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Dr. Sylvia Manning-President
Dr. Gary S. Wheeler- Chairman
Higher Learning Commission
230 S. LaSalle Street, Ste. 7-500
Chicago, Illinois 60604-14

RE: Formal Complaint Against Thunderbird School of Global Management

Dear Dr. Manning and Dr. Wheeler:

Please consider this letter as a formal complaint against the Thunderbird School of Global Management (“Thunderbird”), a Higher Learning Commission (“the Commission”) affiliated institution, and Thunderbird’s President and Board of Trustees. This complaint is made on behalf of five former alumni Thunderbird Trustees; Merle Hinrich, Harry Cockrell, Robert Theelen, Thomas Greer, and Karen Longo, and on behalf of the Thunderbird Independent Alumni Association. Written authorization for me to communicate with the Commission on behalf of the Thunderbird Independent Alumni Association and the individual former Trustees listed above is attached to this complaint.

This complaint involves the process by which the Thunderbird Board of Trustees approved a proposed alliance between Thunderbird, an Arizona 501(c)(3) non-profit educational institution, and Laureate Education (“Laureate”), a Maryland for-profit corporation. This proposed alliance is now the subject of a “Change of Control” application currently pending before the Commission. This complaint relates directly to the Commission’s Criteria for Accreditation; specifically, Criterion Two, Integrity: Ethical and Responsible Conduct, and Criterion Five, Resources, Planning and Institutional Effectiveness.

Criterion Two. Integrity: Ethical and Responsible Conduct: The institution acts with integrity; its conduct is ethical and responsible.

Criterion Five. Resources, Planning, and Institutional Effectiveness: The institution’s resources, structures, and processes are sufficient to fulfill its mission, improve the quality of

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its educational offerings, and respond to future challenges and opportunities. The institution plans for the future.

Below you will find an analysis of how the process surrounding approval of the alliance between Thunderbird and Laureate by the Thunderbird Board of Trustees did not meet the standards of governance required by these Criteria and their Core Components. This presents to the Commission a case where the failure to follow fair and appropriate standards of governance has monumental consequences for Thunderbird as an institution of higher learning. In summary, this complaint will show that the failure of the leadership of the Board of Trustees to abide by assumed standards of governance expected of an accredited institution prevented a full and complete exercise of due diligence and analysis that will result, if approved, in a partnership decision that: 1) departs in significant ways from the mission of this accredited and globally recognized international business management graduate education institution, and 2) is not in the best interest of achieving the historical mission and academic goals of Thunderbird.

Narrative of Facts:

The following is a statement of the facts the subject of this complaint based on the personal knowledge and belief of the individual complainants as named above:

The events leading up to the Laureate partnership began to develop shortly after former school President Angel Cabrera resigned to take a new position with George Mason, at the end of April 2012. By June, the Interim President had uncovered a financial shortfall in the current year's operating budget of over \$7 million. Costs were cut, layoffs were done and some administrators were fired. By October 5th, when the Board of Trustees held their meeting, the CFO had been fired (August 31st), the VP of Institutional Advancement had been fired (June 20th), the VP of Institutional Management had been fired (June 20th) and the VP of Communications left (Sept 27th), all of which led some members of the Board of Trustees to believe Thunderbird had to have a strategic partnership to stay alive.

After seven months of searching, the Board's presidential search committee put forward its recommendation to the Executive Committee but the Executive Committee disregarded the recommendation and, without the consent or approval of the full Board of Trustees, hired the school's then interim Provost, Dr. Larry Penley. This action occurred without vetting Dr. Penley's ability and without allowing a vote by the full Board of Trustees. This usurpation of the authority of the full Board by the Executive Committee then became worse as decisions about strategic partnerships for Thunderbird were considered.

Understanding the school's need to slow down and perform proper due diligence at this critical time of Thunderbird, one alumnus Trustee stepped forward offering to purchase all of the school's debt, becoming the creditor of the school and working out an agreeable arrangement to give the Board time to form a proper plan and strategy for the future of the school. Although this alumnus Board member was the only one to step forward to address the financial circumstances

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facing the school, the Chairwoman of the Board proceeded to pursue other options with no further discussions of the offer presented by the alumnus.

On October 5, 2012, the Board adopted a resolution allowing Thunderbird to identify strategic partnerships. Hult International Business School had sent Thunderbird a letter dated May 4, 2012, and was subsequently contacted by the Board by early October. A second school, Middlebury, was contacted October 9, 2012. Thunderbird began discussions with Arizona State University in mid-October at the Executive Committee level. October 30th the Chairwoman chose to initiate discussions with Laureate (this was the third time Laureate and David Becker, the CEO of Laureate, had approached Thunderbird, being previously turned down both times). Laureate was the only proposed partner that is a for-profit entity and not a school.

No professional firms were hired to conduct the research, due diligence or negotiations with any potential partner and the Board became divided. The Chairwoman created teams and assigned those teams to advance the consideration of the potential partners to which each was assigned. On January 30, 2013, presentations of three of the potential partners (ASU, Hult, Laureate) were provided to the entire Board at the law firm of Snell and Wilmer, the school's legal counsel.

In an unprecedented move by the Chair, after less than two months of discussion, on March 8, 2013, she allowed only the Executive Committee to vote on all the potential partnerships presented. Only one alumnus member of the Executive Committee voted for Laureate (final tally - Laureate 6, Hult 3, ASU 2). This vote, solely by the Executive Committee, denied the opportunity for the entire Board to fulfill their fiduciary duties. If the full Board had been allowed to vote on all the potential partnerships, the outcome might have been very different. On March 12th, the Chair presented to the entire Board the Executive Committee's decision to move forward with Laureate, and gave the full Board the single option to vote yes or no on the recommendation made by the Executive Committee. However, the Executive Committee voting results were not revealed to the entire Board prior to their yes or no vote. Immediately following this vote, the first Board member resigned in protest of the conduct of the Chair and the manipulation to proceed with an agenda promoting Laureate.

The Chair announced this as a "done deal" to the alumni six days later on March 18th even though the majority of the Board objected to a public announcement on the basis of a Memorandum of Understanding. Laureate's history of accreditation issues and for-profit model were quickly picked up by the alumni and by March 29th a petition, to suspend the proposed partnership with Laureate, started by a 1996 alumnus, was presented to the board with 1,968 signatures. However, the Chair disregarded the petition as nonsense and the creator of the petition was discredited.

Concurrently, several alumni members of the Board put forth a proposed policy that provided that no member of the Board could receive personal enrichment from any Thunderbird partnership for a period of five years. This was immediately diluted down to two years by the proponents of Laureate and to this day it has not been confirmed to the alumni that this has actually been adopted. The proposed policy barring self-enrichment relates back to the Executive Committee meeting on March 8th in which a specific board member whose investment

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firm has hundreds of millions invested with Laureate's 75% private equity owner, was allowed to continue in all the discussions, and even allowed to vote despite the clear conflict of interest.

Negotiations ensued after the March 12th vote and three months later the final decision to proceed with Laureate based on the previously approved memorandum of understanding was presented to the entire Board for vote June 26th. No financial information was required by the Chair nor was due diligence conducted on the business plan put forth by Laureate only days before the Board was required to vote. Rather, it was simply presented that if you, the Board member, do not approve of this Joint Venture, Thunderbird will die. When presented as the sole option for Thunderbird, the actual vote of the Board of Trustees was as follows: 5 alumni members voted against, 7 members did not vote and 15, including the Chair, voted for.

Although some faculty members were hand selected by the administration for private conversations about the proposal with Laureate, these conversations did not take place with the entire Board and did not involve a vote of the Faculty Senate. Regardless, they were characterized by the Chair as constituting "faculty support" for the Laureate deal.

Six days later, three additional members of the Board resigned over their concern with not being granted the ability to perform their fiduciary responsibility in due diligence of Laureate. As the situation became more public and new information on the process continued to come forward a Facebook page was created under the name of "Save Thunderbird", quickly gaining the support of over 4,500 alumni. By the end of June, a fifth alumni member of the Board resigned stating lack of due process and failure of the Board to meet their duty to the school.

During this period, the non-voting Board of Trustees member who was President of the Thunderbird Alumni Network was improperly removed from both the Board and the Network by the Administration and the Board of Trustees. Pursuant to her duties as the alumni representative on the Board, she had worked to inform the alumni of as many details of the Laureate proposal as were made available to her and to convey the concerns about the deal and the process being raised by some of her fellow Trustees. She was told by the Chairwoman she was being removed because of a breach of her fiduciary duty related to a non-disclosure agreement she had supposedly signed. However, despite repeated written requests for specific information about what duties she had breached and for a copy of the non-disclosure agreement, neither was ever produced by the Chairwoman or the Board. In a detailed letter to her fellow alumni, this now former Trustee revealed the details of her dismissal, her concerns with the process used to select Laureate, and her strong sense that she had been dismissed to silence her dissent.

The selling of the alliance to the Thunderbird community continued long after the vote to proceed with Laureate on June 26th. In the first and only webinar to all alumni by the President of the school and Chair of the Board, they stated over 12 contracts had already been signed with Laureate and all that was left was approval by the Higher Learning Commission. However, even though these contracts had been signed and announced to the alumni, they were off-limits for the entire Thunderbird Board of Trustees to review, causing two more Board members to not seek to continue their terms on the Board, resigning on September 25th and October 3rd, respectively.

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Thunderbird Board of Trustees Resignations:

The process described above, by which the Thunderbird Board of Trustees approved the alliance between Thunderbird and Laureate, fails to meet the ethical and governance requirements contained in the Commission's Criteria for Accreditation. Specifically, the Thunderbird Board of Trustees' actions constitute a serious breach of fiduciary duties, violations of corporate governance and conflicts of interest that do not meet the Commission's requirements related to integrity, transparency, autonomy, and independence in governance as contained in Criterion Two, nor do they meet Criterion Five's requirements for institutional effectiveness. The Thunderbird Board of Trustees' actions, as described below, led to the resignation of one non-alumnus Trustee, four distinguished alumni members of the Board of Trustees, a decision by two additional Trustees not to renew service on the Board, and the unjust removal of a eighth Trustee, Karen Longo. The resigning Trustees did so specifically because the actions of the Board of Trustees and its Chairwoman constituted a serious breach of fiduciary duties and Commission Criteria related to integrity and governance, and prohibited them from fulfilling their own fiduciary duties as Trustees.

Relevant Core Components of Criteria Two and Five:

2.A. The institution operates with integrity in its financial, academic, personnel, and auxiliary functions; it establishes and follows fair and ethical policies and processes for its governing board, administration, faculty and staff.

2.B. The institution presents itself clearly and completely to its students and to the public with regard to its programs, requirements, faculty and staff, costs to students, control, , and accreditation relationships.

2.C. The governing board of the institution is sufficiently autonomous to make decisions in the best interest of the institution and to assure its integrity.

1. The governing board's deliberations reflect priorities to preserve and enhance the institution.

2. The governing board reviews and considers the reasonable and relevant interests of the institution's internal and external constituencies during its decision-making deliberations.

3. The governing board preserves its independence from undue influence on the part of donors, elected officials, ownership interests, or other external parties when such influence would not be in the best interest of the institution.

4. The governing board delegates day-to-day management of the institution to the administration and expects the faculty to oversee academic matters.

5.B. The institution's governance and administrative structures promote effective leadership and support collaborative processes that enable the institution to fulfill its mission.

1. The institution has and employs policies and procedures to engage its internal constituencies—including its governing board, administration, faculty, staff, and students—in the institution's governance.

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2. The governing board is knowledgeable about the institution; it provides oversight for the institution's financial and academic policies and practices and meets its legal and fiduciary responsibilities.

3. The institution enables the involvement of its administration, faculty, staff, and students in setting academic requirements, policy, and processes through effective structures for contribution and collaborative effort.

Breach of Fiduciary Duties and Failures in Governance and Administrative Structures and Procedures by the Thunderbird Board of Trustees:

Lack of Due Diligence: Laureate Debt Structure.

The Thunderbird Executive Committee of the Board of Trustees ("Executive Committee") failed to request and obtain full financial disclosure of Laureate's finances, including, but not limited to, Laureate's 3.5 billion dollars in debt. The Board failed to disclose Laureate's complete finances prior to the Full Board's vote on the Laureate Joint Venture. Several of the Trustees requested detailed financial information on Laureate prior to voting but were denied that opportunity. As a result, the Board voted on the proposed Joint Venture without adequate and critical information.

Lack of Due Diligence: Real Estate Appraisals.

The Executive Committee failed to obtain and present to the full Board the real estate appraisals for both the core campus and undeveloped land surrounding the core campus. As a result, the Board voted on the proposed sale/leaseback to Laureate without adequate and critical information. The sale/leaseback places Thunderbird's most critical and valuable physical asset under the control of the for-profit objectives of Laureate, both immediately and into the future.

Lack of Due Diligence: Financial Disclosures.

During the nine month period of potential partner evaluations from Nov 2012 through June 2013, the Thunderbird administration did not and could not provide accurate financial reporting, support or comparatives. As a result, the Board could not adequately compare the potential partners. Not only were accurate financials and comparisons not provided for the potential partners, they were also not provided for the school's current financial situation. This information was not provided to the full Board of Trustees during consideration of the proposed alliance with Laureate. Additionally, none of the four potential partners provided full financials to the Thunderbird Board of Trustees so the Board could compare the proposals, exercise due diligence and make an informed decision about the best choice.

Lack of Due Diligence: Loss of 501(c)(3) Board's Independence.

Under the proposed alliance, Laureate will have five representatives on the Thunderbird Board of Trustees, and potentially on the Board's Executive Committee as well. Thunderbird's Bylaws allow it to change the total number of Board seats at any time, which could give Laureate more

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control. Consequently, each and every decision and vote in the oversight of Thunderbird – a non-profit 501(c)(3) academic institution – can now come from a core component of permanent board representatives whose primary professional and fiduciary obligations will be to answer to the for-profit, “bottom-line” motives of Laureate.

Potential Loss of 501(c)(3) Tax Status.

The structure of the joint venture jeopardizes Thunderbird’s ability to continue to meet the operational test imposed by Code Section 501(c)(3). The operational test requires that the tax exempt entity be operated exclusively for one or more of the specified exempt purposes. I.R.C. §501(c)(3). The initial focus of the IRS is whether the joint venture furthers a proper charitable purpose. *Id.* Second the IRS will examine whether the joint venture benefits the non-exempt entity. *Id.* The benefits received by the non-exempt entity must be incidental to the public purpose served by the joint venture. *Id.* The private benefit must *not* be substantial after considering the overall public benefit conferred by the activities of the new joint venture. Applying the operational test to the joint venture, Thunderbird’s exempt purpose is the operation of an educational institution and promotion of global management education. Even though Thunderbird pursues the joint venture with Laureate to better achieve its exempt educational purpose, under the operational test Thunderbird may lose its exempt status if the joint venture activities include a substantial nonexempt purpose or involve private benefit.

A joint venture between a tax exempt entity and a for-profit business is typically structured as a partnership or limited liability company (“LLC”), in this case an LLC. The new LLC is considered a separate taxpayer for income tax purposes. *Moline Properties, Inc. v. U.S.*, 319 U.S. 436 (1943). Each party makes a capital contribution to the new entity and thereafter owns an interest in the new entity. For purposes of the operational test, the question is whether the tax exempt entity’s investment in the new LLC represents nonexempt activity or serves a nonexempt purpose. When a tax exempt entity forms a new LLC with a for-profit business, the LLC is ignored and the activities of the LLC are considered to be the activities of the tax exempt entity. *Redlands Surgical Services v. Commissioner*, 113 T.C. 47 (1999). Despite the statement that Thunderbird will retain control of its brand and academic decision, Laureate has a majority of the joint venture which gives Laureate the obvious management control and is therefore a threat to Thunderbird’s tax exempt status.

Conflicts of Interest.

Although certain Trustees announced their substantial ties with Laureate, the Executive Committee allowed those Trustees to participate in the consideration of the alliance and continue to provide information to the other Trustees. This information was not disclosed until March 8, four days before the vote on the memorandum of understanding on March 12. A proposal to restrict Board of Trustee members from becoming enriched by dealings with Laureate within 5 years of the deal was reduced to 2 years, but it is unclear whether this provision was included in the final agreement.

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Appointment of a Laureate Representative as the COO.

Subsequent to signing the joint venture contract and prior to the documented requirement within the joint venture with respect to the receipt of accreditation by HLC, Thunderbird allowed the nomination and interview of a Laureate representative to the Thunderbird Administration as its COO. In addition to this jumpstart of a yet to be agreed transaction, agreement was reached with Mary Teeagarden, a current Thunderbird faculty member, to start undergraduate program development at the behest of the joint venture controlled by Laureate.

Thunderbird's Brand Dilution.

As a result of the Joint Venture with Laureate and the proposed undergraduate program, Thunderbird will become a second-class institution of higher learning in global business education instead of a leading academic institution, based in Glendale, Arizona. The inclusion of an undergraduate program under the Thunderbird brand, supported by Thunderbird faculty and housed on the Thunderbird campus will be a complete departure from the original Thunderbird graduate study program and a dilution of the Thunderbird brand. No due diligence was conducted by Thunderbird on the undergraduate scheme proposed by Laureate. This was a clear departure from the mandate/guidelines established by the board in the search for a strategic partner. Additionally, the Laureate business plan was posted to the Board data room 10 days before the vote and the board accepted the plan without research and debate by any of the constituents of the school.

Circumvention of Full Board of Trustees Authority by Executive Committee.

The process by which the Laureate deal was approved raises numerous serious corporate governance and oversight problems. Laureate was far from the only partnership option available for Thunderbird. Three other respected academic institutions, Arizona State University, Middlebury, and Hult International Business School, all made proposals for various forms of partnership or merger with Thunderbird. By March 2013, Thunderbird's Executive Committee completed an evaluation of all three merger/venture proposals -- Arizona State, Hult, and Laureate. The Executive Committee is a sub-committee of Thunderbird's Board of Trustees, and as such, its authority is restricted, both by internal corporate governance documents, as well as by state law. It was always understood by the Board that the Executive Committee would properly exercise its authority by reviewing all proposals and make its recommendation to the full Board, after which the Board would, having received and carefully considered the Executive Committee's recommendations, cast the ultimate vote on all three proposals. Because the proposals involved the sale or transfer of all, or substantially all, of the school's physical assets, the full Board of Trustees is the only body that could have had the proper legal authority to cast a vote on any of the deals. However, this is not what happened. Instead, in a calculated and unprecedented move, without proper authority to do so, and without properly notifying the Board, the school's administration and Board's Chairwoman had the Executive Committee cast the full vote on all proposals, improperly eliminating the possibilities of a partnership with either Arizona State, Middlebury or Hult.

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Additionally, the Board's decision was taken without a proper review by the Board members of key details of the Laureate relationship. A previous Memorandum of Understanding between Laureate and Thunderbird was temporarily made available for Board Members to review on the private server of Thunderbird's legal counsel. However, the final contract with Laureate was never reviewed by the Board. The Chair of the Board of Trustees did not provide final documents to the Board members. Additionally, not even all members of the Executive Committee were allowed to review the final documents.

Requested Relief:

The actions of the Thunderbird Board of Trustees as described above constitute a serious breach of the Board's fiduciary duties, Commission Criteria on integrity and governance, and Arizona's Management of Charitable Funds Act (Ariz. Rev. Stat. §§ 10-11801 to -11805) and will cause irreparable harm to Thunderbird. The failure of the Thunderbird Board of Trustees to carry out its fiduciary duties could subject the Board of Trustees to potential state and/or federal litigation and revocation of the tax-exempt status of Thunderbird.

Due to the seriousness of the above-described breaches of fiduciary duty and violations of Commission Criteria on integrity and governance involved in the process undertaken by the Thunderbird Board of Trustees in approving the alliance with Laureate that is now pending before the Commission, we respectfully request that you deny Thunderbird's application for Change of Control, Structure or Organization related to the proposed alliance with Laureate. Additionally, we believe that the application fails to meet one or more of the Commission's approval factors as outlined in Commission policy and ask that the Commission deny the Thunderbird application for Change of Control for this reason.

Failure to Meet Commission Approval Factors for Change of Control:

The proposed alliance between Thunderbird and Laureate that is the subject of a Change of Control application now pending before the Commission fails to meet the approval factors as outlined in Commission policy and should be therefore be denied. At a minimum, the proposed alliance represents the creation of a new institution such that it should be required to undergo a full initial status evaluation by the Commission. An analysis of the proposed alliance as it relates to the Change of Control approval factors is as follows:

1) Extension of the mission, educational programs, student body and faculty that were in place when the Commission last conducted an on-site evaluation of the affiliated institution;

- The proposed alliance between Thunderbird and Laureate would be a dramatic shift in the mission, educational programs, student body and faculty at Thunderbird.
- Thunderbird is a 501(c)(3) non-profit educational institution with a world-class reputation and a mission to provide graduate management programs that educate the world's leading multi-national companies and globally successful entrepreneurs.
- If approved, the Thunderbird/Laureate joint venture would authorize creation of a new undergraduate program at Thunderbird that will drive profits for Laureate. Current

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- Thunderbird faculty and administration have neither the time or expertise to develop, administer and execute a new undergraduate program.
- Laureate has indicated that the deal will also result in an influx of their foreign graduate students. It is unclear whether these new students would be subject to Thunderbird's currently rigorous admission standards. This would also represent a substantial shift in Thunderbird's current ratio of US to foreign students that will change the nature of the student body at Thunderbird.
- After the alliance was announced, the Chair of the Board of Trustees announced that the existing curriculum would be replaced with a new one-year curriculum, without a vote by the Faculty Senate or the general faculty as is required by the Faculty Handbook.
- Also subsequent to the alliance being announced, the President of Thunderbird announced that the faculty committees called for by the Faculty Handbook would be reconstituted and that the President would now appoint his representatives and/or himself to the new committees.
- These actions by the Chair of the Board of Trustees and the President resulted in the resignation of three professors who have been critical to the Thunderbird faculty and its academic offerings.
- These factors represent a dramatic shift from the current mission, educational programs, student body and faculty at Thunderbird that warrants a denial of the Change of Control application or full review by the Commission as to whether the new institution created by this alliance meets the Commission's initial Criteria for Accreditation.

2) The ongoing continuation and maintenance of the institution historically affiliated with the Commission with regard to its mission, objectives, outreach, scope, structure, and related factors;

- The proposed alliance between Thunderbird and Laureate would not maintain the mission, objectives, outreach, scope or structure of the existing Thunderbird as accredited by the Commission.
- The proposed alliance, although characterized as a "joint venture" is in reality an attempt by Laureate to purchase Thunderbird's accreditation and vastly expand their student body to maximize their profits before selling the company or taking it public.
- Due to the level of control Laureate will have over the joint-venture "service-provider" entity, this deal will jeopardize Thunderbird's existing 501(c)(3) non-profit status, changing its structure and damaging the school's ability to attract tax-deductible donations from alumni and others.
- According to Thunderbird's own description the Laureate controlled "service provider" will develop expanded graduate and new undergraduate programs, expand online programs and executive education, provide recruiting, student services and other functions essential to the quality of the academic program---all outside the management and control of the historically affiliated institution.
- The proposed alliance will dramatically restructure the governance of Thunderbird by giving 3 permanent seats on the Thunderbird Board of Trustees and 2 nominations to the Board to a for-profit entity in Laureate, creating potential conflicts of interest for those

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Trustees and by creating a “service provider” that will be carry out key educational functions while majority controlled and owned by Laureate.

- The proposed alliance will involve the sale of the Thunderbird campus to a for-profit entity in Laureate with a lease-back arrangement. This represents a fundamental change in the structure of Thunderbird and could lead to further conflicts of interest for the Laureate affiliated members of the Thunderbird Board of Trustees.

3) Substantial likelihood that the institution, including the revised governance and management structure of the institution will continue to meet the Commission’s Eligibility Requirements, Assumed Practices, and Criteria for Accreditation;

- The proposed alliance between Thunderbird and Laureate will result in an institution with a governance and management structure that will no longer continue to meet the Commission’s Eligibility Requirements, Assumed Practices, and Criteria for Accreditation.
- The proposed alliance would result in a Thunderbird Board of Trustees that no longer meets the Commission’s Eligibility Requirement (3) that requires “*an independent governing board that possesses and exercises the necessary legal power to establish and review the basic policies that govern the institution*” in that at least three and as many as five Board members will now be affiliated with a for-profit entity in Laureate and may have conflicts of interest resulting from that affiliation.
- The proposed alliance would result in a Thunderbird Board of Trustees that no longer meets the Commission’s Eligibility Requirement (9) that requires that “*the institution has governance and administrative structures that enable it to carry out its operations*” in that the new Board will have 3 members affiliated with for-profit Laureate and the joint venture will be controlled by a service-provider that will be majority controlled and owned by Laureate.
- The proposed alliance would result in a Thunderbird Board of Trustees that no longer meets the Commission’s Eligibility Requirement (10) that requires that “*the institution employs faculty and other academic personnel appropriately qualified and sufficient in number to support its academic programs*” in that the proposal is unclear on how the institution will meet the faculty demands of a new undergraduate program and in-flux of Laureate’s international graduate students.
- One of Laureate’s schools, the Universidad de las Americas in Chile lost its accreditation last year, and another Laureate school, the National Hispanic University has stopped accepting students and is reportedly under review by the Western Association of Schools and Colleges.
- The proposed alliance would result in an institution that no longer meets the Commission’s Assumed Practices. In particular, the proposed alliance raises serious concerns about the ability of the Board of Trustees to govern with integrity and with ethical and responsible conduct.
- In particular, the proposed alliance raises serious questions under A(11) about the ability of Thunderbird to meet the requirement that “*the institution takes responsibility for the ethical and responsible behavior of its contractual partners in relation to actions taken*”

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on its behalf” when the contractual partner, Laureate, is a massive for-profit entity that will now have seats on the Thunderbird Board of Trustees and control the joint venture “service-provider” that will be making key decisions that affect the mission, control and structure of Thunderbird.

- The proposed alliance would result in a Thunderbird Board of Trustees that no longer meets the Commission’s Criteria for Accreditation. Specifically, in addition to the criteria related to governance and integrity discussed above in relation to the process by which the Board approved the alliance, the proposal also fails to meet the following Criteria:

Criterion 2B: The institution presents itself clearly and completely to its students and the public with regard to its programs, requirements, faculty and staff, costs to students, control, and accreditation relations.

- The Board of Trustees along with the Administration has purposely and intentionally refused to communicate the details of the joint venture with its entire faculty or its alumni.
- The Current Administration has distributed to the alumni and public inaccurate information about a “3 to 1” vote in favor for the alliance. The results of the actual vote on June 26th, 2013, to proceed only with a Memorandum of Understanding with 27 members of the Thunderbird Board of Trustees present, was: 5 alumni voted against, 6 alumni voted for, 5 alumni did not vote at all, 9 non-alumni voted for and 2 non-alumni did not vote. Even the alumni sitting on the Board at the time of the vote did not feel the vote accurately reflected the true views of the alumni board members since the majority either voted against or not at all.

Criterion 2C.1: The governing board of the institution is sufficiently autonomous to make decisions in the best interest of the institution and to assure its integrity.

Criterion 2C.3: The governing board preserves its independence from undue influence on the part of donors, elected officials, ownership interests, or other external parties when such influence would not be in the best interest of the institution.

- Thunderbird’s Board and Administration present the joint venture as a 50/50 arrangement that will not impact the independence of Thunderbird’s non-profit status. The truth is that the agreement provides Laureate a call option to become the majority stakeholder. From the very outset they will also have the majority of voting directors on the joint venture (5-4), plus Laureate will gain up to five voting seats on the Thunderbird Board of Trustees.
- The agreement also provides for substantial equity dilution of Thunderbird’s share of the venture over time, thus Laureate will dominate the program. Furthermore, Laureate will have the right of first refusal for any and all programs initiated at Thunderbird for expansion.

4) Sufficiency of financial support for the transaction; and

- Because the Board of Trustees was not provided financial details of the transaction or the true role of the joint venture prior to approval, it is unclear whether the alliance is in the best financial interests of Thunderbird or whether Laureate has the financial capabilities to meet their obligations under the deal.
- Laureate is a private-equity backed for-profit entity that is highly leveraged with debt, reportedly as much as \$3.8 billion in debt.
- These facts raise serious concerns about whether the investors at Laureate intend to take the company public or sell it in the near future, both of which could negatively impact Thunderbird's future financial stability and structure and its accreditation status with the Commission.

5) Previous experience in higher education, qualifications, and resources of new owners, Board members or other individuals who play a key role in the institution or related entities subsequent to the transaction.

- As discussed above, Laureate is a private-equity backed for-profit enterprise with substantial debt and a primary focus of driving profits for their investors.
- The types of schools Laureate owns are not of the academic quality or reputation of Thunderbird and will weaken Thunderbird's ability to continue its mission to educate world class global management graduate students.
- Laureate's history in higher education raises concerns about costly and aggressive marketing for new students, faculty reductions, "accreditation shopping" for established institutions to increase its bottom line value prior to sale or an initial public stock offering.
- Both Moody's Investor Service and Standard and Poor's give the company a single-B rating, in the "junk-bond" category. Some of Laureate's unsecured bonds are rated even lower.
- A Standard and Poor's report describes the company as having a highly leveraged profile partly because of "limited cash-flow generation relative to total debt burden."
- Speculation in financial sectors and in the media indicate that Laureate will soon go public, potentially changing the leadership and structure of the company, their relationship with Thunderbird, again impacting the continuity and stability of Thunderbird.

Conclusion:

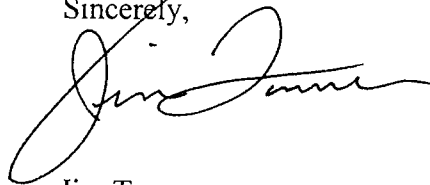
This complaint to the Commission involves a failure by the leadership of the Thunderbird Board of Trustees to adhere to their fiduciary duties as Board members of a non-profit educational institution and a failure to meet their obligations under the Commission's requirements for governance and integrity in accredited institutions. These actions denied the complainants the opportunity to exercise due diligence in the consideration of potential partners for Thunderbird

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and from fully carrying out their own fiduciary duties as Trustees, leading to their resignations from the Board. For these reasons alone the Commission should subject the current accreditation approval of Thunderbird to careful examination due to Thunderbird's failure to adhere to the Commissions Criteria related to governance. This failure of governance also gives rise to significant questions regarding the Change of Control application submitted to the Commission by the Thunderbird Board of Trustees. Analysis of the details of the proposed joint venture show that the resulting entity will bear little resemblance to the Thunderbird currently accredited by the Commission and will result in a radical shift in the school's mission, objectives, scope, structure and governance that will result in a new institution that would merit full initial review by the Commission. The proposed alliance clearly fails the Commission's Change of Control approval factors and therefore should be denied.

Thank you for your consideration of this request. We look forward to your response and would be happy to discuss any of the issues raised in this complaint.

Sincerely,



Jim Turner

cc: Higher Learning Commission Board of Trustees
Honorable John McCain, U.S. Senate
Honorable Jeff Flake, U.S. Senate
Honorable Tom Harkin, United States Senate
Honorable Matt Salmon, U.S. House of Representatives
Honorable Raul Grijalva, U.S. House of Representatives
Honorable Kyrsten Sinema, U.S. House of Representative
Honorable Ron Barber, U.S. House of Representatives
Honorable Ruben Hinojosa, U.S. House of Representatives
Carol Griffiths, U.S. Department of Education/NACIQI Executive Director
Charles Mula, U.S. Department of Education- Postsecondary Education
Elizabeth Daggett, U.S. Department of Education-Postsecondary Education
James Runcie, Office of Federal Student Aid, U.S. Department of Education
Jason Pistillo- Chairman, Arizona Board of Private Postsecondary Education