

REMARKS BY  
JAY COEN GILBERT  
ON WHITE/LEACH BENEFIT CORPORATION BILL  
UPON INTRODUCTION TO THE  
PENNSYLVANIA STATE SENATE

February 7, 2011

Thank you Senator White and Senator Leach. Good morning. My name is Jay Coen Gilbert and I am a Co-Founder of B Lab, a Pennsylvania-based national non-profit organization working to support thousands of businesses that create market-based solutions to social and environmental problems. Our work includes helping to create the infrastructure needed to nurture this new segment of the economy by encouraging passage of legislation that enables the creation of Benefit Corporations. Our organization is responsible for drafting the model legislation that led to last year's passage of Benefit Corporation bills in Maryland and Vermont with strong bi-partisan support, and that was used as the foundation for the bill being introduced in Pennsylvania today by Senators Mary Jo White and Daylin Leach.

Similar legislation has been introduced this year in New York, New Jersey, North Carolina, Colorado, Virginia, and Hawaii, and is being considered in Michigan and California. Benefit Corporation legislation recently passed unanimously in both houses of the New Jersey legislature and in the House of Delegates in Virginia. The legislation was drafted with the oversight of *William H. Clark, Jr.*, a noted expert on corporate form and a partner at the Pennsylvania law firm Drinker Biddle & Reath LLP. Bill has served for a number of years as the draftsman for the Title 15/ Business Associations Committee of the Pennsylvania Bar Association and in that capacity was the author of the 1988 Pennsylvania Business Corporation Law. Over the past several months Bill Clark and our organization have had the opportunity to meet with different bar association corporation law drafting committees in Colorado, Maryland,

Pennsylvania, Vermont, Virginia, New York, and Washington. The Pennsylvania Bar Association supports the Benefit Corporation bill as introduced by Senators White and Leach.

There is a great need for the creation of this new corporate form. Over 50,000 businesses in the U.S. identify themselves as existing to create public benefit, not simply shareholder wealth. They strive to create quality jobs that improve quality of life in our communities. But they struggle with a capital market and corporate structures built for an old way of doing business.

After the latest round of economic and environmental crises, it's clear we need systemic solutions to the systemic problem that places the interests of shareholders over the interests of workers, community, and the environment. We can't change outcomes until we change the rules of the game. In short, we need new rules for a new economy.

Senators White and Leach are to be congratulated for their leadership, particularly in a time of intense partisanship, recognizing that Benefit Corporation legislation is the kind of game-changing legislation that can unleash the power of Pennsylvania's entrepreneurs and investors to create a more inclusive and sustainable economy.

Currently, individuals and groups seeking to establish organizations with a public mission can either organize themselves as not-for-profit corporations, or use a traditional for-profit corporate form. In the case of non-profits, there are numerous restrictions on the nature of their activities, and non-profits are thus extremely limited in their ability to attract capital to allow them to achieve their mission at scale. In the case of traditional for profit corporations, such businesses are generally required under the current statutory and case law to be conducted for the benefit of the shareholders to whom the directors owe a fiduciary duty to maximize shareholder value, thus limiting their ability to consider the interests of their employees, communities, or the

environment.

This legislation would create a new category of corporate entity known as the Benefit Corporation which would be expressly organized with the purpose of creating a material positive impact on society and the environment, not solely for the purpose of maximizing financial profit. Thus Benefit Corporations redefine success in business as creating benefit for society, not just for shareholders.

Business leaders and investors in this new sector of the economy are looking to incorporate and locate their businesses in states that offer the appropriate market infrastructure to grow and thrive. On the first effective date for Maryland's Benefit Corporation law, eleven companies were lined up at 6:00 a.m. outside the offices of the State Department of Assessment and Taxation in the hopes of becoming Maryland's first Benefit Corporation. There is demand for this new corporate entity and passage of Benefit Corporation legislation will lead to the incorporation of many such entities in the Commonwealth of Pennsylvania, which in turn will result in the creation of high quality jobs that improve the quality of life in Pennsylvania communities.

There are already 50 businesses in Pennsylvania that have met the performance, accountability and transparency requirements of the Benefit Corporation statute. These Certified B Corporations – like Cardinal Resources from Pittsburgh which helps provide energy and water resource solutions to businesses and communities here and in emerging markets, and Murex Investments from Philadelphia which provides growth funding for life-changing educational and financial services for the poor – these Certified B Corporation, and thousands of other high impact companies are waiting for our legal infrastructure to catch up with their entrepreneurial energy and give them the legal protection and public recognition they deserve for showing us a

better way to do business.

None of this would have been possible without the leadership and inspiration of a man we are lucky enough to have with us today. Hal Taussig is the founder of Untours, a travel business that for over twenty years has used nearly all of its profits, millions of dollars, to invest in businesses that serve the poor. Hal's quiet but powerful example of the potential for business to serve has already inspired countless social entrepreneurs and social investors, and today, with Benefit Corporation legislation, his example will have the opportunity to scale to a size that fits his vision and society's needs.

It is fitting that Pennsylvania was the first state in which prominent legislators reached across the aisle to find common purpose in Benefit Corporation legislation to support businesses that served the common good. The leadership of Senators White and Leach has already inspired bi-partisan legislators around the country. The legal framework for a new country was born here in Pennsylvania and today the legal framework for a new economy is born in Pennsylvania.

Congratulations to all of us.

Thank you.

Pennsylvania Certified B Corporations (partial list of 50 as of 2/1/11)

**Abacus Wealth Partners, LLC** is a national financial management firm committed to sustainability in investment management.

**Benchmark Asset Managers** is an advisor and portfolio manager with a strategic ecosystem of sustainable investments.

**Cardinal Resources** Clean Water. Clean Environment. Worldwide.

**Dansko, LLC** makes fun, comfortable footwear for men and women.

**e3bank** builds stakeholder prosperity and catalyzes change toward a more sustainable world.

**gBuild Construction Managers** Sustainable building services for commercial construction

**Greensaw Design & Build, LLC** is an eco-conscious construction firm dedicated to using architectural salvage to enhance modern living spaces.

**Hives for Lives** produces and sells local honey to help beat cancer.

**Hugh Lofting Timber Framing, Inc** crafts timber frame homes.

**Meidlinger Partners** is a private equity firm with expertise in the water and waste water sectors.

**Mugshots Coffeehouse & Café** is a socially conscious café with an extensive fair-trade drink menu and a local food menu.

**Nolan Painting Inc.** is a residential painting contractor providing interior and exterior painting, color consultations, and carpentry.

**One Village Coffee** is a regional coffee roasting company that supports non-profit organizations around the world.

**Practical Energy Solutions** provides building energy audits and building system optimization services.

**Praxis | Building Solutions, LLC** is a consulting firm for sustainable building practices.

**Praxis Consulting Group, Inc.** assists socially responsible organizations in developing high-performance, sustainable workplaces.

**Re:Vision Architecture** is an architecture, planning, and consulting firm specializing in sustainable design and development.

**Siw Thai Silk** works with village artisans in Thailand to manufacture pillows, throws, and wall hangings, using hand-woven silk.

**SQA Pharmacy Services** provides a unique, personalized medication delivery service to group homes, assisted living facilities and Federally Qualified Health Centers.

**STUDIOetc** is a design company for innovative, environmentally responsible tradeshow exhibits, events, and retail communications.

**SunPower Builders** are solar energy installation professionals with a knack for historical preservation.

**Untours** is a 35 year old travel business which offers apartment-based independent vacation packages in Europe, using nearly all profits to invest in poverty alleviation.

**WorkplaceDynamics LLC** specializes in delivering people metrics and building tailored software packages to help clients retain and motivate their employees.