

**MILTON S. HERSHEY**  
“HIS DEEDS ARE HIS MONUMENT, HIS LIFE IS OUR INSPIRATION”

**APPENDIX XVII: 1933 PETITION**

**Appendix XVII: 1933 Petition**

IN THE COURT OF COMMON PLEAS OF  
DAUPHIN COUNTY, PENNSYLVANIA  
IN EQUITY

IN RE  
PETITION OF THE HERSHEY  
INDUSTRIAL SCHOOL FOR  
MODIFICATION OF TRUST

EQUITY DOCKET  
No. 1096

**PETITION FOR MODIFICATION OF TRUST**

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The petition of The Hershey Industrial School, a nonprofit corporation of the Commonwealth of Pennsylvania, by leave of Hon. William A. Schnader, Attorney General, on the relation of your petitioner, respectfully represents:

1. By deed of trust dated the fifteenth day of November, 1909, and recorded in the office for the recording of deeds, etc. in and for Dauphin County, Pennsylvania, in Deed Book E, Vol. 14, page 331, a copy of which deed of trust is hereto attached, marked “Exhibit A” and made a part hereof, Milton S. Hershey and Catharine S. Hershey, his wife, of Hershey, Derry Township, Dauphin County, Pennsylvania, granted and conveyed certain farms, situated in Derry Township aforesaid, in the deed of trust more particularly described, unto the Hershey Trust Company as trustee, and constituted M. S. Hershey, W. H. Lebkicher, John B. Curry, John A. Landis, George M. Hocker, A. W. Stauffer, John E. Snyder, Israel Moyer and U. G. Risser, and their successors, Managers, for the purpose of founding and endowing in perpetuity an institution to be known as “The Hershey Industrial School,” for the maintenance, education and training of orphan boys, subject to certain trusts and conditions in the deed of trust set forth.
2. The said Catharine S. Hershey, at the time of the execution of the deed of trust, was possessed of no beneficial interest in the property conveyed thereby, other than her inchoate right of dower, and joined in the deed for the sole purpose of releasing her dower right. The said Catharine S. Hershey has since, to wit, on the 25th day of March, 1915, died.
3. Pursuant to the provisions of the deed of trust, The Hershey Industrial School was established on or about the third day of September, 1910; and was conducted and managed by said Managers and their successors as an unincorporated school for the purposes and subject to the conditions in the deed of trust set forth, until the thirtieth day of December, 1919.

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4. On the thirtieth day of December, 1919, your Honorable Court entered a decree incorporating the Managers and their successors as a corporation of the first class, under and subject to the provisions of the Act of Assembly approved the 29th day of April, 1874, entitled “An act to provide for the incorporation and regulation of certain corporations,” under the name and style of “The Hershey Industrial School,” your petitioner herein. The charter granted to your petition is recorded in the office for the recording of deeds, etc. aforesaid, in Charter Book L, page 282, etc. A copy thereof is attached hereto, marked “Exhibit B” and made a part hereof.

5. Upon its incorporation, your petitioner took over the control and management of the school and has since and is now conducting the same as contemplated by, and under the conditions and limitations contained in, the deed of trust.

6. At the time of, and from time to time subsequent to, the establishment of the school, Milton S. Hershey has transferred sums of money, securities and other personal property to the Hershey Trust Company, trustee as aforesaid, as gifts for the endowment of the school, under and subject to the trusts and conditions in the deed of trust contained. All the property, real and personal, owned, possessed or held in trust for your petitioner was given to the school by Milton S. Hershey, or has accrued from property so given. No gifts to the school have been made by any other person, copartnership, association or corporation.

7. Until the present time, a large part of the income from the gifts and endowment has been expended for the erection of additional buildings and for the purchase of furnishings and equipment in order to extend and enlarge the facilities of the school for the accommodation of a greater number of students. The program of extension, enlargement and improvement will soon be completed; and, when completed, the facilities of the school will be adequate to accommodate many more boys than are now available under the restrictions of the deed of trust, and the income from the endowment will no longer be needed for such enlargement and improvement, but must be expended for the primary purposes expressed in the deed of trust.

8. The present yearly income from the endowment of the school is approximately \$1,675,000.00. By the terms of the deed of trust, the use of the income is restricted to the operation of the school, and to lodge, feed, clothe, educate and instruct in trades, poor, healthy, white, male orphans between the ages of four and eighteen, whose fathers are deceased.

9. The deed of trust provides, inter alia, as follows:

“13. The institution shall be organized as soon as practicable, and when prepared to receive orphans, the managers shall from time to time receive and admit to the School as many poor, healthy, white, male orphans, of such ages between four and eight years, as may from time to time be determined by the Managers, as in the opinion of the Managers, the extent, capacity, and income of the School will provide for, and shall be adequate to maintain, and from time to time as there may be

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vacancies, or increased ability from income may warrant, others shall be admitted. The term orphan in this deed designates a child whose father is deceased.”

As restricted in the deed of trust, the income is greatly in excess of what is required and can be used for said purposes; and, unless the terms and conditions of the trust may be modified, the income must be permitted to accumulate, and your petitioner will not be permitted to expend the same.

10. The experience of the Managers of your petitioner, and of the Managers constituted by the deed of trust, prior to the incorporation of your petitioner, over the period of years the school has been operated, is that the restriction for admission to the school to boys between four and eight years is too limited to best serve the purposes of the school, because of the fact that many mothers endeavor to keep their fatherless boys with them as long as possible, and do not realize they are unable to do so until the boys have passed the age of eight, and, under the terms of the deed of trust are no longer eligible for admission to the school. The Managers of your petitioner believe, and so recommend, the age for admission to the school should be extended to fourteen years.

11. The experience of the Managers, as aforesaid, has also shown that in a great many instances boys whose fathers are living, but whose mothers are deceased, are in far greater need of the advantages of the school than boys whose fathers are deceased. The Managers of your petitioner believe, and so recommend, that boys otherwise qualified whose mothers are deceased should be admitted to the school, even though their fathers may be living.

12. The Managers of your petitioner are advised the general intention of the donor expressed in the deed of trust is the maintenance and education of healthy, normal, needy, orphan boys between the ages of four and eighteen, and believe if the modifications in the trust provisions hereinbefore recommended and set forth are permitted, a sufficient number of additional boys, coming within the purview of said general intention, could be admitted to the school so as to utilize all the available facilities of the school and to enable your petitioner to expend the entire income from the endowment for the purpose of carrying out the general intent of the trust.

13. The Managers of your petitioner further believe, and so recommend, that the purposes of the trust and the best interests of the school would be served by a provision in the trust that no person employed by the school, in any capacity in connection with which any compensation or expenses are directly or indirectly paid, be permitted at the same time to serve as a member of the Managers.

14. The names and addresses of the members of the present Managers, successors to the Managers constituted by the deed of trust, are

<i>Name</i>	<i>Address</i>
M. S. HERSHEY .....	Hershey, Pa.
EZRA F. HERSHEY.....	Hershey, Pa.
WM. F. R. MURRIE.....	Hershey, Pa.

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JOHN E. SNYDER .....	Hershey, Pa.
P. A. STAPLES .....	Hershey Central, Cuba.
S. C. STECHER.....	Hummelstown, Pa.

All said persons have had notice of the presentation of this petition, and join in the prayer thereof.

15. Notice of the presentation of this petition has been given to Milton S. Hershey, the grantor in the deed of trust and donor of all the property, real and personal, of your petitioner or held in trust for it; the said Milton S. Hershey has, by writing hereunto attached and made a part hereof, made declaration of his intention in connection with the establishment of the charity, and has joined in the prayer of this petition.

16. Notice of the presentation of this petition has been given to the Hershey Trust Company, trustee under the deed of trust; the said trustee has joined in the prayer thereof.

Wherefore your petitioner, willing to become responsible for the costs of this proceeding, prays:

First. That your Honorable Court by its decree carry into effect the intent of the donor as expressed by him, so far as the same can be carried into effect consistently with law or equity.

Second. That your Honorable Court authorize and direct the Managers of your petitioner from time to time to receive and admit to The Hershey Industrial School as many poor, healthy, white, male orphans whose father or mother is deceased, of such ages between four and fourteen years, as may from time to time be determined by the Managers, as in the opinion of the Managers, the extent, capacity, and income of the school will provide for, and shall be adequate to maintain, and from time to time as there may be vacancies, or increased ability from income may warrant, to admit others; and thereafter, out of the income of the trust funds, to lodge, feed, clothe, educate and instruct in trades all such orphans admitted to the school, in accordance with the provisions of the deed of trust.

Third. That your Honorable Court order and direct that no person employed by the school, in any capacity in connection with which any compensation or expenses are directly or indirectly paid, shall at the same time serve as a member of the Managers of your petitioner.

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Fourth. Such general relief in the premises as to your Honorable Court may appear necessary and expedient.

And it will ever pray, etc.

THE HERSHEY INDUSTRIAL SCHOOL,

BY Milton S. Hershey,  
*Chairman of the Managers.*

Attest: S. C. Stecher  
*Secretary.*

[SEAL]

John E. Snyder  
*Attorney for Petitioner.*



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**PERMISSION AND CONSENT OF ATTORNEY  
GENERAL**

AND NOW, this 27th day of October, 1933, the above petition is hereby approved, and leave is granted to present the same to the Court of Common Pleas of Dauphin County, Pennsylvania, and I hereby waive notice of any further proceedings and consent to any decree the Court may make.

W. A. SCHNADER,  
*Attorney General.*

## **MILTON S. HERSHEY**

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#### **DECLARATION OF INTENT AND JOINDER OF MILTON S. HERSHEY**

The undersigned, Milton S. Hershey, donor of all the property and assets of The Hershey Industrial School, and grantor in a certain deed of trust, dated the fifteenth day of November, 1909, recorded in the office for the recording of deeds in and for Dauphin County, Pennsylvania, in Deed Book E, Vol. 14, page 331, between Milton S. Hershey and Catharine S. Hershey, his wife, of Hershey, Derry Township, Dauphin County, Pennsylvania, parties of the first part, the Hershey Trust Company of the same place, designated as Trustee, party of the second part, and M. S. Hershey, of Hershey; W. H. Lebkicher and John E. Snyder, of Lancaster ; John B. Curry and A. W. Stauffer, of Swatara; John A. Landis, of Manada Hill; George M. Hocker, of Union Deposit; Israel Moyer, of Derry Church; and U. G. Risser, of Campbelltown, Pennsylvania, designated as Managers, parties of the third part, pursuant to, and subject to the trusts, conditions and limitations of which deed of trust The Hershey Industrial School was established, is conducted and maintained, hereby declares in establishing the school and creating the trust it was his purpose and intention to provide for the maintenance and education of healthy, normal, needy orphan boys between the ages of four and eighteen; that at the time of creating the trust, it was his opinion this general purpose and intention would be best served and carried out by limiting admissions to the school to boys between the ages of four and eight, and to boys whose fathers were deceased; that from experience gained in serving as Chairman of the Managers of the school during the period from its establishment until the present time, he has learned in the case of a great many boys for whose benefit the advantages of the school were intended, their mothers will not permit them to enter the school until they have passed the age of eight years and thereby have become ineligible for admission, although still within the class for which the school was intended, and, in a great many cases boys whose fathers are living, but whose mothers are deceased, are in far greater need of the advantages of the school than boys whose fathers are deceased, and furthermore, the purpose of the trust and the best interests of the school would be served by not permitting any person employed by the school, in any capacity in connection with which any compensation or expenses are directly or indirectly paid, to at the same time serve as a member of the Managers of the school.

The said Milton S. Hershey acknowledges he has had notice of the presentation of the foregoing petition, and joins in the prayer thereof.

*/s/ Milton S. Hershey.*

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**JOINDER OF TRUSTEE AND MANAGERS**

The undersigned, Hershey Trust Company, Trustee, and

M. S. HERSHEY,	JOHN E. SNYDER,
EZRA F. HERSHEY,	P. A. STAPLES,
WM. F. R. MURRIE,	S. C. STECHER,

Managers of The Hershey Industrial School under the deed of trust dated the fifteenth day of November, 1909, recorded in the office for the recording of deeds in and for Dauphin County, Pennsylvania, in Deed Book E, Vol. 14, page 331, between Milton S. Hershey and Catharine S. Hershey, his wife, of Hershey, Derry Township, Dauphin County, Pennsylvania, parties of the first part, the Hershey Trust Company of the same place, designated as trustee, party of the second part, and M. S. Hershey, of Hershey; W. H. Lebkicher and John E. Snyder, of Lancaster; John B. Curry and A. W. Stauffer, of Swatara; John A. Landis, of Manada Hill; George M. Hocker, of Union Deposit; Israel Moyer, of Derry Church; and U. G. Risser, of Campbelltown, Pennsylvania, designated as Managers, parties of the third part, hereby each acknowledge they have been given notice of the presentation of the foregoing petition, and each joins in the prayer thereof.

[SEAL]

HERSHEY TRUST COMPANY, *Trustee.*  
BY MILTON S. HERSHEY,  
*President.*

Attest: S. C. STECHER,  
*Secretary.*

MILTON S. HERSHEY  
EZRA F. HERSHEY  
WM. F. R. MURRIE

JOHN E. SNYDER  
P. A. STAPLES  
S. C. STECHER

*Managers.*

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No. 1096

**DECREE**

AND NOW, this 30th day of October, 1933, upon consideration of the foregoing petition, made by leave of the Attorney General of Pennsylvania; it appearing the general intention of the donor of all the property and assets of or held in trust for The Hershey Industrial School, petitioner herein, and creator of the trust whereby the school was established, was to provide for the maintenance and education of healthy, normal, needy orphan boys between the ages of four and eighteen, but by reason of the restriction of the provisions of the trust and the enlargement of the facilities of the school there are not enough eligible boys available to fully utilize the facilities of the school and require the expenditure of the total income from the property of the trust after additions and improvements to the school paid from such income have been completed, and therefore there is a failure pro tanto of the purpose of the trust, it further appearing, however, the court can carry into effect the intent of the donor consistently with law and equity: It is therefore ordered, adjudged and decreed as follows:

The Managers of The Hershey Industrial School are hereby authorized and directed from time to time to receive and admit to the school as many poor, healthy, white, male orphans, whose father or mother is deceased, of such ages between four and fourteen years, as may from time to time be determined by the Managers, as in the opinion of the Managers, the extent, capacity and income of the school will provide for, and shall be adequate to maintain, and from time to time as there may be vacancies, or increased ability from income may warrant, to admit others; and thereafter, out of the income of the trust funds, to lodge, feed, clothe, educate and instruct in trades all such orphans admitted to the school.

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No person employed by the school, in any capacity, in connection with which any compensation or expenses are directly or indirectly paid, shall at the same time serve as a member of the Managers of The Hershey Industrial School.

BY THE COURT:

WM. M. HARGEST,  
*Prest. Judge.*

FRANK B. WICKERSHAM,  
*A. L. J.*

JOHN E. FOX,  
*A. L. J.*

Exhibit “A” recorded in office for the recording of Deeds in and for Dauphin County, in Deed Book “E”, Volume 14, Page 331.

Exhibit “B” recorded in office for the recording of Deeds in and for Dauphin County, in Charter Book “L”, Page 282.

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**ENDORSEMENTS**

BY THE PROTHONOTARY:

Filed October 27, 1933

BY THE RECORDER:

No. 3101  
Received  
Recorder's Office,  
April 16—3:26 P.M.—'52  
Dauphin County  
Penna.

STATE OF PENNSYLVANIA,  
DAUPHIN COUNTY.

} ss:

Recorded in the Office for Recording of deeds, etc., in and for the County of Dauphin, in Misc. Book I, Vol. 7, Page 136.

WITNESS my hand and seal of office this 16th day of April, Anno Domini 1952.

[RECORDER'S SEAL]

MARION T. ANDERSON,  
*Recorder.*