

PREPARED TEXT – William Patrick Brady, DSBA President

October 1, 2019 Press Conference in Response to the Citizens for Pro-Business Delaware's Recent Attacks on the Court of Chancery and the Chancellor

Good morning, I'm Bill Brady, the current President of the Delaware State Bar Association. Standing here with me today are a number of other men and women who are members of our Bar Association, including several former Chief Justices, an Associate Justice of the Delaware Supreme Court, former Judges from the Court of Chancery, Superior Court and Family Court, past Presidents of the Delaware State Bar Association and past and present Chairs of several Sections within our Bar. We stand united in support of our Delaware Court system and its Judges, in particular, the Court of Chancery and our Chancellor, Andre Bouchard.

As you know, our Courts and the Chancellor have been under attack from a group calling itself Citizens for a Pro-Business Delaware. That group has been running a series of print, television and online ads which have repeatedly called the Court of Chancery "corrupt" and singled out Chancellor Bouchard for particularly harsh criticism simply because a litigant in the TransPerfect case decided by the Court, Philip Shawe, was unhappy with the outcome. We have been accused of "circling the wagons" in our defense of the Court. However, our goal is to provide a little information about the claims made by the Citizens group and about the group itself so that the public is fully informed and will see the real motivation behind this campaign.

The TransPerfect decision to which Mr. Shawe continues to object was originally decided by Chancellor Bouchard in August, 2015. That decision contains a short history of the TransPerfect company and I believe a brief summary is helpful to put the current issues in context. TransPerfect was founded by two parties then in business school together, Mr. Shawe and Elizabeth Elting. They served as co-CEOs of the company and at one time, were engaged to one another. However, as their business grew enormously, they became extremely hostile to one another to the point where both routine and critical business decisions would become hopelessly deadlocked because each had a 50% ownership interest in the company. Mr. Shawe actually had a 49% interest and his mother 1%, but she was firmly aligned with her son. Eventually, Ms. Elting petitioned the Court of Chancery seeking the appointment of a custodian to sell the company for the benefit of the stockholders, pursuant to Delaware law. That was eventually ordered by Chancellor Bouchard following trial. In particular, the Chancellor ordered that the company be sold with a view toward maintaining the business as a going concern.

Mr. Shawe appealed the Chancellor's ruling to the Delaware Supreme Court, which affirmed the decision in February, 2017 and noted that the Chancellor's remedy to preserve the company as a whole **"was well designed to protect the other constituencies of the Company – notably its employees – by positioning the company to succeed and thus secure the jobs of its workforce"**. In a separate ruling, Chancellor Bouchard ruled that Mr. Shawe had intentionally destroyed evidence and repeatedly lied under oath and as a result, awarded Ms. Elting over \$7 million in attorney's fees and expenses. The Supreme Court also affirmed that decision to sanction Mr. Shawe, noting it was **"based on a clear record of his egregious misconduct and repeated falsehoods during the litigation"**.

The post script to those decisions is that the custodian appointed by the Chancellor solicited bids and eventually oversaw a transaction whereby Mr. Shawe bought out Ms. Elting's interest in the company.

I recommend that you read the TransPerfect decisions and copies are available at the back of the room. They are lengthy, but shed a great deal of light on the current actions and motives of the Citizens group. In particular, they detail Mr. Shawe's repeated use of "mutual hostaging" and bullying tactics in order to get his way and having a plan to "create constant pain" for Ms. Elting until she acquiesced to his business demands and, as I noted earlier, Mr. Shawe's destruction of evidence and lying under oath, resulting in the award of attorney's fees.

Citizens for a Pro-Business calls itself a "grassroots organization", but nothing could be further from the truth. The group appears to be funded by Mr. Shawe and his mother, Shirley Shawe, and is spending, according to its own press releases, between five hundred thousand and one million dollars in print, online and television advertisements. Mr. Shawe himself is, from all accounts, the primary shareholder of TransPerfect, a company that is worth an amount approaching one billion dollars. The members of the Citizens group are primarily employees of TransPerfect. It's also represented by a professional public relations company which has carefully orchestrated its public statements and activities thus far. I ask you, is that a "grassroots organization"?

The Citizens group is largely made up of current and former TransPerfect employees. While they claim they can count among them a number of Delaware residents, I would submit to you that it is highly unlikely any Delaware members of the Citizens group have been accurately informed about the reasons behind the campaign and if they were, equally unlikely whether they would have even supported it in the first place. We would hope and expect that once they become aware of the true facts of the matter, they will disassociate themselves from the Citizens group and see it for the fraud that it is.

In addition, although the group claims to be for a “pro business” Delaware, where are the Delaware businesses that should be lining up to support it? Where are the business advocacy organizations, the Chambers of Commerce and the like? The answer is simple: Business owners and organizations recognize that we have the best business Court in the United States in our Court of Chancery. They recognize that the Citizens group does not speak the truth about our Courts, or the Chancellor or the underlying decision to which Mr. Shawe still complains about. They have categorically rejected the group and its personal vendetta against the Chancellor.

Likewise, the group’s recent call for diversity on the Court’s is disingenuous and a last gasp effort to attempt to legitimize its agenda and methods.

It would be easy to simply label Mr. Shawe as a sore loser. However, in the end, he didn’t lose his company, he wound up owning it. Despite that, and unlike most people, he couldn’t let it end at that and, again unlike most people, he has an almost unlimited amount of resources at his disposal and has used that to fund a false and misleading smear campaign against the Court and Chancellor. Recently, he has gone even further to include the Chancellor’s family in advertisements and commercials. As I mentioned in my recent message to the members of the Bar Association, we simply cannot stand for that.

In conclusion, I ask anyone who wants to know the true facts of this matter to simply read the record so that they can see through the charade that is the Citizens group.