At the August 2019 meeting, the Accrediting Commission of Career Schools and Colleges ("ACCSC" or "the Commission") considered the previous decision to defer final action on the Application for Renewal of Accreditation and unannounced on-site evaluation conducted at Berk Trade and Business School ("BTBS") located in Long Island City, New York. Upon review of the September 6, 2018 Commission letter, the April 22, 2019 Commission letter, and the school’s responses, the Commission voted to continue BTBS on Probation and to extend the maximum timeframe to achieve compliance to September 2020. The reasons for the Commission’s decision and the Commission’s requirements for BTBS to submit additional information for an interim review at the Commission’s February 2020 meeting are set forth below.

**History of the Commission’s Review:**
A shareholder level dispute between [redacted] ("the Estate") has been ongoing for more than 13 years. In regard to this ongoing matter:

- The Commission’s November 19, 2014 Renewal of Accreditation Team Summary Report states the following:
August 2019 Commission’s Review:

1. BTBS must submit a report regarding the current ownership of the school and demonstrate that the current ownership has a record of integrity and the capability to own and operate a school in accordance with the Standards of Accreditation. The September 6, 2018 Probation Order directed BTBS to provide:

- An update on the status of the ownership/Estate litigation;
- An updated complete timeline of the history of the litigation along with any future events scheduled;
- An updated estimated resolution date for the litigation; and
- A complete ACCSC Institutional Teach-Out Plan Approval Form along with all attachments.
Based on the foregoing, the Commission directs BTBS to submit the following:

a. An update on the status of the litigation, including whether a new trial date has been set;

b. An update on the appeal by either party along with copies of any documentation referencing the current status of the litigation;

c. An updated complete timeline, with specific dates, to include a review of the history of the litigation along with any future events scheduled;

d. An updated estimated resolution date for the litigation;

e. Documentation of any previous communication regarding the school between the estate and [redacted];

f. Documentation that the information from the August 2017 to August 2019 Commission meetings, including the Commission letters and school’s responses, have been shared with the Estate;

g. A copy of the Application for a Change of Control-Part I for both [redacted] for an informational review by the Commission;¹

h. A teach-out agreement with another institution to demonstrate that, in the event of closure, the school has a plan for the delivery of training and services to students in a manner that is not materially disruptive and that ensures obligations to students will be timely met;

i. Evidence of the establishment of an escrow account for the purpose of funding a teach-out as may be necessary;

j. A funding time-line (i.e., the amount deposited on a weekly or monthly basis and number of weeks or months needed) for the escrow account to achieve an amount equivalent of the school’s 2018

¹ The Application for a Change of Control – Part I for each party in the litigation is for informational purposes only and the school will be required to submit an updated application once the litigation is resolved.
recorded unearned tuition along with the necessary access needed by the Commission to disburse the account funds in the event of a school closure; and

k. Any additional information that the school believes will assist the Commission in determining a reasonable and appropriate action with regard to this matter.

2. BTBS must demonstrate that the school engages in ongoing efforts to promote student loan repayment (Section I (E)(1), Substantive Standards, Standards of Accreditation). Subsequent to the submission of the response to the September 6, 2018 Probation Order and April 22, 2019 Commission letter, the Commission noted that BTBS’s three-year cohort default rate for fiscal year 2016 as released by the U.S. Department of Education (“the Department”) is 30%. It is the Commission's understanding that the Department requires each school with a three-year cohort default rate that is equal to or greater than 30% to establish a default prevention task force meant to identify the factors causing the cohort default rate to exceed 30% and to develop a plan to redress this issue.

Therefore, the Commission directs BTBS to submit the following:

a. A copy of any documentation submitted to the Department regarding the school’s fiscal-year 2016 three-year cohort default rate, including documentation on the establishment of a default prevention task force and a plan to identify the factors causing the aforementioned cohort default rate;

b. A copy of any correspondence from the Department regarding the school’s submission, if applicable;

c. A roster of the school’s most recent cohort default rate task force membership;

d. If available, a copy of the draft fiscal-year 2017 three-year cohort default rate as released by the Department or, if the draft rate has not yet been released, the school’s projection for the draft rate and the assumptions the school made in projecting this rate;

e. Any other additional information that BTBS believes will assist the Commission in assessing the school’s compliance with accrediting standards in this regard.

PROBATION REQUIREMENTS:

In cases where the Commission has reason to believe that a school is not in compliance with accreditation standards and other requirements, the Commission may, at its discretion, place a school on Probation. A school subject to a Probation Order must demonstrate corrective action and compliance with accrediting standards. Failure of the school to demonstrate compliance with accrediting standards or other accrediting requirements by the due date set forth herein may result in a revocation of accreditation action.

The Commission will not consider substantive changes, a change of location/relocation, or additions (i.e., separate facilities, new programs) to a school or its separate facilities while the school is on Probation. However, a school that is subject to Probation may seek the Commission’s approval for the transfer of accreditation that would result from a change of ownership as described in Section IV, Rules of Process and Procedure, Standards of Accreditation.

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2 The Commission notes that the escrow account would only be necessary during the litigation of the estate and that once there is resolution, the funds within the escrow account would be absorbed by the school ownership.

3 A school that has three consecutive 3-year cohort default rates of 30.0% or greater is subject to loss of federal student financial aid eligibility.
In accordance with Section X, Rules of Process and Procedure, Standards of Accreditation, a summary of the Probation Order is made public and provided to the U.S. Department of Education, appropriate State agencies, and appropriate accrediting agencies. Moreover, in accordance with Section X (C)(6), Rules of Process and Procedure, Standards of Accreditation, the Commission has notified the U.S. Department of Education of this action pertaining to the findings related to the school’s federal financial aid responsibilities.

In accordance with Section VII (L)(8), Rules of Process and Procedure, Standards of Accreditation, a school subject to a Probation Order must inform current and prospective students that the school has been placed on Probation and that additional information regarding that action can be obtained from the Commission’s website.

TEACH-OUT PLAN REQUIREMENT

Given the serious nature of the issues outlined herein, the Commission directs the school to provide an ACCSC Institutional Teach-Out Plan Approval Form which must be submitted as part of the response for the items listed above.

MAXIMUM TIMEFRAME TO ACHIEVE COMPLIANCE:

Based on Section VII (M), Rules of Process and Procedures, Standards of Accreditation and the school’s longest program of eight (8) months, the maximum timeframe allowed for BTBS to achieve and demonstrate compliance with the Standards of Accreditation is twelve months. Thus, the timeframe to achieve compliance began as of the September 2018 ended on September 2019. Given the school’s responses, the Commission found good cause to extend the maximum timeframe for an additional twelve months to September 2020. Please also be advised that the Commission is under no obligation to wait for the maximum timeframe to expire and may take an adverse action prior to the expiration of the maximum allowable timeframe.

RESPONSE REQUIREMENTS:

By applying for accreditation, a school accepts the obligation to demonstrate continuous compliance with the Standards of Accreditation. While the Commission employs its own methods to determine a school’s compliance with accrediting standards, the burden rests with the school to establish that it is meeting the standards. The Commission’s deliberations and decisions are made on the basis of the written record and thus a school must supply the Commission with complete documentation of the school’s compliance with accrediting standards.

BTBS must provide a response to the items expressed above that provides the information requested along with any additional information that the school believes supports a demonstration of compliance with accrediting standards.4 If the school’s response contains documentation that includes personal or confidential student or staff information that is not required for the Commission’s review (e.g., social security numbers, dates of birth, etc.), please remove or redact that information.

BTBS must upload the school’s electronic response directly to ACCSC’s College 360 Database. The ACCSC College 360 database can be accessed by clicking here. Please note that the password utilized by the institution to access the Annual Report Portal is the same to access the School Submission section of

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4 ACCSC has issued two modules of theBlueprints for Success Series – Organizing an Effective Electronic Submission and Preparing a Comprehensive Response for Commission Consideration – which provide a framework for submitting a well-document ed, organized, electronic response for Commission consideration. ACCSC encourages the school to review these modules when formulating its response to this letter. More information is available in the Resources section at www.accsc.org.
the College 360 database. The Instructions for Electronic Submission can be found here. A detailed overview on how to upload a school submission can be found here.

Keep in mind, the school’s response must be prepared in accordance with ACCSC’s Instructions for Electronic Submission (e.g., prepared as one Portable Document Format (“PDF”) file that has been prepared using Adobe Acrobat software (version 8.0 or higher) and which has a .pdf extension as part of the file name). The school will receive an e-mail confirmation that the file has been received within 24 hours of the submission.

The school’s response must include a signed certification attesting to the accuracy of the information and be received in the Commission’s office on or before December 30, 2019. If a response, the required fee, and the certificate of attesting to the accuracy of the information is not received in the Commission’s office on or before December 30, 2019, the Commission will consider further appropriate action.

For assistance with the password or for any other questions regarding the electronic submission requirements, please contact [redacted]. Please note that any password requests to access College 360 must be made by the school director, or designated member of the school’s management team, via e-mail.

For further assistance or additional information, please contact me directly at [redacted] or [redacted].

Sincerely,

[redacted]
Michale S. McComis, Ed.D.
Executive Director