

# ISU foundation dismisses widow's wish, sells farm

## Fund transfer to facility for ag study is defended

By **FRANK SANTIAGO**  
REGISTER STAFF WRITER

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**Duncombe, Ia.** — Marie Powers made the decision of a lifetime while standing in a barnyard.

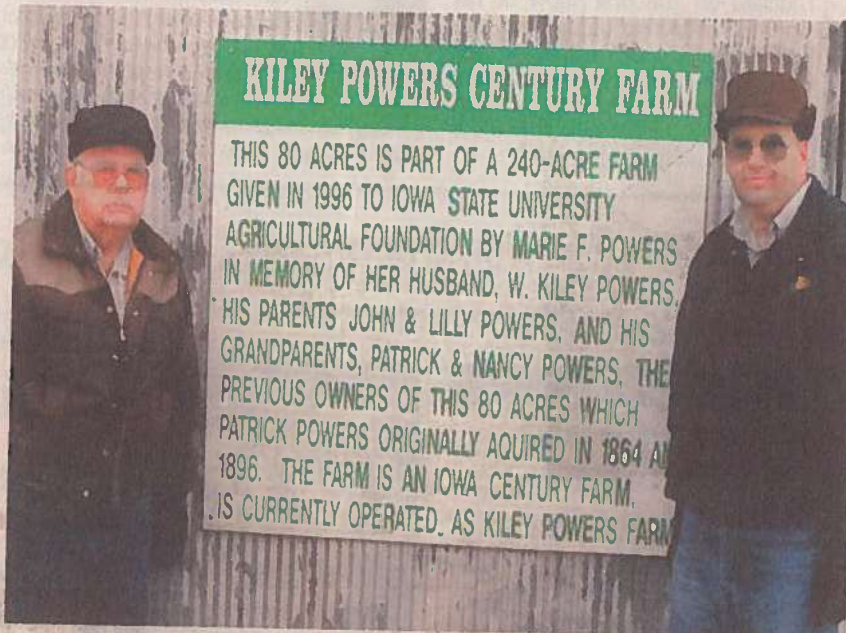
A widow with no children, she agreed to leave everything she owned, including cash and her 240-acre farm near Duncombe — an estate worth \$1.2 million — to Iowa State University.

Powers attached some strings to her gift. She wanted the farm to live long after she was gone. She expected ISU to keep the place alive.

More than 13 years after the will was written, the farm has been sold. A large portion of her estate has been "poured down a rat hole," a critic says.

Secrecy surrounds the details, as it does all contributions to the quasi-public foundations that raise money for Iowa's public universities.

"I was uncomfortable with the way things happened," said Paul Edwards of Clarion, a member of ISU's Agricultural Foundation.



FRANK SANTIAGO/REGISTER PHOTOS

Marie Powers attended the University of Iowa and Harvard University, taught public school in Iowa, played the piano and wrote musicals for schoolchildren, paying for the costumes herself.

Her real passion, say those who knew the slight woman, was the family farm that she shared with her husband, Kiley Powers. Kiley operated Powers Hybrid Seed, selling corn, soybean and oat seed to central Iowa farmers. The couple grew apples, and Marie gardened.

"Farming was the most important thing to him, and it was the most important thing to her," said Cheryl Chris-

**Cherished:** The late Marie Powers, right, loved her farm, says neighbor Richard Moenck. He stands at left, above, with his son Darrell and a sign noting that the farm near Duncombe was held by one family for more than a century. Darrell Moenck plans to buy part of the farm from ISU's Agricultural Foundation. What will become of the buildings, below, isn't known.



See **FOUNDATION**, Page 6A



# ISU foundation sells widow's farm

FOUNDATION, from Page 1A

topherson, a neighbor.

Like many other spreads in Webster County, the Powers place would become a Century Farm, a designation that goes to farms that stay in one family for 100 years or more. Kiley's grandfather started buying portions of the land in 1864.

The Powerses developed close ties with Iowa State University and its faculty members. The school provided the critical seed Kiley Powers processed for sale.

The couple lived frugally, spending money only on what they needed, friends said.

Kiley Powers died in 1962, and mandatory retirement forced Marie Powers to leave teaching at Webster City High School in the 1970s. She was devastated and secluded herself on the farm and in her modest frame home. She walked to town to save on gas. She slept in the kitchen in the winter, the only room she heated.

She decided to leave her estate to ISU, with some conditions. At her request, her attorney wrote into her will eight years before her death that the farm was to "be operated as the Kiley Powers Farm" in honor of her late husband. Also inserted was a request that the

land and buildings be maintained. The added words were written by hand, the attorney later explained in a court document, because "no typing facilities" were available on the farm.

Marie Powers eventually moved to a nursing home. She died at age 93 on Christmas 1995.

Marie Powers' will is filed at the Webster County Courthouse. The document declared that "all my farmland and real estate" and "residue of my property" would go to the foundation.

When ISU's Agricultural Foundation took control of the estate, \$100,000 was set aside in a scholarship fund. Named for Kiley Powers, the scholarships are for agricultural students.

The rest of the cash was funneled into a renovation project at Kildee Hall, a livestock research facility whose financial backing was shaky. Plans were made to sell the Powers land to further pay for the renovation.

The foundation operated the farm, the only one it owned, for three years. By 1996, the foundation was already trying to sell it, petitioning a court for permission. A foundation attorney claimed the sale would "advance the charitable

intention of Mrs. Powers." Operating the farm was impractical, and the foundation had "no need for such a farm." The attorney noted that "no buildings exist on said property."

On the contrary, several buildings still stand. The home where Kiley and Marie Powers lived has been razed, but the barn, the seed storage building and other outbuildings are still there.

Foundation member Edwards contended at a meeting that Marie Powers' estate was being used "to bail out" the Kildee project. "Kildee Hall was not the right place for the money," he said. "It was applied to a project she did not specifically want."

Mark Gannon, who quit his job as coordinator for the foundation because of "policy differences," said the money was "poured down a rat hole" to support the \$21 million renovation.

"There's no doubt that Kiley and Marie Powers are turning in their graves," he said.

Paul Christensen, president of the Agricultural Foundation and a farmer in Royal, said the accusations were unfounded and unfair. He defended the decisions of the foundation's board of directors. Powers' "legacy to Iowa

agriculture is far greater than if the farm had been left with the old buildings on it," he said. "She and her husband would be so proud of what has been accomplished. It would bring tears to her eyes."

Late last month, after a Des Moines Register reporter began investigating the situation, the foundation board voted not to hand over \$516,000 from the sale of the land to the Kildee project. The \$51,000 that had already been transferred to the project, however, won't be taken back.

"We felt that what was done granted the Powerses' wishes," said Christensen.

Kildee Hall "was a project that was under way, it was a high priority of the university, of the College of Agriculture, and of the foundation as a way to perpetuate and improve and sustain Iowa agriculture."

The renovation, he claimed, "was a good fit for our mission."

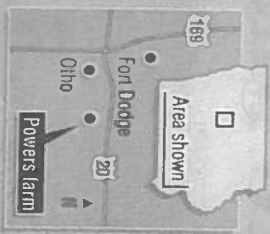
Richard Ross, dean of ISU's agriculture college, said he didn't know who made the original suggestion that the Powers estate be liquidated for the Kildee project.

"I don't know whether you want to call it a shortfall or a continued striving for reaching a goal," he said. "We had an obligation to raise private funds" to get public money for the project.

"It was my understanding that we had no restrictions on selling the Powers farm," Ross said.

The official record on the Powers estate is not open to the public. Records of all foundations connected to public universities in the state are confidential, said Frank Stork, executive director of the Iowa Board of Regents. These so-called affiliates are private,

## A farm, a gift and a controversy



**1864** Pioneer's Patrick and Nancy Powers buy a farm near Duncombe.

**1952** Kiley Powers, their grandson who farmed and operated a seed company on the farm, dies.

**1957** Marie Powers wills entire \$1.2 million estate, including \$651,000 in cash, to Iowa State University. She asks that the 240-acre farm be operated as Kiley Powers Farm and buildings be maintained.

**DECEMBER 1995** Marie Powers dies at 93.

**SEPTEMBER 1996** Iowa State University Agricultural Foundation accepts gift and decides money should go to \$21 million addition to Kildee Hall, a livestock research facility.

**NOVEMBER 1996** Foundation gets judge's permission to list the estate as "restricted assets."

**1998** Foundation learns Kildee project is cash short and pledges Powers' cash.

**SEPTEMBER 2000** Despite disagreement, foundation moves to sell farm and use proceeds for Kildee building.

**JANUARY 2001** Neighboring farmers agree to buy the land, appraised at \$516,000.

**MARCH 29, 2001** Bewing to dissent, the Agricultural Foundation withdraws its offer to use farm proceeds for Kildee building and agrees to use money for "educational purposes."

SOURCE: Webster County court documents, Register interviews KATIE WARDLAW FOR THE REGISTER

nonprofit groups. They are not subject to open-records law, he said.

"They believe strongly they were organized as private entities to operate a step removed from public bodies," he said. "That really facilitates donors who want to give money or other contributions without being in the public eye for everything they do."

The secrecy makes it almost impossible however, for survivors to know whether instructions that family members gave when donating money are followed.

Edwards said he had to be "pretty aggressive" to learn how

the board had handled the Powers estate. "It was my responsibility as a trustee not to be naive and not to accept anything that anybody tells me," he said.

A bill to open the foundations' financial records died in an Iowa House subcommittee in February. An ISU report in November disclosed that the \$21 million Kildee renovation included a \$32 million gift from the larger Iowa State University Foundation, which has net assets of \$433 million. The Agricultural Foundation, which has net assets of \$3.4 million, was not listed as a contributor. No official could explain why, considering the money from the Powers estate came through the Agricultural Foundation.

Regents records show there are nine affiliate organizations that file separate annual financial records. The groups include a research foundation, Stanton Memorial Carillon Foundation and the Iowa 4-H Foundation.

“She had a great love for the place,” neighbor Richard Moenck said of Marie Powers. Moenck’s son Darrell plans to buy a portion of the farm from the foundation.

“She was pretty much alone. She gardened and walked the fields pulling weeds,” he said. “She lived frugally and was heartbroken when she had to retire.”

Little at the farm site gave testimony to the love Kiley and Marie Powers had for their farm until a sign was posted on the wall of a seed house.

The sign tells the farm’s history.

It might not be there for long. Moenck, whose son will officially take possession in a few days, said the future of the buildings has not been discussed.

Reporter Frank Santiago can be reached at (515) 284-8528 or [santiafo@news.dmreg.com](mailto:santiafo@news.dmreg.com)

# Legacy lost

04-15-01

## ISU shouldn't have sold donated farm

**A**s nieces of Kiley and Marie Powers, we are deeply distressed with the Iowa State University Agricultural Foundation's disposition of their very generous gift to ISU.

Our spouses and two sons are ISU graduates, so we have a special enthusiasm for cardinal and gold; and we are proud that Uncle Kiley and Aunt Marie endowed ISU with this gift.

It was a rude surprise to first learn of this issue from the Sunday Register article, "ISU Foundation Dismisses Widow's Wish, Sells Farm," April 8. This event has been so quietly executed that we had no knowledge of it, even though one of the land buyers rents farmland from us adjacent to the Powers' farm. One wonders how this sale was handled.

The suggestion that Marie Powers "would be shedding tears of joy" over the foundation's manipulation of her legacy is insulting to those of us who knew them well. Neither of them is here to react, but we feel very sure it was not what they intended, and Marie's will is quite clear.

Her will was very specific regarding maintenance and improvements to the land and buildings.

Somehow, this gift became a "burden" to the foundation, the will was broken and a portion of the farm has been sold. No doubt this was a completely legal process, but the moral and ethical issues remain poorly addressed.

The foundation should reconsider any plans it may be entertaining regarding the "plaque on a rock," as we aren't likely to need a permanent reminder of the foundation's disposition of this gift.

We must express our deep appreciation to those board members and public who support our view.

—**Marjorie Husen and Ramona Lee,**  
3919 Fletcher Ct., Ames.

I appreciate the article

concerning the Marie Powers estate and its handling by the Iowa State University Agricultural Foundation.

One point I would like to clarify is that the whole problem was set up by the ISU Foundation (ISUF) and former ISU President Martin Jischke prior to the ISU Ag Foundation knowing anything about it.

The ISUF and Jischke found out about the estate coming to ISU months prior to the ISU Ag Foundation knowing about it. The ISUF attorneys drafted the documents to break the will, and Jischke insisted that the ISU Ag Foundation follow his mandate that the estate be pledged for the animal-science building.

The ISU Ag Foundation didn't have the backbone to stand up to Jischke and now has to deal with the aftermath.

This shows the power of a college president and the need for closer oversight by the Board of Regents and the Iowa Legislature. Volunteers on the foundation boards cannot be expected to oversee these large, complex organizations.

I support some level of opening up the ISUF records so that Iowans can be assured that their funds are being well-handled. There could possibly be a detailed audit ordered or performed by the Board of Regents, though this is scary due to the coziness between the Board of Regents and university officials. The state auditors at ISU are not good enough and wouldn't know what to look for.

I consider all funds in the ISUF to be quasi-state funds since no donors give to these foundations but give funds to ISU through these organizations with the thought that they will have their best intentions at heart. We know now that is not always the case.

How many more are out there? We'll never know until some accountability is demanded. Don't buy the smokescreen about donors needing privacy. There are ways to

handle this without disclosing names and private financial information. You have to assume there are other reasons the ISUF is scrambling to keep its records closed.

The Powers family appreciates the recent disclosures. If this had happened totally within the ISUF, it would never have come to light.

—**Mark E. Gannon,**  
former ISU Agricultural  
Foundation coordinator,  
2811 N. Dayton Ave., Ames.

As a farmer's daughter and Iowa State graduate, I am horrified at the actions of the ISU Agricultural Foundation. If it cannot understand the importance and value a farmer would place on a gift of land, then it has gotten either hopelessly off track or terribly greedy.

Until this situation is remedied, I will hold all of Iowa State's fundraising arms responsible. I have formulated a response that I would encourage fellow Iowa Staters with farm backgrounds to adopt.

I will tell them that since they appear to have taken a liking to real-estate brokerage, they may have a 3x3 plot of my yard to do with as they like.

—**Denise Doescher,**  
3106 S.W. Coves Dr., Ankeny.

The story explaining how the ISU Agricultural Foundation reneged on its promise to a donor suggests that foundation officials who want their records kept secret aren't as concerned about protecting donors as they are about protecting themselves from donors.

—**Bill Kuerth,**  
420 Briarwood, Ames.

Regarding "ISU Foundation Dismisses Widow's Wish, Sells Farm": That is not "An Iowa Moment."

—**Beverly A. Cummings,**  
1812 Jackson St.,  
Sioux City.

Mark E. Gannon  
2811 N. Dayton Avenue  
Ames, Iowa 50010

October 23, 2001

To: ISU Agricultural Foundation Board Members:

Jim Christensen, Jeff Plagge, Steve Tubbs, Steve Berger, Paul Edwards, Gary Smith, Wendy Wintersteen, Eric Hoiberg, Karen Bolluyt, Richard Ross, Stewart Melvin, John Miranowski, Jerry Miller, Warren Madden, President Geoffroy,

I am writing today to explain to you from my perspective the events surrounding the Marie Powers situation and ask for your assistance in achieving a resolution to the problem. I know that many of you are upset about the negative publicity that the AgF has received. I am also upset that it had to come to this but there was no other way to get to the root of the problem since the ISU administration and the ISU Foundation chose to hang the AgF out to dry and are continuing to do so. I am upset because I know the AgF's history as well as anyone and know that elite history has been tarnished, not by the publicity but by the deliberate acts of Martin Jischke, Murray Blackwelder and David Topel to name a few. The publicity about this case attempted to right the Marie Powers situation and open up Iowan's eyes as to how the ISU administration and the ISU Foundation work under their veil of secrecy. We know that the Marie Powers situation is not an isolated incident. Some of the other cases have come to light and more are on the way.

When I heard early last December from Paul Edwards that the AgF had decided to sell the Powers farms and put the funds in the Kildee Hall project, I asked Paul what the explanation was that the funds are needed for Kildee addition. Paul answered that it was explained to him that the money from the sale had to go to Kildee. I explained that it did not have to go there but that they could indeed vote it to go there but that didn't make any sense to put money in a fully funded project as was expressed in writing by Dean Topel several years ago.

The next week I got an appointment to see Richard Ross and we met shortly before Christmas. He was cordial enough and listened to my explanation of the history of the Powers' farm. I explained that the Powers were seed people and animal science would not have been their intended use, the fact that this gift was strong armed by Jischke and Blackwelder toward the Kildee Hall project in the first place, the fact that Mrs. Powers' attorney expressed to me that he felt ISU was wrong in directing the funds the way they were and that it was explained to the Board several meetings ago that the Kildee Hall project was fully funded. Dr. Ross explained that the College of Ag had a lot of budget problems and he needed to solve these anyway if he could. He said he was informed that the Powers funds and farm had been approved for this use and that is what he intended to do. It was clear that was the extent of the explanation I was going to get. I told him of several other ISU farms with Animal Science ties that may be better farms to sell for this purpose but he stated this was not my role to give him advice in this area. I left knowing that I had accomplished nothing but at least I knew the ISU stance. Several days later I called and left a message with Mrs. Christensen for Jim to call me but I never got that return call. I assumed here that Jim had likely got a call from Richard Ross not to call me back.

In January I met with a reporter with the Ames Tribune and after a month of them not getting to the story, I met with Frank Santiago of the DM Register. I told Frank I would go to Fort Dodge and get a copy of Mrs. Powers probate information. After I got the courthouse information, it was clear how much uglier this case was than I imagined. After viewing the will, affidavits and the cy pres information, it was clear of the conspiracy to steal the Powers legacy for a completely unintended use.

When I first heard of the Powers farm, it was December 6, 1996, almost a year after Mrs. Power's death. David Topel explained it to Jeff Plagge and myself that the Ag. Foundation had gotten this gift of land and money. He explained that Jischke was insisting it be committed to the Kildee Hall project one way or the other. He said that the ISUF had gone to court to get this use approved. He said that he did not know who Marie Powers was and didn't know her connection

to ISU. This turned out to be the first lie that I heard. I didn't know when Jeff Plagge knew but I knew he had at least been briefed on this situation prior to this meeting.

I could go on for a long time surrounding this case but I think I should at least list many of the problems and circumstances in this case. All of these have written documentation if you choose to see it.

- David Topel received a memo from John Pesek in early January, 1996 explaining who Marie Powers was and her interests in seed science. Murray also knew what her interests were and they were not only ignored but blatantly disregarded.
- Murray Blackwelder tried to get the AgF name removed from the will and replaced by the ISUF.
- Murray Blackwelder told David Crumley, Mrs. Powers' attorney that he was the President of the AgF and could sign for the AgF. When Crumley asked for this in writing, Murray never responded.
- Murray also told Crumley that the AgF had been merged with the ISUF and the AgF no longer exists. Again Crumley asked for written documentation that he never received.
- It was stated in the probate information that the Powers' had had contact with John Pesek and Neil Harl in the past and wanted to leave their land to the AgF for safekeeping. Blackwelder and the ISUF attorney had access to this and chose to ignore it.
- Much negotiation went on prior to the Cy Pres between Crumley and Murray about the use of the funds and the length of time to hold the farm. Murray wanted to sell the land immediately but finally settled for a three year holding period.
- Crumley's written statement explains the extreme pressure he felt by Murray and how he felt the university did not appreciate Mrs. Powers legacy and gifts.
- Cy Pres is worked out in the summer of 1996 with Jeff Plagge signing for the AgF within a week after the fall 1996 meeting. It is not clear when Jeff knew about this case and he may not have knew about it prior to the fall 1996 meeting. Board members, David Topel and Martin Jischke (and maybe Dennis Marple) knew about this gift and the backroom negotiations through two board meetings and did not reveal it to the board.
- David Topel reveals to Mark Gannon on December 6, 1996 the Powers gift. Jeff Plagge also in attendance. Topel states he doesn't know who the Powers were and their connection to ISU. He says that the AgF is being directed to use these funds for the Kildee Hall addition and there is no negotiation with Jischke in this matter. Memos are sent to the AgF Board explaining such.
- Due to the demands of Jische, the AgF board approves using the funds received as back-up funds in case the Kildee Hall fundraising falls short. The funds and farm are placed in restricted assets for Kildee Hall.
- After several meetings (I think Spring 1998) Topel states that the funds are needed for Kildee Hall but the farm is not, thus the farm is now declared an unrestricted asset on the AgF financial statement. Topel stated clearly that the Kildee Hall funding is now complete. For some unknown reason the funds are not drawn out of the ISUF account for at least two years after approval to use them for Kildee. That leads one to believe they were not really needed at all but a convenient excuse to use them for other purposes.
- It turns out that the funds approved by the AgF board for Kildee Hall were funneled to Reiman Gardens and Curtiss Hall renovation without AgF board

- As of yet there has been no written apology. The only one resembling such was by Ben Allen who stated, "While it is difficult in retrospect to judge actions and comments, we apologize to any person that may have been offended or felt the handling of the estate was done in an inappropriate manner". This only says that we apologize to anyone dumb enough to not understand that we did it right. There was no admission of wrongdoing in this statement. This was carefully worded to appear as an apology without admitting anything.

I want to say that I am proud of the way Paul Edwards has stood up for principle in this case. I suggested Paul's name to be on the board and am glad I did. From what I hear he has taken criticism for his standing up but he and I know he has taken the high road. I have not heard one negative comment from anyone; but since I'm not on campus anymore, I really don't expect to hear many. I still have people coming up to me almost everyday and thanking me for assisting here and bringing to light what many know has been going on within the ISUF for many years. The people in Ames know what the score is with the ISUF.

I am most disappointed with the AgF board for not taking a stand, making a public apology on their own, and righting the situation. I really felt that would happen when it was learned how you were set up and hung out to dry by the ISU administration and the ISUF. I honestly hoped that Dean Ross and Jim Christensen would have looked harder into the issue in December 1996 and maybe could have avoided the whole problem. This problem reflects poorly on ISU and has cost a fortune. This was not my goal but it is clear that if it weren't the Marie Powers situation that came to light, it would have been another case. You probably know this case has received national attention by an in-depth article in the Journal for Higher Education and has caused all foundations to take another internal look at the way they handle future gifts.

You probably won't give me the time of day but I have several requests to help resolve the problem.

1. The AgF get their own backbone and demand a public apology from the ISUF for their handling of the Powers farm. Also demand the ISUF refund to the AgF for the funds originally put in the Kildee Hall addition and then use these funds for Agonomy or seed science issues. I would also like to see you head up an investigation of the funds that went into the Kildee Hall project from all sources.
2. Publicly apologize the ISU community for the damage that has been done and pledge to right the wrong and not do such a thing again.
3. Rework the Board so that there are an equal number of off-campus and on-campus members so that the ISU administration doesn't run the board.
4. Request the ISUF Board to ask Murray Blackwelder to resign as part of the ISUF Board of Governors for the damage he has caused to the AgF and ISU.

If the above points are not part of your resolve, then I suggest that the AgF fold and put the assets in a fund in the ISUF. You are in essence a pawn for the ISUF and the ISU administration so what difference does it make. I have heard from many prior board members that can't believe what happened and agree with this assessment.

I challenge you to restore the proud history of the ISU AgF or put it out of its misery. Incidentally, we are still hearing reports that ISU and ISUF are still fielding phone calls saying that the Powers situation was not their doing but solely the AgF's problem. Now you know your role in the ISU marketing plan. It makes me sick.

It has been stated in a Letter to the Editor that I resigned at ISU about this matter. That is not entirely true since there were many other problems in the College of Ag to be

upset with and disgusted me. An administration that orchestrates, tolerates and covers up a case like Marie Powers undoubtedly has other problems also. I don't have time right now to tackle any others but don't rule out the possibility in the future.

We will continue to fight for open records at the ISUF. You will be reading more as time goes on. Your support in this matter would be helpful. Without the gift being directed to the AgF and Mrs. Power's attorney standing up to Murray, the AgF would have never known about the gift and the fraud would continue. How many others did Murray get away with prior to this one? How many other well-intended donors have had their wishes thwarted? We'll never know without some type of accountability and this will not come from a hand picked panel of ISU insiders as is being proposed.

Sorry, but the truth hurts sometimes.

Sincerely,

Mark Gannon

Mark E. Gannon  
2811 N. Dayton Avenue  
Ames, Iowa 50010  
(515) 291-5942

April 17, 2002

To: ISU Foundation Board members

I am writing you today to appeal directly for your assistance in restoring the credibility of Iowa State University and the ISU Foundation. Some of you may know that I was directly involved with the Marie Powers Estate issue and we have not yet been able to resolve the problem. Since this has not been resolved, the ISU and the ISUF's credibility are still on a slippery slope that will take years if not generations to recover.

One of my reasons for writing and sending you the following two attachments is to give you a more complete background into this case. The first attachment is an updated version of a memo I gave to President Geoffroy and new Ag College Dean Catherine Woteki several weeks ago. The second attachment is a memo I sent to the ISU Ag Foundation Board last fall. Both of these give good background into the Marie Powers case. Even though there has been much in the press in central Iowa, I question whether many of the ISUF Board members have a good feel for what went on behind the scenes and why some of us are so concerned about the past problems and what will be done to insure it doesn't happen again.

My intuition and human nature tells me that the Marie Powers situation is not an isolated incident and that the ISUF has many such comparable situations within their walls of secrecy. I hope they don't but the way this one was handled seemed to me like this was normal procedure.

The past handling of this case and the present non-action is causing a public relations nightmare and a huge funding problem for ISU. The ISUF cannot pass this blame onto anyone but themselves. I suggest several ways to remedy the problem in the attachments.

I am asking the members of the ISUF Board to properly address this problem and assume their proper fiduciary responsibility to all the ISU community. The time to take ISUF and ISU administrators at their word is over. If you assume the responsibility of an ISUF Board member then you may have to at least make the unpopular decisions as I have suggested. The lack of taking corrective action may result in another foundation being formed that will not have the baggage of the present ISUF. If the proper procedures had been in place and been followed up on then the Marie Powers situation could not have taken place. You need to require accountability from the ISUF staff. Too often most foundation boards are honorary rubber stamps, but this time lack of concrete accountability has had a huge cost.

I would be glad to provide any documentation requested and address the Board should you choose to do so. Copies of this memo and attachment will be provided to other interested parties.

Sincerely,

Mark E. Gannon  
Encl.

Mark E. Gannon  
2811 N. Dayton Avenue  
Ames, Iowa 50010

April 16, 2002

### **Problems Relating to the Handling of the Marie Powers Estate**

1. Marie Powers died on 12/25/1995. Murray Blackwelder (MB) as President of the ISUF is notified in the first week of Feb. 1996 but does not inform the AgF of the gift. AgF Board President hears about the gift in September 1996 and the full Board knows nothing until 12/96.
2. MB attempts to change the name on the will in Spring 1996 from the AgF to the ISUF with the approval of MJ and DT.
3. MB tells Power's attorney Crumley that the AgF no longer exists and he now has the authority for the AgF in the attempt to change the name on the will. Marie Powers attorney asks for verification in writing. MB doesn't respond.
4. David Topel, (DT) ISU Ag Dean and MB get a full report on Mrs. Powers from former Agronomy head John Pesek detailing her Agronomy and Seed Science interests in Feb. 1996. Her wishes and directives are also clear in reading her will and probate court affidavits.
5. MB applies "extreme pressure" on Crumley and Power's estate executor into going along with the Intensive Livestock Building (ILB) funding. MB also offers Crumley football tickets as enticement to go along with the breaking of the will (Cy Pres proceedings).
6. Cy Pres is filed in September, 1996 stating there are no buildings on the property and that it is impractical for the AgF to manage the farms. A full appraisal is in the ISUF files documenting the buildings and Mark Gannon is the manager of the AgF in-charge of managing all other AgF, CAD and ISU farms, some of which can never be sold.
7. Cy Pres is signed by Jeff Plagge (JP), President of the AgF on 9/12/96 but is only informed shortly before this date about the gift and what the Cy Pres proceedings are all about.
8. AgF board is not informed of the gift nor the Cy Pres proceedings until after the process is over and almost a year after Marie Powers death.
9. When the gift is finally acknowledged, DT misinforms the AgF Board of having any knowledge of Mrs. Powers history and why she gave a gift to the AgF.
10. DT informs MG of the gift on 12/4/96 so that the news can be broken to the full AgF Board. JP also present at the meeting. DT tells the AgF Board that the AgF has no choice but to go along with the MJ decision to reserve the MP funds and farm to the Intensive Livestock Building.
11. Belin Law firm attorneys (ISUF Attorneys) reportedly are acting on behalf of the AgF Board during Cy Pres proceedings without being hired by the AgF Board. They use the address of the AgF as the Memorial Union. The address of the AgF has never been the Memorial Union and the AgF By-Laws state that attorneys have to be hired by the Board.
12. Attorneys also collect large fees paid by MP estate funds.
13. Attorneys create a conflict of interest by representing two parties with differing interests.
14. Powers funds are placed into a building fund account at the ISUF for use in the Intensive Livestock Building and the farms are placed under restrictive assets for the possible use on the Intensive Livestock Building.

15. Double fees are charged by the ISUF on the funds in early 1996. These were to be reduced and returned immediately. Fees were not returned until 2001 after publicity on Marie Powers Estate forced them to do so.
16. Building funds are reportedly to be transferred to the ILB fund in 1997 or 1998 but still in the account in 2000. AgF Board approved transfer to ILB fund since MJ gave them no choice.
17. Internal ISU report finds that the funds were actually sent to the ILB fund, Reiman Gardens and Brenton Center by order of then Ag Dean Richard Ross. It is unclear if the funds actually went to Brenton Center or Curtiss Hall office renovation. Brenton Center officials say no funds came to them. This is clear misallocation of the AgF Board approval.
18. Tom Mitchell meets with Mark Gannon a month after the MP article in the DM Register stating he wants to know how I think the ISUF was involved since he can't understand the connection. MG explains in a breakfast meeting. It turns out the ISUF had an internal report made three days after the article summarizing the ISUF background in this case and their direct involvement. After getting a 1.5 inch stack of ISUF files copies, it's clear TM was either lying about not knowing ISUF involvement or totally uninformed, both of which are dangerous characteristics for the President of the ISUF.

#### **Actions to be taken to Restore ISU and ISUF Credibility**

1. Marie Powers funds to be returned to Agronomy uses
2. ISU and ISUF issue a full written apology and admission of guilt to the entire ISU community
3. MB asked to step down from the ISUF Board of Governors. As I understand he cannot be required to leave but this would be a public showing of ISUF disgust with his actions.
4. A full audit by a new outside auditing firm should be performed covering the last 10 years that will audit donor's intent and see that they have been followed to the letter of the agreements. This audit should also look at discretionary spending and what it was used for. This audit should then be presented to the Board and made public withholding all donors names. This audit should also be performed every three years from here on.
5. Every farm sale and Cy Pres proceeding over the last ten years should be investigated and a full report filed to the Board.
6. Any future Cy Pres proceedings need to be approved by the ISUF Board
7. An internal anonymous whistleblower system should be in place within the ISUF or at least all employees should sign yearly that they know of no conflicts of interests or misallocations of funds within the ISUF.
8. No farms sold by the ISUF without the approval of the ISUF board.
9. No ISU direct funds are to be received by the ISUF without the approval of the ISU accounting department. ISUF now accepts checks made out to ISU thus allowing ISU administrators to circumvent the ISU purchasing and accounting scrutiny and use the funds as they wish thus creating a "slush fund".
10. ISUF should only pay out when directed by the proper authority. For instance, Richard Ross as Ag Dean had no authority to direct funds to Reiman Gardens and the Brenton Center. ISUF should have procedures in place that Ross should have been required to show evidence that the use he directed had been approved by the AgF Board. The auditing firm can verify that this authority is properly disclosed in the file.
11. The ISUF should fund an opinion poll that is properly worded as to get the true feelings of the ISU community and Iowa citizens in general. The polling groups should at least be broken down into ISU students, ISU employees, ISU alumni and Iowa citizens. This should then be followed up periodically to track changes.

**Mark Gannon  
2811 N. Dayton Avenue  
Ames, Iowa 50010**

August 8, 2002

Dear Concerned Parties:

In late June ISU College of Ag Dean, Catherine Wotecki, through an eight page letter to 38,000 ag. alumni and friends stated her commitment to reestablishing the credibility of the College of Ag in light of publicity problems after the Marie Powers controversy. I applaud her efforts to address past problems and concern to set a new course. I hope she is sincere but the content of her letter leaves me with an empty feeling that nothing has changed.

I was mentioned in that letter as the person that had asked for information surrounding several farms and accounts. As a former College of Ag employee and the main person that revealed the Marie Powers scandal they know I know what and where to look for some of the problems within the College of Ag. Even though Dean Wotecki, with the blessing of President Geoffroy, seemed to assure everyone of a new course of action you should read on before you take her words to heart.

It was stated that the problems addressed in the letter were discovered by an ongoing internal audit and not discovered as a result of my information request. I know this is not the case since this coincidence possibility would be almost impossible to calculate. The problems noted were partly mentioned in a meeting I had with Ms. Wotecki and President Geoffroy in early May and my request for information in late May. It is true that they were undergoing an audit of endowment accounts and the ones they were investigating came out clean. The accounts I asked for information were not and would not have been picked up by their internal investigation. Even if they were, there is no doubt this information would not have been made public without College of Ag officials knowing I might make it public.

I made my public information request in late May. I was told then that due to the volumes of information requested and the fact that key people would be out of town in June that I could not expect the information until July 1. I said I could live with that. Little did I know that they had time to gather the information, have consultations with an attorney that offered a legal opinion on part of the information, accountant review the files and issue more than 38,000 letters to alumni and friends. In other words, the letters issued and press releases prior to July 1 were a preemptive strike to head off public

opinion so when the information was made public it will appear to be old news that had already been dealt with. They know how damaging the information is so why not try to head it off and avoid another "Marie Powers" situation.

One of the main problems pointed out by Ms. Wotecki was the Coles Farm Gift Account in which \$205,839 is to be returned to the fund over the next three years since most of the expenditures were deemed not in fulfillment of Mr. Cole's wishes. The money in the fund comes from farm income of a Hamilton County farm owned by the State of Iowa but the income is received and distributed by the Committee of Ag. Development, an ISU affiliate in the College of Ag. She stated clearly her opinion that all the payments were appropriate but just not right for this fund. Some of these payments are below. You decide if they are appropriate uses of your money.

- a. \$24,722 paid to Washington State University to pay off an employment contract for Lorna Michael Butler, ISU College of Ag faculty member
- b. \$2,000 to Lorna Michael Butler as a "consulting fee" during her job interview. (Not many people get paid to interview)
- c. \$6,613 in moving expenses for College of Ag administrators
- d. \$400 in cash to Bagdanov and Bezugly – Ukranian foreign visitors
- e. \$5,555 to Dr. Yousseff Assar – foreign artist in residence
- f. \$500 to Dr. Michael Pariza – Foreign visitor
- g. \$600 cash to 3 foreign visitors from Hungary – names not identified
- h. \$1,500 to Jian Zhang – foreign visitor
- i. \$2,600 to Laslo Fodor and Tividar Vajsz – foreign visitors
- j. \$3,100 to Memorial Union for parking the "Dean's" car at Union (car now sold)
- k. Many other thousands of dollars to visiting professors and foreign visitors
- l. Tens of thousands of dollars in Mastercard and cell phone bills
- m. Tens of thousands of dollars to administrators as entertainment and travel reimbursements

The point here is much of this may be legitimate but I think a lot of these expenses would have trouble going through the ISU purchasing system which is where they belong especially when these funds are state funds that were received as rent from a state owned farm. Handled the way they were they are under the radar screen of the ISU purchasing system and the state auditors. From the records I received it was not until 1999 that any funds were used for scholarships and only \$1,159 was used for research on an account that spent \$270,000 in the last ten years, of which \$205,000 is now going to be reimbursed. They will not answer or do not know where the reimbursement money will come from. .

Dean Wotecki also stated in her letter that ISU has made a grant of \$148,423 to the Committee for Ag Development for the 160 acre Roscoe Marsden farm in Boone County that CAD purchased from the ISUF in 1999. The original documents and every voucher through March 2002 state that ISU paid CAD principal and interest that was categorized on the ISU voucher as rent for this farm. It appears CAD may have been categorizing it as a grant instead of rent or principal and interest. That is

up to their accountants to find a way to justify this discrepancy. My concern is with ISU. I was working for ISU and CAD at this time and told College of Ag officials that it was illegal to purchase this farm on contract without recording the contract and getting it approved at the Board of Regents. The answer then was to be quiet and that we would categorize the contract payments as rent and when the contract was paid off then CAD would merely hold the farm for ISU and not charge rent. The State of Iowa would then actually own a farm that would not be disclosed to the state auditors or the Board of Regents. This was a premeditated attempt to deceive the State of Iowa and Ag. Dean Wotecki has twisted the facts even further stating that ISU made a grant to CAD when it simply was not the case.

It was revealed that the ISU Research and Demonstration Farms deposited \$7,400 in state funds in an ISUF account that was used for office parties and employee recognition. These checks were made out to ISU (State of Iowa) and deliberately deposited in the ISUF account. There is two problems here in that ISU employees committed an illegal act in not properly depositing the funds in an ISU account so that they could use it for purposes to which they would not have to answer to the ISU accounting and purchasing departments. The second problem is that the ISUF accepted the funds without question when the checks were not made out to them thus being an accomplice to this diversion of funds. How much other state money is directly deposited in the ISUF without the State of Iowa knowing about it? You will never know without opening up the records of the ISUF and having state employees you can trust.

Another problem is the Edith Lagerstrom farm that was accepted after her death in 1996 by the ISU Foundation with the agreed plans with ISU Animal Science administrators of establishing a satellite beef-teaching farm. This idea has now been abandoned and the income or farm sale proceeds will be used for on-campus beef programs. Another promise made that can't be kept. ISU got her farm though and she is gone so who cares.

In the letter Ms. Wotecki was seeking to reestablish trust and accountability. I think she had an excellent opportunity to do so but fell way short of that goal. She has opened up more questions for me and I will not be able to read her words or hear her speak without looking for the full story somewhere in the background. This letter was sent out with the full blessing of President Geoffroy so this taints him also. I met with both of them in early May, 2002 and urged them to just come clean with everything, tell everyone you are sorry for the past and open up all the records so there is not as much backroom skulking as before. I guess that is too much to ask. Meanwhile many deserved faculty, staff and students are hurt financially and professionally by their lack of credibility. The Iowa Legislature members read about these incidents and don't feel confident about their budget numbers. In the end, ISU administrators will send more students to the Board of Regents meetings to complain about tuition increases when the real problem is internal and they don't have the gumption or character to straighten it out.

I know I have not made any friends with the ISU administrators in the past year and a half. They are now threatening to charge me clerical time for any of my inquiries. I'd love to charge them for our time in getting these funds returned. Through the efforts of many other people including Bill Kunerth, there has now been approximately \$850,000 returned to their proper funds with another \$550,000 that they are refusing to replace. These funds are the Marie Powers funds that were put in the Kildee Hall addition that Dean Wotecki considers water-under-the-bridge.

A lawsuit will be filed shortly to open up the records of the ISUF and to try to get the Board of Regents to begin their oversight of affiliated organizations such as the university foundations and well as other affiliated organizations such as CAD and the ISU Ag Foundation. The lawsuit is being filed with the financial support of the Citizens for Open Government that is made of private citizens, retired ISU faculty and present ISU faculty. We tried to work this out without a lawsuit but that was not fruitful. We think a legal precedent needs to be established by the courts. An Iowa Attorney General's opinion that the records should be open has been ignored and talks are simply a delay tactic until they have exhausted our will. We will settle this once and for all.

Respectfully submitted,

Mark Gannon

PS. Anyone wanting documentation of any the above statements, let me know.

Sat.  
05-31-03

## YOUR LETTERS

# ISU refuses to do the right thing

TO THE EDITOR

**L**ocal farmers and taxpayers have a right to raise concerns about the recent land purchases by Iowa State University affiliate the Committee for Ag Development.

CAD has a \$9 million net worth, which has been solely accumulated due to its ISU affiliation. Its employees are ISU staff; its headquarters is in Curtiss Hall; and ISU staff make up a large portion of its board of directors.

The statement was made by ISU that it does not accumulate land. History does not bear this out. The 706-acre Uthe farm, for which 240 additional acres was recently acquired, originally was purchased in the early 1990s as part of the National Swine Center that was to be located on campus.

Due to a long list of problems, this project was scrapped in the mid-1990s, but the farm is still here and now being added to. Most of the farm is rented or custom-farmed, with the crops being sold on the open market. The buildings are mostly rented to non-ISU-related parties.

The seed demonstration area Dean Woteki uses as one of the justifications for the ownership of the farm has been moved to another permanent location.

The Tilton farm just west of Kelley was purchased at the time Exceed Genetics was doing some research at ISU and wanted a farm for plots. Exceed apparently has blown out of town.

President Martin Jischke had a big announcement several years ago at the Research Park for Exceed when it was going to build a research building. This was never built, either. This farm also is custom farmed. ISU and its affiliates own many farms that could be

entertainment expenses. CAD also was holding the "dean's car" at the Union that was promptly sold last summer, also after another public inquiry.

In my opinion, the recent revelations about the Webster County Sheriff misusing public funds pales in comparison to some of the dealings in this case and others. Unfortunately, the state auditor's office is reluctant to police ISU like it would other public entities.

President Geoffroy and Board of Regents President Greg Nichols each wrote many state legislators recently in explanation for the land purchases in Boone County and the CAD/ISU involvement on the Black land south of Ames. In their letters, they both stated that CAD had not accepted any gifts for more than 30 years. This is wrong.

One example is the Marsden/Paulsen farm west of Ames. Mr. Paulsen died and gave a farm to the ISU Foundation in his will. A \$250,000 grant from this sale was directed to CAD by the dean of agriculture to purchase the Marsden farm from the ISU Foundation. The farm is now solely owned by CAD. Sure looks like a gift to me. Telling fibs to state legislators in these times is proving to be quite expensive.

I could go on, but you get the idea. If anyone wonders why many of us are pushing for open records at the ISU Foundation, you now know what we are talking about. CAD is much the same where ISU funds are used behind closed doors for the sole purpose of keeping it out of the public eye.

These affiliates should be abolished or required to file complete disclosures, but they are not willing to do this. This kind of management at ISU has

landed, 100 and its affiliates own many farms that could be sold to assist programs or scholarships but refuse to do so.

The usual excuse to accumulate land is due to Ames expansion, but so far, ISU and its affiliates have accumulated multiple times the amount of acres they have vacated. ISU could have cooperated with farmers in the area that would have willingly leased it land or participated in the studies, but it has alienated many by recent and past land dealings.

CAD had a meaningful historical purpose as a foundation seed company separate from ISU that could assist small farmers and seed companies throughout Iowa. It now has leased out its seed plant to Garst and rents or custom farms its land, and its primary purpose is to be a land holder for ISU.

CAD was the affiliate last year that was holding the ISU owned Coles farm funds which were being used as a slush fund for many years. After a public inquiry about the use of the fund (not by an internal audit as is being stated by the College of Ag), \$205,000 was identified to be returned to its rightful purpose. No word yet as to if it has been returned and where the funds are coming from.

Some of the uses deemed "appropriate" by the dean of agriculture were cash to many foreign (some unnamed) visitors with no explanation, pay-offs to an Washington State employment contract for more than \$24,000, a "consulting fee" paid to the same person to interview for the job, parking expenses for a car parked at the Memorial Union ramp for use of the dean of agriculture and tens of thousand of dollars in

kind of management at ISU has now gotten the state lawmakers disgusted and given them an excuse to cut funding. While CAD has been able to accumulate millions under the umbrella of ISU, many worthwhile programs and jobs are being cut to the bone.

The students and parents paying the tuition are the big losers in this, and the problem is getting worse. No blaming Jischke anymore. The current crop of administrators is making its own mistakes now.

I encourage you to support more openness at the College of Agriculture and its affiliated organizations. The ISU Foundation's open records policy is nothing more than an public relations ploy with not enough access yet to do a proper audit of their use of funds. Trial is still set to begin in mid-August on whether the ISU Foundation should be subject to the open records law. This is our only hope for true accountability.

I have met numerous people who have given up their plans to give to ISU due to the Marie Powers farm situation many years ago. The totals of those gifts are in the millions. My standard answer is to wait and see if they return the Marie Powers funds where they belong and if they are held fully accountable at the foundation. So far, ISU is refusing to do the right thing in both cases.

Many of the administrators who have made and are making these decisions are or will be long gone from Iowa and will never suffer from their preventable mistakes. We are stuck to pick up the pieces.

**Mark Gannon**  
2811 N. Dayton Ave.  
Ames

10-1-04

# Lawsuit over ISU donors reaches high court

Two men seek to have the ISU Foundation declared a public entity and its records opened to all.

By FRANK SANTIAGO  
REGISTER STAFF WRITER

Arlen Nichols got downright angry when Iowa State University announced it would disband its baseball program at the end of the 2000-01 school year.

How could a large university drop the ball?

That began the 75-year-old retired Des Moines businessman's battle with the Iowa Board of Regents and the Iowa State University Foundation that landed in the Iowa Supreme Court on Thursday.

Nichols and Mark Gannon, 47, a former university employee who lives in Ames, want the \$295.3 million foundation to be declared a public entity and make it subject to Iowa's open-records law.

What happened to baseball and other school operations, they contend, could be locked inside the secret records of the foundation, which raises millions for the university.

They say they were rebuffed when they asked foundation officials for financial information.

Gannon and Nichols say the regents are required to watch and control the operation, even though the foundation has moved offices off campus and has its own 200-member full-time and part-time staff.

Mark McCormick, a former justice and lawyer for the regents and foundation, argued Thursday that the organization is private and nonprofit, its records not an open book.

He noted the foundation has an agreement to raise money and be a trustee of donations. That arrangement, he said, is like a contract ISU might have with a food-service or security firm or other operation apart from the school.

Justice Michael Streit asked McCormick if the millions held by the foundation is the school's money. McCormick said the money is not until it is transferred to the school.

"The structure has always been a private foundation to benefit Iowa State University," McCormick said.

Tom Hanson, a Des Moines lawyer for Nichols and Gannon, said the foundation is "regents-sponsored and regulated solely to benefit a regents institution," and therefore a public entity.

Legal authorities say the stakes are high when the high court rules early next year. The outcome will affect all state university foundations, which pump millions into the schools.

If forced to reveal the foundation's inner workings,

See FOUNDATION, Page 2B

# High court hears case about ISU donations

FOUNDATION, from Page 1B

ISU officials say, fund-raising will suffer and people who want anonymity won't donate. Besides, officials claim, much of what the foundation does is already available to the public for the asking.

Nichols and Gannon were active in a group of donors, alumni and employees that battled for disclosure. The group objected when a 240-acre farm near Duncombe, willed to the ISU Agricultural Foundation by the late Marie Powers, was sold against her wishes after her death in 1995. She asked that the land be kept as a farm in memory of her husband who operated a seed company there. Much of the \$1.2 million proceeds went to the larger ISU Foundation and was spent on campus buildings and other projects.

After claiming the foundation didn't produce records they wanted, Nichols and Gannon sued. Their case was dismissed in September 2003 by Judge William Ostlund.

Nichols, a retired employment recruiter and longtime Des Moines resident, and Gannon, former land manager for the ISU Agricultural Foundation, appealed.

Using their own money, small donations from open-records advocates, and a \$1,000 gift from the National Society For Professional Journalism's legal defense fund, they hired lawyer Hanson and launched the appeal.

"If they have nothing to hide, then why not open the records?" Gannon said. "It's our school, not theirs, anyway. We need accountability."



what it means."

Bill Calhoun, UNI's vice president for advancement, said it was too soon to predict how the ruling

would affect gifts to the UNI Foundation.

"The overwhelming reason people give is to make a difference in

the lives of students," Calhoun said.

He said many donors' names are available in recognition lists contained in the foundation's annual report or its President's Club materials. But donors have had the choice to keep their name confidential, he said.

UNI's endowment was about \$39 million as of June 30; the U of I's endowment was about \$510 million. As of Dec. 31, ISU's endowment was \$304 million.

The Iowa decision is part of a trend in which courts are blocking public universities' attempts to hide their financial maneuvering, said Rebecca Daugherty of the Reporters Committee for Freedom of the Press in Arlington, Va.

"Almost always the lawsuits have to do with expenditures of funds," she said. "They think they can spend in secret when the institution they serve couldn't begin to claim to be secret.

Streit, in the court's unanimous opinion, made it clear that the foundation's records, in general, are public. The court pointedly declined to define what types of information could still be withheld.

The ruling brushed aside arguments by the foundation and regents that claimed the foundation was actually a private for-fee operation.

The arrangement, they contended, was somewhat like a food service or security company delivering a service — in this case raising and managing money — in exchange for a payment. The university's annual fee for the foundation's service has been \$750,000.

But the court said the fact that the foundation moved from campus and expanded its own independent staff didn't mean it evolved into a creation beyond the university.

Said the court: "A government body may not outsource one or more of its functions to a private corporation and thereby secret its doings from the public."

"The Foundation is plainly performing a government function," and the state's open records law that covers government functions applies, ruled the court.

Advocates for Iowa's open records law praised the unanimous decision.

"This case certainly sets a good precedent and makes a strong statement about the importance of open government," said Kathleen Richardson, executive secretary for the Iowa Freedom of Information Council. "Open records advocates around the country will be looking to this."

2-505

2-5-05

## Different personalities, a winning goal

By FRANK SANTIAGO  
REGISTER STAFF WRITER

Although they're a team, Mark Gannon and Arlen Nichols couldn't be more different.

Gannon, 47, is quiet and a bit intense. He runs a real estate company in Ames and used to work for Iowa State University's College of Agriculture. He's a man of numbers.

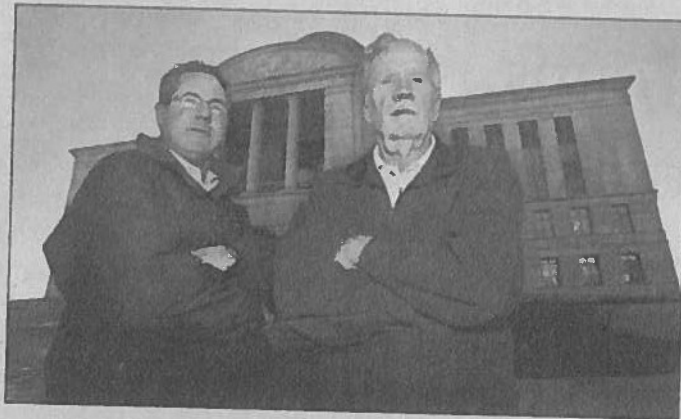
Nichols, 75, is not quiet, and speaks passionately about what he believes in. He's retired, lives in Des Moines and is good with numbers, too. Numbers like those in horse racing, one of many careers.

Neither is rich. They pooled what they had and begged for more to raise \$5,000 to battle the Iowa State University Foundation and the Iowa Board of Regents all the way to the Iowa Supreme Court.

After losing in the trial court, they won Friday in the Supreme Court. The court said the foundation must open its records as Gannon and Nichols wanted in their lawsuit.

"These are no big freedom of information advocates," said Bill Kunerth, a former ISU journalism professor and a friend of the two. "They are just good damn citizens who stood up when somebody needed to stand up."

Kunerth said there is a bit of irony in the court fight: There was little input from newspapers and other media organizations or advocacy groups in what



SPECIAL TO THE REGISTER

**Goes their way:** Friday's ruling by the Iowa Supreme Court that the Iowa State University Foundation's records are open to the public was a victory for Mark Gannon, left, and Arlen Nicholas, who had sued the foundation.

could go down in history as a major open records case.

"They were essentially alone in this," he said of Gannon and Nichols. "The news groups weren't much help."

Gannon began the campaign in the 1990s when he said he was upset about how the foundation handled the estate of Marie Powers. She left her 240-acre farm near Duncombe to the school with a request to continue the farm in the memory of her husband. But the farm was sold and the proceeds went into various campus projects.

Gannon took the story to the media. The foundation, in an unusual move, then opened all its records on the Powers gift.

Nichols followed the early developments and, he said, was appalled by what was going on. He teamed up with Gannon.

The two said they were numbed by their victory. The ruling was like a David vs. Goliath thing, said Gannon. It wasn't really expected.

"What we want is for the foundation to account for the money," said Gannon. "People have the right to know that it goes to the place where it's supposed to go."

Nichols said, "I'm elated. We want the Board of Regents to govern regents institutions. The regents can't allow the foundations to become so creative and get first pass at the cash."

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3/14/05

## Two men and a suit strengthen records law

Mark Gannon owns an Ames real-estate firm and once worked for Iowa State University's College of Agriculture. Arlen Nichols is a Des Moines retiree. They were brought together by what both saw as an arrogant determination by Iowa State University to conceal information about how the university's fund-raising arm raises and spends money.

The result of their partnership was a victory in the Iowa Supreme Court. The ruling allows Iowans to track how money is handled by foundations that raise money for state and local governments.

This case is one example of how Iowa citizens acting on their own do battle with the government over access to public information. They use as weapons state laws that were designed to keep the doors to government open to the people.

Gannon's involvement began when he blew the whistle on the sale of an Iowa farm contrary to the deceased owner's bequest directing that it be operated by the university. Gannon later filed a lawsuit to open up all ISU Foundation records, and Nichols, who had been following the story, joined Gannon's effort.

Their lawsuit initially ran squarely into a brick wall. A Story County trial judge ruled in September 2003 that the foundation is not a government entity



### Sunshine Week

Today through Saturday has been designated national "Sunshine Week: Your Right to Know." Each day, the Register's opinion pages will explore an aspect of the public's right to information about its government. To learn more about open government, go to [www.sunshineweek.org/sunshineweek/readingroom](http://www.sunshineweek.org/sunshineweek/readingroom).

and thus not bound by the open-records law. Although news groups were unwilling to join them in pursuing an appeal, fearing a loss would set a bad precedent, Gannon and Nichols forged ahead on their own. And they won.

The Iowa Supreme Court's unanimous ruling underscored an important principle of Iowa open-records law: Even though the ISU Foundation is not a government entity, fund-raising is a "core function" of the university, and the foundation is performing a government function. Thus, the court said, "its records are subject to disclosure."

This ruling is in the best interest of all Iowans. Foundations raise money for all sorts of government institutions — from zoos to libraries. The public has a right to know how that money is being handled. Thanks to the tenacity of Gannon and Nichols, they are now assured of that right.

“hawk-1” receive coverage for regular check-ups, prescrip-

Mount Pin...  
Philippine volcano...  
126 S. Kellogg, Suite 101  
Ames

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## Gannon is hero of Foundation fiasco

TO THE EDITOR

**T**he real hero of the exposé of the ISU Foundation fiasco regarding the Powers estate is Mark Gannon, former manager of the ISU Agricultural Foundation. To this point, he hasn't been mentioned in any of the news coverage of the latest development in the case in which the ISU Foundation has come clear and apologized for its inappropriate, unethical behavior.

Mark, because of high professional standards, resigned from his job with

the ISU Ag Foundation when no one would pay any attention to his objections to the (mis)handling of the Powers estate.

It was Mark who brought the incident to the attention of the press and the general public. Maybe he ought to be offered one of those \$100,000+ jobs with the Foundation, to ensure that it operates with a high level of integrity from here on.

**Bill Kunerth**  
420 Briarwood  
Ames

★ ★ ★ ★

## endangered species

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