

March 23, 2015

BY E-MAIL AND U.S. MAIL

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Re: Saving Sweet Briar

Gentlemen:

Our firm represents Saving Sweet Briar, Inc. ("Saving Sweet Briar"), a Virginia non-profit corporation, established by a group of Sweet Briar College alumnae, whose goal is to keep the College open so that it can continue its educational mission. We understand that you represent the College's Board of Directors and President. Please let us know whether you represent these persons in both their official and individual capacities, or if there is some other firm with which we should be communicating, as well.

The President's and Board of Directors' actions constitute a breach of their duties to the College and a violation of Virginia charitable solicitation laws. We write to ask that the President and Board of Directors of the College resign their positions of leadership immediately so that a new slate of candidates developed by our client can take their places. This slate of individuals is committed to fulfilling the goals of the College in an open, transparent, and inclusive manner.

I. The President and Board Have Breached Their Duties to the College.

We believe that the President and Board have failed to execute their responsibilities as leaders and have breached their fiduciary duties to Sweet Briar College. This failure is most obviously demonstrated by the secrecy and the complete lack of transparency with which the President and the Board conducted themselves in reaching their decision. Information from the College's official website, including videos of the President, Board Chair, and Board Vice Chair, describe a secret process that has been used by the College's Administration and Board to close the College. This appalling lack of transparency has led many in the community to question the President's and Board's willingness to explore every feasible option to preserve the College.

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We are deeply concerned that your clients' decision to close the College's doors appears to be unwarranted. The Board and the President decided to close the College despite having an endowment of nearly \$90 million, with assets substantially exceeding liabilities and no accreditation issues. Indeed, the 2013 and 2014 audited financial statements for the College show that net assets (total assets minus liabilities) actually grew by over \$4 million from 2013 to 2014. This change was directly attributable to endowment gains and alumnae contributions. Additionally, we have learned that the President's and Board's reliance on a supposedly imminent bond default may not be borne out by the facts. Importantly, the College conducted a very successful capital campaign that raised \$110 million, indicating a substantial ability to raise additional funds in the face of the alleged circumstances. It is alarming that the President and Board have made no attempt whatsoever to conduct a new capital campaign or consider other methods of meeting the College's needs. In sum, it appears that the President and the Board have quit on the College.

Your clients' acts and omissions constitute breaches of fiduciary duties and violate various requirements of the Virginia Non-Stock Corporation Act. As directors of a non-stock corporation, your clients are required to promote the College's best interests, and your clients have good faith duties of care, loyalty, and obedience toward the College. In addition, these acts and omissions by your clients violate Virginia's Uniform Trust Act as well as the common law of trusts.

In sum, the decision to close the College, acting in complete secrecy, combined with a failure to explore all possible options, violate your clients' duties as directors of the College and Virginia law.

II. The President and Board Have Violated Virginia's Charitable Solicitation Statutes.

Additionally, we believe that the Board and President failed to carry out their legal obligations under Virginia's charitable solicitation laws. Virginia law makes clear that funds solicited for the general purpose of the College must be used for that purpose. See Va. Code § 57-57(N).

In this case, the purpose of the College is clearly established in the College's founding documents, including the will of Indiana Fletcher Williams and the Acts of the Assembly that created the College in 1901. These documents provide that the College was and is "to have and to hold the [personal property and real estate given to it] forever, upon the conditions and for the purposes hereinafter declared, which it shall accept and assume – namely: The said corporation shall with suitable dispatch establish, and shall maintain and carry on upon the said plantation, a school or seminary to be known as the Sweet Briar Institute, for the education of [girls and young women]." 1901 Va. Acts 125-27 (emphasis added). The College was intended to be "a perpetual memorial" to Williams' daughter and was established with the express condition that

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the donated land "shall never at any time be sold or alienated by the corporation." *Id.* (emphasis added).

Thus, any use of any funds solicited for the College's general purpose – operating an educational institution – to carry out activities to close the College would violate Virginia's charitable solicitation statute. Your clients' announcement on March 3, 2015, and the subsequent actions that we understand you have been taking, are not in keeping with the College's general purpose.

We understand that you received a communication from the Amherst County Attorney, Ellen Bowyer, dated March 20, 2015, in which she indicated that she is considering exercising her statutory authority under Virginia Code § 57-59(D) to ensure compliance with State charitable solicitation laws. We also understand that the facts with respect to these violations are described in that letter from the County Attorney and include: (i) finalizing a memorial scholarship on behalf of an alumna in the name of her deceased son in January, 2015, and refusing to return the funds for the scholarship after announcing the closure of the College; (ii) conducting fundraising in the spring of 2015, including the annual giving campaign, so that the College could continue its mission of "helping young women to realize their dreams," while simultaneously planning to close the College's doors; and (iii) sending representatives to meet with donors to solicit donations to continue carrying out the College's work in February of 2015, while, at the same time, developing plans to close the College.

III. The Board and the President Must Resign and Allow a New Leadership Team to Take their Places.

While your clients have been working to shut down the College, our clients have been pursuing efforts to save it.

First, Saving Sweet Briar has identified twenty-four (24) distinguished individuals who are ready and willing to step in as a newly constituted Board of Directors for the College. The group represents a broad range of constituencies, but has a single goal: keeping the College open so that it can continue its educational mission. In addition, Saving Sweet Briar has identified a number of potential candidates to serve as Interim President, each of whom is willing to take on the task of shoring-up the College's financial position so that it can continue to carry out its educational mission.

Second, Saving Sweet Briar has raised over \$3 million in pledges and is now in the process of converting those pledges to donations. The funds Saving Sweet Briar are raising are intended to cover the College's short-term financial goals, giving the College the "breathing room" necessary to develop and implement a turn-around plan. Saving Sweet Briar is continuing to raise additional funds while in the process of converting current pledges to donations.

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Given this background, we ask that the members of the College's current Board and its President voluntarily resign their positions of leadership, so that the leaders we have identified, who are committed to carrying out the College's educational mission, can take their places.

By resigning their positions of leadership with grace, the current President and Board will have the opportunity to help close the wounds opened by their decision and allow a new group of leaders to step in who will endeavor to continue the College's proud legacy and tradition.

In keeping with the Amherst County Attorney's letter and pursuant to Virginia Code §§ 57-57(N) and 57-59(D), we ask that your clients: (i) provide assurances that they will not use any funds solicited for the general purpose of the College in any manner other than the ongoing operation of the College; (ii) immediately cease taking steps to destroy materials relevant to any potential litigation involving your clients' decision to close the College and sell its assets; and (iii) provide the County Attorney's office – and the public – full access to information on the College's financial status and its use of funds; (iv) cease and desist all actions to close the College. In addition, please confirm that the President and Board will resign from their positions to ensure a graceful transition to individuals who are committed to carrying out the College's educational mission. Absent such assurances and acts, our client will be forced to take the necessary actions to prevent further breaches of your clients' fiduciary duties and Virginia law.

Please let us know by 4:00 p.m. on Tuesday, March 24th, if your clients will agree to take the steps outlined in this letter and the letter from the County Attorney – and agree to step down from their positions. Because legal action may be required, please consider this letter as a request to preserve all tangible evidence, including documents relating in any way to the subject matters discussed in this letter.

Sincerely,

Ashley L. Taylor Jr.

cc: Hon. Mark R. Herring
Ellen Bowyer
Hon. Robert Goodlatte
Hon. Chap Petersen