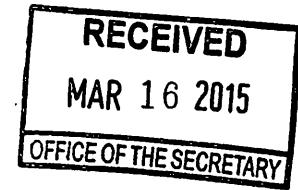


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-15993



In the Matter of

Accredited Business Consolidators
Corp., *et al.*,

Respondents.

**DIVISION OF ENFORCEMENT'S BRIEF IN OPPOSITION TO
ACCREDITED BUSINESS CONSOLIDATORS CORP.'S PETITION FOR REVIEW**

Thomas Bednar
Neil J. Welch, Jr.
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-6010
(202) 551-4731

COUNSEL FOR
DIVISION OF ENFORCEMENT

TABLE OF CONTENTS

	<u>Page</u>
Table of Authorities.....	iii
Introduction.....	1
I. Statement of Facts.....	2
II. Argument	4
A. The Initial Decision Should be Summarily Affirmed.....	4
B. Standards Applicable to the Division’s Summary Disposition Motion.....	5
C. The Division is Entitled to Summary Disposition Against Accredited Business for Violations of Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 Thereunder.....	6
D. Revocation is the Appropriate Sanction for Accredited Business’s Serial Violations of Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 Thereunder.....	8
1. Accredited Business’s violations are serious and egregious	10
2. Accredited Business’s violations of Section 13(a) have been recurrent.....	10
3. Accredited Business’s degree of culpability, including its officers’ and majority shareholder’s violations of Exchange Act Section 16(a), and Accredited Business’s proxy violations, support revocation	11
4. Accredited Business has made no efforts to remedy its past violations, nor has it made any assurances against future violations.....	14
E. Revocation is the Appropriate Remedy for Accredited Business.....	15
III. Conclusion.....	18

TABLE OF AUTHORITIES

CASES:	<u>Page</u>
<i>AIC Int’l, Inc.</i> , Initial Dec. Rel. No. 324, 2006 SEC LEXIS 2996 (Dec. 27, 2006)	6, 8
<i>Absolute Potential, Inc.</i> , Exchange Act Rel. No. 71866, 2014 SEC LEXIS 1193 (April 4, 2014)	17
<i>Anderson v. Liberty Lobby, Inc.</i> , 477 U.S. 242 (1986).....	5, 6
<i>Andover Holdings, Inc. (a/k/a Andover Energy Holdings, Inc.)</i> , Initial Dec. Rel. No. 461, 2012 SEC LEXIS 1885 (June 19, 2012).....	4
<i>Andover Holdings, Inc. (a/k/a Andover Energy Holdings, Inc.)</i> , Exchange Act Rel. No. 68966, 2013 SEC LEXIS 548 (Feb. 21, 2013).....	4 n.3, 5
<i>Bilogic, Inc.</i> , Initial Decision Rel. No. 322, 2006 SEC LEXIS 2596 (Nov. 9, 2006).....	3, 5
<i>Bio-Life Labs, Inc.</i> , Initial Dec. Rel. No. 424, 201 SEC LEXIS 2546 (July 25, 2011).....	17
<i>California Service Stations, Inc.</i> , Initial Decision Rel. No. 368, 2009 SEC LEXIS 85 (Jan. 16, 2009).....	6
<i>Chemfix Technologies, Inc.</i> , Initial Decision Rel. No. 378, 2009 SEC LEXIS 2056 (May 15, 2009).....	8
<i>Citizens Capital Corp.</i> , Exchange Act Rel. No. 67313, 2012 SEC LEXIS 2024 (June 29, 2012).....	12, 17
<i>Cobalis Corp.</i> , Exchange Act Rel. No. 57864, Initial Decision Rel. No. 407, 2008 SEC LEXIS 2313 (July 6, 2011)	9
<i>Eagletech Communications, Inc.</i> , Securities Exchange Act Rel. No. 54095, 2006 SEC LEXIS 1534 (July 5, 2006).....	15-16
<i>Edward Becker</i> , Initial Decision Rel. No. 252, 2004 SEC LEXIS 1135 (June 3, 2004)	6
<i>Freedom Golf Corp.</i> , Initial Decision Release No. 227, 2003 SEC LEXIS 1178 (May 15, 2003)	10

CASES (continued):	<u>Page</u>
<i>Garcis, U.S.A.</i> , Securities Exchange Act Rel. No. 38495, 1997 SEC LEXIS 838 (Apr. 10, 1997)	5
<i>Gateway Int'l Holdings, Inc.</i> , Securities Exchange Act Rel. No. 53907, 2006 SEC LEXIS 1288 (May 31, 2006).....	<i>passim</i>
<i>Hamilton Bancorp, Inc.</i> , Initial Decision Rel. No. 223, 2003 SEC LEXIS 431 (Feb. 24, 2003)	8
<i>Impax Laboratories, Inc.</i> , Securities Exchange Act Rel. No. 57864, 2008 SEC LEXIS 1197 (May 23, 2008).....	9, 15
<i>Investco, Inc.</i> , Initial Decision Rel. No. 240, 2003 SEC LEXIS 2792 (Nov. 24, 2003)	8, 11
<i>Joseph P. Barbato</i> , Exchange Act Rel. No. 41034, 1999 SEC LEXIS 276 (Feb. 10, 1999).....	12 n.4
<i>Matsushita Elec. Indus. Co. v. Zenith Radio Corp.</i> , 475 U.S. 574 (1986)	5
<i>Michael Puorro</i> , Initial Decision Rel. No. 253, 2004 SEC LEXIS 1348 (June 28, 2004)	5
<i>Nano World Projects Corp.</i> , Initial Decision Rel. No. 228, 2003 SEC LEXIS 1968 (May 20, 2003)	8
<i>Nature's Sunshine Products, Inc.</i> , Securities Exchange Act Rel. No. 59268, 2009 SEC LEXIS 81 (Jan. 21, 2009).....	10
<i>Ocean Resources, Inc.</i> , Initial Decision Rel. No. 365, 2008 SEC LEXIS 2851 (Dec. 18, 2008)	6, 12
<i>Robert Bruce Lohman</i> , Exchange Act Rel. No. 48092, 2003 SEC LEXIS 1521 (June 26, 2003).....	12 n.4
<i>SEC v. Beisinger Indus. Corp.</i> , 552 F.2d 15 (1 st Cir. 1977)	7
<i>SEC v. Falstaff Brewing Corp.</i> , 629 F.2d 62 (D.C. Cir. 1980).....	12 n.4
<i>St. George Metals, Inc.</i> , Initial Decision Rel. No. 298, 2005 SEC LEXIS 2465 (Sept. 29, 2005)	7
<i>Stansbury Holdings Corp.</i> , Initial Decision Rel. No. 232, 2003 SEC LEXIS 1639 (July 14, 2003)	<i>passim</i>
<i>Steadman v. SEC</i> , 603 F.2d 1126 (5 th Cir. 1979).....	9

CASES (continued):	<u>Page</u>
<i>Stephen Stout</i> , Exchange Act Rel. No. 43410, 2000 SEC LEXIS 2119 (Oct. 4, 2000).....	12 n.4
<i>Wall Street Deli, Inc.</i> , Initial Decision Rel. No. 361, 2008 SEC LEXIS 3153 (Nov. 14, 2008)	6
<i>WSF Corp.</i> , Initial Decision Rel. No. 204, 2002 SEC LEXIS 1242 (May 8, 2002)	8, 9, 10

STATUTES AND REGULATIONS:

Section 12 of the Securities Exchange Act of 1934	<i>passim</i>
Section 12(g) of the Securities Exchange Act of 1934.....	<i>passim</i>
Section 12(j) of the Securities Exchange Act of 1934.....	<i>passim</i>
Section 13(a) of the Securities Exchange Act of 1934.....	<i>passim</i>
Section 14(a) of the Securities Exchange Act of 1934.....	14
Section 14(c) of the Securities Exchange Act of 1934.....	14
Section 16(a) of the Securities Exchange Act of 1934.....	12, 13
15 PA. CONS. STAT. § 1755(a)	14

REGULATIONS:

Exchange Act Rule 13a-1	<i>passim</i>
Exchange Act Rule 13a-13	<i>passim</i>
Exchange Act Rule 16a-1	13
Exchange Act Rule 16a-3	13
Regulation S-K.....	16
Regulation S-X.....	16

RULES OF PRACTICE AND FEDERAL RULES:

Rule 154, 17 C.F.R. § 201.154 1

Rule 250, 17 C.F.R. § 201.250 5

Rule 250(a), 17 C.F.R. § 201.250(a). 5

Rule 250(b), 17 C.F.R. § 201.250(b). 5

Rule 323, 17 C.F.R. § 201.323 3 n.2

Rule 411(e)(2), 17 C.F.R. § 201.411(e)(2). 1

Fed. R. Civ. P. 56..... 5

INTRODUCTION

The Division of Enforcement (“Division”) submits that the December 1, 2014 Initial Decision of the Administrative Law Judge (“ALJ”) should be summarily affirmed by the Commission pursuant to Commission Rule of Practice 411(e)(2). The Division also opposes the Petition for Review of Accredited Business Consolidators Corp. (“Accredited Business”) seeking the Commission’s review of the Initial Decision. In the Initial Decision, the ALJ considered the Division’s motion for summary disposition and revoked the securities registration of Accredited Business pursuant to Section 12(j) of the Securities Exchange Act of 1934 (“Exchange Act”) based on Accredited Business’s failure to comply with its periodic filing obligations under Exchange Act Section 12 and Exchange Act Rules 13a-1 and 13a-13. The ALJ’s Initial Decision was correct, and should be affirmed.

Accredited Business does not dispute that it has not filed any of its required periodic reports since the period ended September 30, 2012. Nor is there any evidence showing that Accredited Business will be ready to start filing its periodic reports anytime soon. For example, it has been over seven months since this administrative proceeding was instituted against Accredited Business, but it still has not announced the engagement of an auditor to assist it in preparing its periodic reports. Nevertheless, Accredited Business contends that the ALJ erred in revoking its registration instead of merely suspending it for less than twelve months. Accredited Business also contends that it should not have had its registration revoked because the securities of unregistered companies trade on the over-the-counter market. These arguments have no merit.

The ALJ correctly concluded that there are no disputed issues of material fact in this case and that revocation is the appropriate response to Accredited Business's long-standing refusal to comply with its periodic filing obligations under Exchange Act Section 12 and Exchange Act Rules 13a-1 and 13a-13. Contrary to Accredited Business's claim that "the SEC neither alleged nor presented evidence that revocation was 'necessary or appropriate for the protection of investors,'" Accredited Business's Brief at 1, the ALJ conducted a careful analysis of the *Gateway* factors¹ and found that all of the factors supported revocation. The Initial Decision was not a "rubber stamping" by the ALJ as claimed by Accredited Business. Accredited Business's Brief at 2. The Division respectfully submits that if the Commission conducts the same careful analysis of the *Gateway* factors, it too will find that Accredited Business violated the Exchange Act for over two years and that the appropriate remedy is the revocation of its registration.

I. Statement of Facts

Accredited Business is a Pennsylvania corporation located in Managua, Nicaragua with a class of securities registered with the Commission pursuant to Exchange Act Section 12(g). (OIP, ¶ II.A.1; Accredited Business Answer, ¶ 1). On May 29, 2014, the Commission's Division of Corporation Finance ("Corporation Finance") sent a delinquency letter by registered mail to Accredited Business at its address in Managua, Nicaragua. The delinquency letter stated that Accredited Business appeared to be delinquent in its periodic filings and warned that it could be subject to revocation, and to a trading suspension pursuant to Exchange Act Section 12(k), without further notice if it

¹ *Gateway Int'l Holdings, Inc.*, Securities Exchange Act of 1934 Rel. No. 53907, at 10, 2006 SEC LEXIS 1288 at *19-20 (May 31, 2006).

did not file its required reports within fifteen days of the date of the letter. Corporation Finance did not receive confirmation that the letter was actually received by Accredited Business. (Exhibit (“Ex.”) 1 to the Declaration of Neil J. Welch, Jr. in Support of the Division’s Motion for Summary Disposition (“Welch Decl.”).)

The Commission initiated this administrative proceeding by instituting the OIP on July 31, 2014. Accredited Business filed an answer to the OIP on August 21, 2014, admitting that it was delinquent in the filing of its reports and stating that it “can and will bring the filings current as soon as practicable.” (Accredited Business’s Answer, ¶¶ 1 and 11.)

The Division filed a motion for summary disposition on October 6, 2014. After briefing was completed, on December 1, 2014, ALJ Cameron Elliot issued his Initial Decision recommending revocation of Accredited Business’s securities registration.

As of March 16, 2015, the Commission’s EDGAR database shows Accredited Business continued to be delinquent in its periodic reports, and had not filed the required Form 8-K announcing the engagement of an auditor, which would be necessary for the company to file its delinquent audited periodic reports. (Printout from EDGAR database showing all filings of Accredited Business as of March 16, 2015, attached as Ex. 9 to the Division of Enforcement’s Motion for Leave to Adduce Additional Evidence.)² And, Accredited Business’s stock (symbol “ACDU”) is still traded on the over-the-counter markets. (Printout from www.otcquote.com database as of March 16, 2015, attached as

² The Division asks that pursuant to Rule of Practice 323, the Commission take official notice of this and all other information and filings on EDGAR referred to in this brief and/or filed as exhibits with the Declaration of Neil J. Welch, Jr. in Support of the Division’s Motion for Summary Disposition (“Welch Decl.”) filed with the ALJ.

Ex. 10 to the Division of Enforcement's Motion for Leave to Adduce Additional Evidence.)

II. Argument

A. The Initial Decision Should Be Summarily Affirmed.

The initial decision against Accredited Business should be summarily affirmed pursuant to Rule of Practice 411(e)(2), which provides:

The Commission may grant summary affirmance if it finds that no issue raised in the initial decision warrants consideration by the Commission of further oral or written argument. The Commission will decline to grant summary affirmance upon a reasonable showing that a prejudicial error was committed in the conduct of the proceeding or that the decision embodies an exercise of discretion or decision of law or policy that is important and that the Commission should review.

The Accredited Business initial decision is almost exactly like the initial decision issued against *Andover Holdings, Inc. (a/k/a Andover Energy Holdings, Inc.)*, Initial Decision Rel. No. 461, 2012 SEC LEXIS 1885 (June 19, 2012), which also revoked a delinquent issuer's securities registration by summary disposition pursuant to Exchange Act Section 12(j). *Andover Holdings*, like Accredited Business, failed to file any of its periodic reports after the initial decision was issued, and failed to file any Forms 25b-25 notifying the Commission and investors that it would be unable to file its periodic reports.³ The Commission summarily affirmed the *Andover Holdings* initial decision: "We find that no issue raised in the initial decision warrants consideration by the Commission, that no prejudicial error was committed in the conduct of the proceeding, and that the decision embodies no exercise of discretion or decision of law or policy that is important and that

³ Unlike Accredited Business, *Andover Holdings* at least tried to file some of its periodic reports after the OIP was instituted, but the reports were materially deficient. *Andover Holdings, Inc. (a/k/a Andover Energy Holdings, Inc.)*, Securities Exchange Act Rel. No. 68966, 2013 SEC LEXIS 548 at *1 (Feb. 21, 2013).

the Commission should review. These determinations lead us to conclude that this matter is an appropriate one for resolution, on our own initiative, by summary affirmance. We accordingly adopt the factual and legal findings of the law judge.” *Andover Holdings, Inc. (a/k/a Andover Energy Holdings, Inc.)*, Securities Exchange Act Rel. No. 68966, 2013 SEC LEXIS 548 (Feb. 21, 2013) (footnotes omitted).

B. Standards Applicable to the Division’s Summary Disposition Motion.

Rule 250(a) of the Commission’s Rules of Practice permits a party to move “for summary disposition of any or all allegations of the order instituting proceedings” before hearing with leave of the hearing officer. 17 C.F.R. § 201.250(a). Rule 250(b) provides that a hearing officer may grant a motion for summary disposition if there is no genuine issue with regard to any material fact and the party making the motion is entitled to summary disposition as a matter of law. 17 C.F.R. § 201.250(b); *see Michael Puorro*, Initial Decision Rel. No. 253, 2004 SEC LEXIS 1348, at *3 (June 28, 2004) citing 17 C.F.R. § 201.250; *Garcis, U.S.A.*, Securities Exchange Act of 1934 Rel. No. 38495 (Apr. 10, 1997) (granting motion for summary disposition).

As one Administrative Law Judge explained,

By analogy to Rule 56 of the Federal Rules of Civil Procedure, a factual dispute between the parties will not defeat a motion for summary disposition unless it is both genuine and material. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986). Once the moving party has carried its burden, ‘its opponent must do more than simply show that there is some metaphysical doubt as to the material facts.’ *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). The opposing party must set forth specific facts showing a genuine issue for a hearing and may not rest upon the mere allegations or denials of its pleadings. At the summary disposition stage, the hearing officer’s function is not to weigh the evidence and determine the truth of the matter, but rather to

determine whether there is a genuine issue for resolution at a hearing. *See Anderson*, 477 U.S. at 249.

Edward Becker, Initial Decision Rel. No. 252, 2004 SEC LEXIS 1135, at *5 (June 3, 2004).

This administrative proceeding was instituted under Section 12(j) of the Exchange Act. Section 12(j) empowers the Commission to either suspend (for a period not exceeding twelve months) or permanently revoke the registration of a class of securities “if the Commission finds, on the record after notice and opportunity for hearing, that the issuer of such security has failed to comply with any provision of this title or the rules and regulations thereunder.” It is appropriate to grant summary disposition and revoke a registrant’s registration in a Section 12(j) proceeding where, as here, there is no dispute that the registrant has failed to comply with Section 13(a) of the Exchange Act. *See California Service Stations, Inc.*, Initial Decision Rel. No. 368, 2009 SEC LEXIS 85 (Jan. 16, 2009); *Ocean Resources, Inc.*, Initial Decision Rel. No. 365, 2008 SEC LEXIS 2851 (Dec. 18, 2008); *Wall Street Deli, Inc.*, Initial Decision Rel. No. 361, 2008 SEC LEXIS 3153 (Nov. 14, 2008); *AIC Int’l, Inc.*, Initial Decision Rel. No. 324, 2006 SEC LEXIS 2996 (Dec. 27, 2006); *Bilogic, Inc.*, Initial Decision Rel. No. 322, 2006 SEC LEXIS 2596, at *12 (Nov. 9, 2006).

C. The Division is Entitled to Summary Disposition Against Accredited Business for Violations of Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 Thereunder.

Section 13(a) of the Exchange Act and the rules promulgated thereunder require issuers of securities registered pursuant to Section 12 of the Exchange Act to file periodic and other reports with the Commission. Exchange Act Section 13(a) is the cornerstone of

the Exchange Act, establishing a system of periodically reporting core information about issuers of securities. The Commission has stated:

Failure to file periodic reports violates a central provision of the Exchange Act. The purpose of the periodic filing requirements is to supply investors with current and accurate financial information about an issuer so that they may make sound decisions. Those requirements are “the primary tool[s] which Congress has fashioned for the protection of investors from negligent, careless, and deliberate misrepresentations in the sale of stock and securities.” Proceedings initiated under Exchange Act Section 12(j) are an important remedy to address the problem of publicly traded companies that are delinquent in the filing of their Exchange Act reports, and thereby deprive investors of accurate, complete, and timely information upon which to make informed investment decisions.

Gateway International Holdings, Inc., Securities Exchange Act Rel. No. 53907, 2006 SEC LEXIS 1288 at *26 (May 31, 2006) (quoting *SEC v. Beisinger Indus. Corp.*, 552 F.2d 15, 18 (1st Cir. 1977)).

As explained in the initial decision in the *St. George Metals, Inc.* administrative proceeding:

Section 13(a) of the Exchange Act and the rules promulgated thereunder require issuers of securities registered pursuant to Section 12 of the Exchange Act to file periodic and other reports with the Commission. Exchange Act Rule 13a-1 requires issuers to submit annual reports, and Exchange Act Rule 13a-13 requires issuers to submit quarterly reports. No showing of scienter is necessary to establish a violation of Section 13(a) or the rules thereunder.

St. George Metals, Inc., Initial Decision Rel. No. 298, 2005 SEC LEXIS 2465, at *26 (Sept. 29, 2005); accord *Gateway*, 2006 SEC LEXIS 1288 at *18, *22 n.28; *Stansbury Holdings Corp.*, Initial Decision Rel. No. 232, 2003 SEC LEXIS 1639, at *15 (July 14,

2003); and *WSF Corp.*, Initial Decision Rel. No. 204, 2002 SEC LEXIS 1242 at *14 (May 8, 2002).

There is no dispute that as of the dates the OIP was instituted and the Initial Decision was issued, Accredited Business had failed to file any of its periodic reports since it filed a Form 10-Q for the year ended September 30, 2012. (OIP, ¶ II.A.1; Accredited Business Answer, ¶ 1; Welch Decl., Ex. 2; Initial Decision at 4.) There is therefore no genuine issue with regard to any material fact as to Accredited Business's violations of Exchange Act Section 13(a) and the rules thereunder, and the Division is entitled to an order of summary disposition as to Accredited Business as a matter of law. *See Chemfix*, 2009 SEC LEXIS 2056 at *21-*23 (summary disposition granted in Section 12(j) action); *AIC Int'l, Inc.*, 2006 SEC LEXIS 2996 at *25 (same); *Bilogic, Inc.*, 2006 SEC LEXIS 2596 at *12 (same); *Investco, Inc.*, Initial Decision Rel. No. 240, 2003 SEC LEXIS 2792, at *7 (Nov. 24, 2003) (same); *Nano World Projects Corp.*, Initial Decision Rel. No. 228, 2003 SEC LEXIS 1968, at *3 (May 20, 2003) (Division's motion for summary disposition in Section 12(j) action granted where certifications on filings and respondent's admission established failure to file annual or quarterly reports); and *Hamilton Bancorp, Inc.*, Initial Decision Rel. No. 223, 2003 SEC LEXIS 431, at *4-*5 (Feb. 24, 2003) (summary disposition in Section 12(j) action).

D. Revocation is the Appropriate Sanction for Accredited Business's Serial Violations of Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 Thereunder.

Exchange Act Section 12(j) provides that the Commission may revoke or suspend a registration of a class of an issuer's securities where it is "necessary or appropriate for the protection of investors." The Commission's determination of which sanction is

appropriate “turns on the effect on the investing public, including both current and prospective investors, of the issuer’s violations, on the one hand, and the Section 12(j) sanctions on the other hand.” *Gateway*, 2006 SEC LEXIS 1288, at *19-*20. In making this determination, the Commission has said it will consider, among other things: (1) the seriousness of the issuer’s violations; (2) the isolated or recurrent nature of the violations; (3) the degree of culpability involved; (4) the extent of the issuer’s efforts to remedy its past violations and ensure future compliance; and (5) the credibility of the issuer’s assurances against future violations. *Id.*; see also *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979) (setting forth the public interest factors that informed the Commission’s *Gateway* decision). Although no one factor is controlling, *Stansbury*, 2003 SEC LEXIS 1639, at *14-*15, and *WSF Corp.*, 2002 SEC LEXIS 1242 at *5, *18, the Commission stated that it views the “recurrent failure to file periodic reports as so serious that only a strongly compelling showing with respect to the other factors we consider would justify a lesser sanction than revocation.” *Impax Laboratories, Inc.*, Exchange Act Rel. No. 57864, 2008 SEC LEXIS 1197 at *27 (May 23, 2008). An analysis of the factors above confirms that revocation of Accredited Business’s securities is appropriate.

The Commission’s decision in *Cobalis Corporation*, Exchange Act Rel. No. 64813, 2011 SEC LEXIS 2313 (July 6, 2011), is instructive. There, the Division sought summary disposition in a Section 12(j) proceeding where the respondent had failed to make any of its delinquent filings despite promising to do so. *Id.*, at *6-7. The respondent in *Cobalis Corporation* argued that it was making efforts to bring its filings current and made assurances that it would comply in the future, yet had not made any actual EDGAR filings. The Commission rejected this argument, found that there was no

genuine dispute of any fact material to the application of the *Gateway* factors and, accordingly, ordered that the respondent's registrations be revoked. *Id.* at *25. The Commission noted that revocation will “further the public interest by reinforcing the importance of full and timely compliance with the Exchange Act's reporting requirements.” *Id.* at *23 (quoting *Nature's Sunshine Products, Inc.*, Exchange Act Rel. No. 59268, 2009 SEC LEXIS 81, at *37 (Jan. 21, 2009)). The same analysis applies here, and Accredited Business's securities registration should be revoked.

1. Accredited Business's violations are serious and egregious.

As established by the record in this proceeding, Accredited Business's conduct is serious and egregious. Initial Decision at 4. Accredited Business has not filed any periodic reports since it filed a Form 10-Q for the period ended September 30, 2012. Given the central importance of the reporting requirements imposed by Section 13(a) and the rules thereunder, ALJs have found violations of these provisions of the same and of less duration to be egregious, and Accredited Business's violations support an order of revocation for each class of its securities. *See WSF Corp.*, 2002 SEC LEXIS 1242, at *14 (respondent failed to file periodic reports over two-year period); and *Freedom Golf Corp.*, Initial Decision Release No. 227, 2003 SEC LEXIS 1178, at *5 (May 15, 2003) (respondent's failure to file periodic reports for less than one year was egregious violation).

2. Accredited Business's violations of Section 13(a) have been recurrent.

Accredited Business's violations are not unique and singular, but recurrent. Initial Decision at 4. Accredited Business has failed to file any of its periodic reports since the period ended September 30, 2012. Accredited Business also failed to file any

Forms 12b-25 seeking extensions of time to make its periodic filings for any of its periodic reports for periods after June 30, 2013. (Welch Decl., Ex. 2.) *See Investco, Inc.*, 2003 SEC LEXIS 2792, at *6 (delinquent issuer's actions were found to be egregious and recurrent where there was no evidence that any extension to make the filings was sought). The serial and continuous nature of Accredited Business's violations of Exchange Act Section 13(a) further supports the sanction of revocation here.

3. Accredited Business's degree of culpability, including its officers' and majority shareholder's violations of Exchange Act Section 16(a), and Accredited Business's proxy violations support revocation.

For many of the same reasons that Accredited Business's violations were long-standing and serious, they suggest a high degree of culpability. Initial Decision at 4-5. In *Gateway*, the Commission stated that, in determining the appropriate sanction in connection with an Exchange Act Section 12(j) proceeding, one of the factors it will consider is "the degree of culpability involved." The Commission found that the delinquent issuer in *Gateway* "evidenced a high degree of culpability," because it "knew of its reporting obligations, yet failed to file" twenty periodic reports and only filed two Forms 12b-25. *Gateway*, at 10, 2006 SEC LEXIS 1288, at *21. Similar to the respondent in *Gateway*, Accredited Business has never filed any of its required Forms 12b-25 seeking extensions of time to make its periodic filings. Because Accredited Business knew of its reporting obligations and nevertheless failed to file its periodic reports, and failed to file the required Forms 12b-25 informing investors of the reasons for its delinquency and the plan to cure its violations, it has shown more than sufficient culpability to support the Division's motion for revocation.

Accredited Business's culpability is further demonstrated by its officers' and majority shareholder's violations of the individual reporting requirements under Exchange Act Section 16(a). This conduct, although not alleged in the OIP, provides further evidence of Accredited Business's culpability that the Commission can and should consider when assessing the appropriate sanction for its admitted violations. Initial Decision at 5; see *Gateway* at 5, n.30 (Commission may consider other violations "and other matters that fall outside of the OIP in assessing appropriate sanctions"); *Citizens Capital Corp.*, Exchange Act Rel. No. 67313, 2012 SEC LEXIS 2024 at *32 (June 29, 2012) (management's failure to comply with Exchange Act Sections 13(d) and 16(a) "further brings into question the likelihood of the Company's future compliance with Section 13(a)"); *Ocean Resources, Inc.*, 2008 SEC LEXIS 2851 at *15 (ALJ found on summary disposition that respondent's assurances of future compliance achieved little credibility where its sole officer had ongoing violations of Exchange Act Section 16(a) in both the respondent's and other companies' securities).⁴

Section 16(a) violations

Exchange Act Section 16(a) requires that a person file a Form 3 within ten days of becoming an officer, director, or ten percent beneficial owner of a company and must file

⁴ The Commission has applied the same principle in other contexts. *Robert Bruce Lohman*, Exchange Act Rel. No. 48092, 2003 SEC LEXIS 1521 at *17 n.20 (June 26, 2003) (ALJ may properly consider lies told to staff during investigation in assessing sanctions, though they were not charged in the OIP); *Stephen Stout*, Exchange Act Rel. No. 43410, 2000 SEC LEXIS 2119 at *57 & n.64. (Oct. 4, 2000) (respondent's subsequent conduct in creation of arbitration scheme, which was not charged in OIP, found to be relevant in determining whether bar was appropriate); and *Joseph P. Barbato*, Exchange Act Rel. No. 41034, 1999 SEC LEXIS 276 at *49-*50 (Feb. 10, 1999) (respondent's conduct in contacting former customers identified as Division witnesses found to be indicative of respondent's potential for committing future violations). See also *SEC v. Falstaff Brewing Corp.*, 629 F.2d 62, 78 (D.C. Cir. 1980) (district court's injunction against future securities violations upheld; court found noncompliance with Exchange Act Section 16(a) "does evince a disregard of the securities laws that may manifest itself in noncompliance elsewhere.").

a Form 4 when the individual's holdings change. Currently, Accredited Business does not have a President. Andy William is the most senior officer and acting President, and Elisa Corea is the Vice President. Moreover, in or about November 2013, Abraham Blauvelt Ltd., an international private investment firm, acquired control of 51% of Accredited Business. (Accredited Business Form 8-K filed November 4, 2013, Welch Decl., Ex. 4; Accredited Business press release dated November 4, 2013, Welch Decl., Ex. 5; Email from Andy William to Division Counsel dated September 16, 2014, Welch Decl., Ex. 6.) Mr. William, Ms. Corea, and Accredited Business's new majority owner, Abraham Blauvelt Ltd., have failed to meet these requirements in connection with their positions. Initial Decision at 5.

Mr. William and Ms. Corea violated Exchange Act Section 16(a) and Rule 16a-1 thereunder by failing to file a Form 3 within ten days of becoming officers of Accredited Business, and Abraham Blauvelt Ltd. violated Exchange Act Section 16(a) and Rule 16a-1 thereunder by failing to file a Form 3 within ten days of becoming a more than ten percent beneficial owner of Accredited Business. (Welch Decl., Ex. 2.) Moreover, they also failed to report their positions in annual Forms 5 as required by Exchange Act Section 16(a) and Rule 16a-3. Their Forms 5 should have been filed within forty-five days following Accredited Business's December 31, 2013 fiscal year end, but they have never filed their Forms 5. (Welch Decl., Ex. 2.) Even after these violations were outlined in the Division's motion for summary disposition, none of these missing forms has been filed.

Proxy violations

Accredited Business's culpability is further demonstrated by its failure to file proxy statements with the Commission. Initial Decision at 5. Accredited Business is a

Pennsylvania corporation, and under Pennsylvania law, 15 Pa. Cons. Stat. § 1755(a), (Welch Decl., Ex. 7), and the company's by-laws, (Welch Decl., Ex. 8), the company is required to hold at least one meeting of the shareholders in each calendar year for the election of directors. However, it has failed to comply with Exchange Act Sections 14(a) and/or 14(c) and rules thereunder by not filing the required proxies regarding annual elections of directors for any year since it was registered with the Commission. (Welch Decl., Ex. 2.) Accredited Business has yet to correct its proxy violations.

4. Accredited Business has made no efforts to remedy its past violations, nor has it made any assurances against future violations.

Accredited Business has not hired an auditor to help it prepare its delinquent periodic reports, nor has it filed any of its delinquent periodic reports. (Welch Decl., Exs. 2 and 6.) In its Answer filed on August 21, 2014, the company said it “can and will bring the filings current as soon as practicable,” which is not as soon as possible. (Accredited Business Answer, ¶ 11.) “Practicable” means that something is capable of being done, so Accredited Business has certainly not made any assurances that it will become current in an expeditious manner. ALJ Elliot found “as soon as practicable” to be “a vague assurance that [Accredited Business] has been unable to fulfill, further casting doubt on its ability to secure an auditor in the near future.” Initial Decision at 5. Moreover, Accredited Business apparently has little regard for the requirements of the Exchange Act, which it agreed to abide by when it registered its securities with the Commission, as its Answer also states: “Portions of the Exchange Act, as amended, including the establishment of the PCAOB and electronic filing requirements are unconstitutional,

violate due process, and constitute a taking without just compensation.” (Accredited Business Answer, ¶ 14.)

E. Revocation is the Appropriate Remedy for Accredited Business.

As discussed above, a full analysis of the *Gateway* factors, as conducted by the ALJ in this case, establishes that revocation is the appropriate remedy for Accredited Business’s long-standing violations of the periodic filings requirements. Accredited Business’s recurrent failures to file its periodic reports have not been outweighed by “a strongly compelling showing with respect to the other factors” which “would justify a lesser sanction than revocation.” *Impax Laboratories, Inc.*, 2008 SEC LEXIS 1197 at *27. Contrary to Accredited Business’s claim that “the SEC neither alleged nor presented evidence that revocation was ‘necessary or appropriate for the protection of investors,’” Accredited Business’s Brief at 1, Paragraph III.B. of the OIP alleges the administrative proceedings were instituted to determine “Whether it is necessary and appropriate for the protection of investors to suspend for a period not exceeding twelve months, or revoke the registration...,” the Division presented its evidence in its motion for summary disposition, and the ALJ performed a full *Gateway* analysis of this evidence.

Moreover, revocation will not be overly harmful to whatever business operations, finances, or shareholders Accredited Business may have. The remedy of revocation will not cause Accredited Business to cease being whatever kind of company it was before its securities registration was revoked. The remedy instead will ensure that until Accredited Business becomes current and compliant on its past and current filings, its shares cannot trade publicly on the open market (but may be traded privately). *See Eagletech*

Communications, Inc. Exchange Act Rel. No. 54095, 2006 SEC LEXIS 1534, at *9 (July 5, 2006) (revocation would lessen, but not eliminate, shareholders' ability to transfer their securities). Revocation will not only protect current and future investors in Accredited Business, who presently lack the necessary information about Accredited Business because of the issuer's failure to make Exchange Act filings; it will also deter other similar companies from becoming lax in their reporting obligations.

A new registration process will place all investors on an even playing field. All current investors will still own the same amount of shares in Accredited Business that they did before registration, though their shares will no longer be devalued because of the company's delinquent status. All investors, current and future alike, will also benefit from the legitimacy, reliability, and transparency of a company in compliance. The time-out will protect the status quo, and will give Accredited Business the opportunity to come into full compliance, to calmly and thoroughly work through all of its remaining issues with its consultants, auditors, and management, and to complete its financial statements in compliance with Regulations S-K and S-X.

Accredited Business suggests that a suspension under Exchange Act Section 12(j), not a revocation, is the appropriate remedy in this case. Accredited Business Brief at 2-3. A revocation is the only appropriate remedy. The Division is unaware of a suspension ever being issued under Section 12(j), and this is because it is just not a practical solution in a delinquent filing case. One ALJ has determined that if he suspended the registration for a period of time, and the delinquent issuer failed to get current before the deadline, the ALJ could not convert the suspension to a revocation. The Commission would have to initiate a new administrative proceeding. *Stansbury*

Holdings Corp., 2003 SEC LEXIS 1639 and *WSF Corp.*, 2002 SEC LEXIS 1242 at *18. Moreover, Accredited Business has made no effort to get current in its periodic reports since this proceeding was instituted on July 31, 2014, so there is no reason to believe it will make any such effort if given more time.⁵ Furthermore, “[t]his proceeding is not an extension of time to file delinquent reports or correct filing deficiencies as sometimes occurs during the normal filing process.” *Citizens Capital Corp.*, Initial Decision Rel. No. 433, at 7, 2011 SEC LEXIS 3307, *18-19 (Sept. 23, 2011); *Bio-Life Labs, Inc.*, Initial Decision Rel. No. 424, at 5, 2011 SEC LEXIS 2546, *9-10 (July 25, 2011).

Even if Accredited Business had filed all of its delinquent filings before the ALJ ruled on the motion for summary disposition, its securities registration should still have been revoked based on its violations of the Exchange Act. In *Absolute Potential, Inc.*, Exchange Act Rel. No. 71866, 2014 SEC LEXIS 1193 (April 4, 2014), the Commission revoked the registration of the delinquent issuer despite the fact that it became current during summary disposition briefing. “[I]t is necessary to deter Absolute and other issuers from disregarding their obligations to present accurate and timely information to the investing public until spurred by the institution of proceedings. Deterrence is meaningful only if a lengthy delinquency, in the absence of strongly compelling circumstances regarding the other *Gateway* factors, results in revocation.” 2014 SEC LEXIS 1193, *24.

⁵ Accredited Business also complains that other companies are allowed to trade on the over-the-counter markets even though they have not filed registration statements or published information about their operations. However, Accredited Business fails to realize that as a Commission registrant under Exchange Act Section 13(a), it has Congressionally-mandated periodic filing obligations that come with the benefits of being a public company registered with the Commission. Accredited Business Brief at 2.

III. Conclusion

For the reasons set forth above, the Division respectfully requests that the Commission grant the Division's Motion for Summary Disposition and revoke the registration of each class of Accredited Business's securities registered under Exchange Act Section 12.

Dated: March 16, 2015

Respectfully submitted,



Thomas Bednar (202) 551-6556
Neil J. Welch, Jr. (202) 551-4731
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-6010

COUNSEL FOR
DIVISION OF ENFORCEMENT