans regularly pass for "expertise" in Hershey, particularly when delivered by glib alumni. But the MHS Board does not know any better. Instead, it relies on such individuals as Mr. Gurt, who impose flawed policies on bullied frontline staff and unfortunate children. The only reason these individuals even retain their positions, despite their lack of child welfare or leadership skills, is their being instrumental to the MHS Board's effort to fend off alumni reform activists; i.e., their presence in the MHS administration keeps the alumni rank-and-file in line, even when the administrators' conduct and decisions are indefensible. Here too, the OAG has permitted this embarrassing alumni job mart, with devastating consequences for MHS. In fact, Mr. King has reportedly conceded privately that the OAG tolerates the discredited MHS leadership only out of fear of an alumni backlash.

Harvard Law's Robert Sitkoff, the globally-recognized educator Dr. Arthur Levine, and Pennsylvania's leading scholar on Hershey corporate issues, Penn Law's Jonathan Klick.

We took special pains to include two individuals – Drs. Thompson and Levine – who combine extraordinary qualifications with some degree of MHS experience. Their sobering insights are particularly valuable to forging a path forward at an institution riddled with generational dysfunction and populated by improperly-selected leaders.

Whether it is understanding how to educate poor children or knowing what is required to achieve comprehensive MHS governance reform, it would be difficult to assemble a more knowledgeable group.

These accomplished and highly sought-after individuals do not agree lightly to give away their time or travel great distances to meet with newly-elected public officials. But they were willing to do so in your case, in the belief that a \$10.5 billion charity that has been tragically mismanaged might at last fulfill a mission that no other charity has the resources to pursue; i.e., they trusted our representation of you as a genuinely reformist Attorney General who was willing to take meaningful Hershey measures, even if these measures were unpopular with a Pennsylvania establishment that views the MHS Trust only in terms of spoils.

11. Rejecting Expert & Unbiased Guidance

Despite these sobering circumstances, Charlie informed us – with what seemed genuine embarrassment at your behavior – that you had decided not to meet with the Hershey Advisory Council after all, and that you would instead rely only on the OAG staff in making your decisions. Charlie added that you said we should not worry, because you would seek the changes that we advocate –even though you had not had any substantive conversations about these changes with any of us.

To be clear, we have patiently awaited such a conversation since you were elected, including painstakingly arranging the planned meeting, only to learn suddenly that there would be no meeting or conversation of any kind.

We were also told by Charlie to expect a phone call from you explaining why you chose this course; but that too went the way of your other promises.

A phone call and voicemail to your cell phone were also unreturned –we made every effort to communicate with you to try to prevent what happened; but you made a conscious choice not to even hear what outside voices had to offer.

Thereafter, offers to provide you with input on including credible child welfare professionals on a reconstituted MHS Board were also rebuffed by you –though we were told that prominent Democrats were seeking a board shakeup, to open board positions for cronies. In other words, even on something as elementary as naming a child welfare professional to an MHS Board desperately lacking such, your mind was completely closed; but you did preserve a board structure that paves the way for future appointments of individuals without child welfare skills, the very outcome that connected insiders were seeking.

Given all this, it bears noting that the greatest threat to MHS reform today no longer derives from Republicans who have openly profited from the Hershey charity. Rather, it derives from prominent Keystone State Democrats who have been replacing Republicans throughout the MHS Trust, several of whom are bound by the lynchpin of a Philadelphia law firm also connected to your Chief of Staff, Mr. King.

Exorbitant MHS salaries and lucrative board fees are equally tempting to this group too; and only your office can put a stop to blatantly-politicized MHS Board appointments, in favor of child-centered ones. Obviously, well-connected Democrats in line for lucrative positions are as eager to defeat MHS reforms today as were the Republicans when they were the ones enjoying Hershey spoils, and the Democrats were outside looking in.

This is why your naming of Mr. King to your most important staff position sparked fear among Hershey reform advocates that the cynical Harrisburg game would continue on your watch –only this time, it would be connected Democrats enjoying Hershey riches, and being protected by their own political allies.

We nonetheless had hoped for better from you, including because of Charlie’s phone call reaffirming your commitment to the course we were pursuing.

MHS reform advocates were thus deeply troubled by your declining to go forward with the Hershey Advisory Council meeting. We simply did not believe that the OAG could formulate a meaningful Hershey solution without outside guidance, especially when doing so entails facing a formidable array of *status quo* defenders marshaled against reform.

Your utterly hollow reform agreement, your weakening of child safety protections, and your failure to name even one child welfare professional to the board show that our concerns were entirely warranted.

12. OAG Conflicts Stoke Reform Resistance and Further Stack the Deck Against Needy Kids

As noted, we were not surprised that Mr. King was not actually screened from MHS matters. This is due to MHS’ importance to your office, and Mr. King’s brother-in-law, Mr. Estey, in a leading MHS role.

Indeed, Mr. Estey was given his MHS position suddenly last year, despite having had no apparent previous connection to child welfare charities. However, his Democratic connections were well known: he was former Democratic Governor Ed Rendell’s Chief of Staff, and the latter’s law partner at Ballard Spahr. This is the same law firm where Mr. King himself was a partner, before becoming your Chief of Staff. The conflicts created by these relationships are at multiple levels.

Governor Rendell has reportedly also had his own designs on a Hershey board position, according to former MHS Board member Mr. Robert Reese, who described this in detail. This includes an account of alleged communications between Governor Rendell and former Republican Attorney General LeRoy Zimmerman, who was then the MHS Board chair.

According to Mr. Reese, Governor Rendell’s inquiry followed a *Philadelphia Inquirer* story on Republicans profiting from the Hershey charity; i.e., an article entitled “*High Cost of Hershey School-Related Boards*” ran on Sunday July 25, 2010, describing four prominent Republicans who were being paid a total of \$1 million annually by various Hershey boards. This reportedly led to then Governor Rendell’s interest in Hershey.¹¹

If Mr. Reese’s account accurately reflects the sequence of events, it underscores the bipartisan nature of MHS Trust misconduct. In any case, those prominent in either party should be barred from further involvement in this much-abused charity –the notorious Karl Rove/Republican fundraiser and the Roy Zimmerman era already demonstrated this, to say nothing of the appointment of Mr. Estey.

Mr. Estey’s otherwise puzzling appointment also came just when the MHS Board had reason to recruit Democratic help, in the event the Republican candidate lost the Attorney General election, as happened.

There was also the curious appointment of Ms. Sheila Dow-Ford, a prominent Pennsylvania Democrat, to a lucrative (and minimal-work) HERCO board seat in 2003. Ms. Dow-Ford, a student loan agency attorney at the time, did not appear to have typical qualifications for service on an entertainment and resort company board. But she was on Governor Rendell’s transition team. Subsequently, a HERCO-related PAC made a \$10,000 contribution to Governor Rendell’s re-election campaign in 2007, helping illustrate the bipartisan nature of Hershey dysfunction.

¹¹ Prior to this, Governor Rendell had shown no interest in the Hershey charity so far as child welfare is concerned. In fact, Governor Rendell had ignored letters from us alerting him of ongoing harms to MHS children, 2,000 of whom were removed from the school during his two terms in office, without a single utterance from him.

It is difficult to view all of these events and your change of heart on the Hershey Advisory Council as merely coincidental. The coincidence became even more farfetched when we were told that Mr. King in fact has been involved in MHS discussions, just as we had feared.

Mr. Estey's surprisingly-acquired Hershey position likely also entails a seven-figure compensation package. This is but one of many lucrative slots that this mismanaged charity continues to dispense to those with connections, even when they have no child welfare qualifications.

In short, the fundamental conflict presented by the family tie within your office certainly constitutes an OAG oversight concern.

Given the totality of circumstances, the OAG did not have the ability to improve matters on its own. On the contrary, the OAG staff has consistently faced roadblocks created by powerful people with deep connections at the highest levels; i.e., those influencing OAG decisions have lavish salaries at stake, along with the ability to steer Hershey wealth, jobs, and contracts, thus creating fierce resistance to change.

The OAG should not have been satisfied with the cosmetic measures that you promulgated, ones that perpetuated the *status quo*. The opportunity provided by the Hershey Links golf course misconduct, standing alone, should not have been wasted: MHS Board chairman Robert Cavanaugh and other current board members participated in this decision, providing your office with all of the leverage necessary to extract genuine concessions and achieve truly comprehensive reform.

But there was overwhelming pressure on the OAG not to seek this outcome and instead preserve a system that generates financial rewards for all who were influencing the process; i.e., those who had your ear and the ear of other high-ranking OAG officials had no interest in changes that benefitted needy children or poor families.

But in case there were any doubts as to which way you would decide, the process was also pointedly shifted sometime after your election: your review came to deliberately exclude any unalloyed or proven voice of needy children, a defect that the Hershey Advisory Council would have cured.

It is hard to believe that those who persuaded you to make this shift did not know exactly what they were doing. When you broke your word on meeting with the Hershey Advisory Council, you let those who were opposed to change succeed in stacking the deck. The result was a forgone conclusion: wittingly or not, you perpetuated the *status quo*.

13. Hershey Rigged Resource Allocation Game: MHS Numbers Say It All

The up-to-now rigged MHS resource allocation game has consistently assured that needy kids and poor families lose, as witnessed for generations. It hardly needs iterating that this charity has grown by over \$10 billion in the last 43 years, while adding only 200 children to total enrollment. This represents the single most egregious asset deployment failure in charitable trust history –and the cause is not hard to identify: decades of inadequate OAG oversight, which powerful vested interests assure.

No doubt there were individuals very relieved that you were persuaded not to meet with the Hershey Advisory Council –and very happy also that you declined to entertain the names of child welfare professionals for a reorganized MHS Board.

This was just as in 2002, when a Republican power play took control of the MHS Board. Public officials at that time were similarly persuaded to ignore child welfare voices, in favor of the connected insiders who were named to the board and then stacked it along partisan lines.

We should know: we literally *begged* these officials to include *even one* child welfare professional in the mix, only to be ignored. We then were forced to witness the eleven-year parade of hurt children that has followed, just as we reform advocates had warned.

We even suffered the public rebukes heaped by these officials, when we first raised the alarm, including intemperate judicial rulings –and this was followed by silence on their part when our warnings proved

accurate, scores of children were hurt, reckless housing experiments were pursued, and tens of millions were squandered.

You have repeated the very same travesty –you may be new to this matter and may not appreciate what your conduct has wrought; but we have seen this movie before and know its horrible ending: children will be hurt.

It is thus painfully clear that whether Republican or Democrat, Pennsylvania’s powerful are united in preventing the MHS Trust from being transformed into the child-saving charity envisioned by Milton S. Hershey. For such a transformation would deny insiders the rich piggy bank that this charity has been for decades –and both parties will do everything they can to preserve the current arrangement, never mind the harms to needy children.

We had thought you would be the hero who changed all this, following the courageous lead of Judge Pellegrini and the Commonwealth Court. But instead, you proved yourself as indifferent to MHS children as your predecessors, doing the bidding of the politically powerful rather than aiding needy kids.

14. Epochal Opportunity Wasted

In sum, we are deeply disappointed by the turn of events and believe you have squandered the greatest opportunity for transformative change in Hershey history –and this, just when blistering charges hung over the MHS Board, and could have been used to retool this charity top-to-bottom.

Your refusal even to hear the sterling guidance offered to you demonstrates you were unwilling even to contemplate genuine Hershey change, relying instead on elements cynically committed to the *status quo*.

To say that you have rearranged the deck chairs on the MHS child welfare Titanic is far too generous: you have not done even that. For you are allowing the worst offenders to remain in charge, permitting the same profiteering, endorsing the elimination of basic child safety protections, and otherwise propping up the *status quo*, lock, stock, and barrel. That you publicly label your actions as “tough” and as “setting a new standard for charitable organizations” is beyond comprehension: no interpretation of the facts supports such an outlandish claim –your \$1,000 per hour meeting “fee” alone makes this clear, to say nothing of your “best efforts” provision for adding child welfare expertise to the board.

In actuality, the path that you chose constitutes a grave setback for at-risk kids, needy families, and the Commonwealth itself. Rather than exploring how \$10.5 billion could have been unleashed to aid these kids and lift related taxpayer burdens, your decision preserves a system that lines insiders’ pockets, is manipulated by self-serving politicians, squanders child welfare funds, and hurts needy kids.

If you would like to try to find a way around this impasse, please let us know, because we have done everything in our power to assist you and are at a loss as to what more we can possibly do. When an advocacy group makes no demands on a public official other than trusting her merely to listen to thoughtful recommendations from leading and independent experts, only to have that trust betrayed, the very concept of offering assistance to public officials is mocked.

Please let us emphasize the epochal nature of the opportunity you have just squandered. For no prior Attorney General has ever been handed such powerful tools as you were for transforming this charity into what it should be: ***the greatest savior of needy children in history and the envy of every other state.***

From Walter Alessandrini’s indefensible 1963 conduct in diverting child welfare assets to Roy Zimmerman’s nonchalance in office and later self-enrichment, successive Attorneys General failed to enforce this charity’s mandate, disregarding the law. This has been at the expense of taxpayers and needy children alike, and merely so the powerful could continue profiting and advancing their non-child goals.

In one stroke, you could have distinguished yourself from all your predecessors and left an unparalleled Attorney General legacy, if only you would have broken with convention and swept aside the failed Hershey system. While this may seem an overwhelming task, the solution would have been readily

achievable with the proper board; that is, a group who would appoint a qualified administration, and then remain intimately involved in pursuing genuine change –and this, for no reason other than to improve the lives of children, without seeking financial gain.

But instead, you added your name to the list of ignominious Pennsylvania Attorneys General who have failed needy kids. Even Mike Fisher did more than you, if only temporarily, before caving to political pressure and rescinding his own reforms, which created the current mess.

Indeed, the Mike Fisher-created *status quo* is what you ratified by endorsing his reform rescission. This is a *status quo* that every day causes another MHS child’s life to be damaged, another impoverished parent to face unbearable anguish, and more charitable funds to be squandered. Awful programs will remain in place; reckless housing practices will be perpetuated; staff will continue being bullied; and questionable MHS leaders will continue making indefensible decisions, all on your watch.

This flows entirely from your having relied on the demonstrably failed thinking of the OAG staff whose approach you chose over the credible outside advice that was made available to you. Had you at least listened to what outside experts had to say, you would have fully understood how to begin directing Hershey’s \$10.5 billion to its rightful, child-saving purpose, creating a new dawn for needy Pennsylvania children and the beginning of greater hope for poor families everywhere.

But you chose to play politics instead, and history will judge you harshly. You may have pleased the powerful interests who desire to continue exploiting the Hershey *status quo*, and our group may be small in number and lacking power, but we will nonetheless continue doing everything we can to expose this travesty and persevere on behalf of needy children.

Make no mistake, this is not the end of our MHS reform activism. Our group will simply redouble our efforts, though we will no longer dignify the fiction that the Pennsylvania OAG is in any way a reliable protector of powerless children. Your conduct definitively ended that notion.

Sincerely,
Protect The Hersheys’ Children, Inc.

George W. Cave
MHS Alumnus of the Year 2001

Kenneth O. Brady
MHS Alumnus

Kenneth D. Beasley, PhD, PE
MHS Alumnus

Robert A. Chalmers
MHS Alumnus

Linda Gunderson Rembsburg
Concerned PA Citizen

Harry Chalmers
MHS Alumnus

Ric Fouad
MHS Alumnus

Attachment

Exhibit A: *“Three Strikes & You’re Out: AG Kane’s Hershey Agreement Constitutes Latest OAG Reform Failure; A Paragraph-By-Paragraph Analysis”*