

BOOK REVIEW

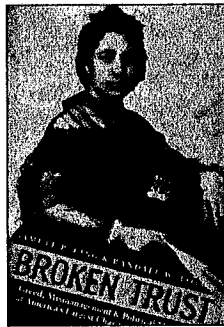
REVIEW BY JAMES R. WALKER AND MICHAEL A. SHEA

Broken Trust: Greed, Mismanagement and Manipulation at America's Largest Charitable Trust

BY SAMUEL P. KING AND RANDALL W. ROTH

Co-authored by prominent DU College of Law alumnus Randall Roth and retired United States District Court judge Samuel King, *Broken Trust: Greed, Mismanagement & Political Manipulation at America's Largest Charitable Trust* sets forth three related stories that examine the history, corruption and reform of the Bishop Estate in Hawaii. All three stories are told with great care and attention to detail, making the book an important and revealing read in today's climate of mismanaged corporate governance and questionable nonprofit conduct.

The first story is historical. The book sets the scene for the Bishop Estate and Kamehameha Schools with a background discussion of the political, economic and educational history of the Hawaiian Islands, including the social relationships and attitudes between *haoles* (whites) and native Hawaiians. The condescending attitudes of powerful white interests toward native Hawaiians were not limited to the general public, but extended to Hawaiian royalty as well. Soon, western civilization so overwhelmed Hawaii that, despite the fact Hawaiian culture had been self-sustaining for a thousand years, Hawaiian royalty disavowed their gods and parts of their culture. Born soon after this cultural surrender, Princess Bernice Pauahi studied—and became well educated and highly proficient in English—under *haole* teachers. Rather than marry into Hawaiian royalty, Bernice eventually wed Charles Reed Bishop, a “respectable” white immi-



grant who had taken Hawaiian citizenship.

Through mortality and family-wealth consolidation, Princess Bernice Pauahi Bishop became one of the richest people in Hawaii. It was her legacy and fortune, mostly in land, that established the Bishop Estate—to support the education of native Hawaiians through the Kamehameha Schools. Eventually, Bernice Bishop's

bequest made the Bishop Estate the largest private landowner in Hawaii. The early education provided at the Kamehameha Schools reflects the sociology of colonial Hawaii.

The second story of the Bishop Estate begins in chapter four. It starts in 1959, when Hawaii became a state. The combination of statehood, tourism, and federal government spending engendered by the Vietnam War came together to create an economic boom that rivals any in American history. As land values rocketed higher, the Bishop Estate became richer. Owning 11 percent of the land in the entire state, the Bishop Estate's endowment soared from tens of millions to billions of dollars. Estate trustees recognized the changes and began to study and rethink their policies. Educational practices were modernized and Hawaiian culture was brought back to the Kamehameha Schools—a reversal of the strict anti-Hawaiian, Christian missionary morality that had pervaded prior to statehood.

Unfortunately, the burgeoning economic power of the Bishop Estate led to political entanglements, influence peddling, and a hunger for power that led

Bishop Estate to become, in a sense, the Enron of charitable trusts. The estate began selling large tracts of residential leasehold land at full market value to homeowners. This provided enormous liquid assets to the Bishop Estate, and the overall endowment eventually exceeded \$11 billion. Estate trustees were compensated based upon statutory fees, resulting in compensation to each of the five individual trustees that approached \$1 million per year. Trusteeships, therefore, became political plums that found their way into the hands of powerful politicians, not necessarily chosen for their expertise in either trust management or education. In turn, these trustees exercised their power to favor political friends and associates.

Hawaiians are not the kind of people who criticize or engage in political activism. As long as the schools provided a good educational program for children of Hawaiian ancestry, criticism of the trustees remained at a minimum. *Broken Trust* explores controversies among the trustees and some of the truly bizarre activities associated with the Bishop Estate, ranging from sexual misconduct to the use of Bishop Estate funds by a legislator and school employee to entertain members of the state legislature at strip clubs and bars.

Despite the traditional patience and tolerance of the Hawaiian people, a turning point came in the mid-90s with the appointment of several new trustees. One of these trustees began inserting herself directly into the educational program at the Kamehameha Schools. This interference with educational operations proved to be the straw that broke the camel's back, making native Hawaiians willing to speak out against abuses and mismanagement within the estate. It was then that the authors became active participants in the process that they write about. Judge King, Randy Roth, and three well-respected native Hawaiians wrote a long and detailed editorial

piece, appropriately entitled *Broken Trust*, that was eventually published in the *Honolulu Star Bulletin*. The article unleashed a firestorm leading to the reform of the Bishop Estate. Indeed, when interviewed on *60 Minutes* and asked what mistakes he had made, one of the trustees eventually driven from office responded to the effect that the Bishop Estate should have purchased the newspaper, thus preventing any negative press.

And so begins the third story of the Bishop Estate—the struggle between the trustees and the public, and the complicated, multi-party legal proceedings that ultimately led to reform. At first, it seemed that things were stacked against the Hawaii Attorney General, the office with jurisdiction to seek reform of the Bishop Estate. The trustees commanded enormous resources and had strong influence throughout the political system, the legal community, and the courts. However, as things unfolded, other factors began to tip the balance, including public opinion and the Internal Revenue Service. While the IRS was not a party to the Hawaii court proceedings, the IRS audit of the Bishop Trust gave rise to the potential for huge taxes, allowing the leverage necessary to achieve reforms. In the end, the five trustees were forced from office and suffered serious economic reversals, while DU Law alumnus Randy Roth was named to the *Honolulu Star Bulletin's* list of "100 individuals that made a difference in Hawaii during the 20th Century".

In the end, the reform of the Kamehameha Schools is not complete, and controversy will likely continue. But *Broken Trust* constitutes a compelling and relevant read for anyone interested in the disturbing trend of mismanagement among American corporations and nonprofit agencies. The trustee misconduct revealed within the Bishop Estate, and the resulting enforcement, exemplifies one of the most pervasive issues in corporate governance and conduct today.