

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 15-80446-CIV-COHN/SELTZER

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

ECAREER HOLDINGS, INC.;  
ECAREER, INC.; JOSEPH J. AZZATA;  
DEAN A. ESPOSITO; JOSEPH DEVITO, and  
FREDERICK J. BIRKS,

Defendants,

VIPER ASSET MANAGEMENT, LLC;  
ESPO CONSULTING, LLC;  
DJC CONSULTING, LLC;  
J & D MARKETING, LLC;  
GRYPHON ASSET MANAGEMENT, LLC, and  
CARLA AZZATA,

Relief Defendants.

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**RECEIVER'S SECOND UNOPPOSED MOTION FOR LIMITED MODIFICATION  
TO SALE PROCEDURE FOR DOMAIN NAMES**

Receiver David M. Levine, not individually, but solely in his capacity as the court-appointed receiver (the "Receiver") for Defendants eCareer Holdings, Inc. and eCareer, Inc. (the "Corporate Defendants"), hereby moves for a limited modification to the sale procedure set forth in the Receiver's Unopposed Motion for Sale of Certain Personal Property and to Employ Sales Broker (the "Motion for Sale") [D.E. 93] and the Receiver's Unopposed Motion for Limited Modification to Sale Procedure for Domain Names (the "Amended Motion for Sale") [D.E.

**LEVINE KELLOGG LEHMAN SCHNEIDER + GROSSMAN LLP**

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123], stating as follows:<sup>1</sup>

1. On July 2, 2015, the Receiver filed his Motion for Sale in relation to 65 domain names owned by the Corporate Defendants (the “Domain Names”). [D.E. 93].

2. In the Motion for Sale, the Receiver requested this Court’s approval to sell the Domain Names and employ Trustee Services, Inc. (“Trustee Services”) as a broker to sell the Domain Names under the specific sale procedures set forth in the Motion for Sale. *See id.*

3. Trustee Services did not receive any acceptable offers under the initial marketing and sales strategy and, in its business judgment, believed that marketing and selling all of the Domain Names through online auction websites would be more effective. [D.E. 123 at 2].

4. Thus, the Receiver obtained this Court’s approval for Trustee Services to sell all of the Domain Names in this manner. [*See* D.E. 123, 125].

5. Since then, Trustee Services attempted to market and sell the Domain Names through online auction website, but it did not generate any significant interest despite these efforts.<sup>2</sup>

6. In its business judgment, in order to better reach the target markets for the sale of the Domain Names and effectuate sales of the Domain Names, Trustee Services recommends: (i) purchasing various marketing lists containing e-mail addresses for individuals included within the target markets, (ii) advertising the sale of the Domain Names directly to these individuals, and (iii) hosting and conducting various public auctions for the sale of the Domain Names.

7. Pursing this new marketing and sales strategy will entail an expense of \$5,500 to

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<sup>1</sup> This Court granted the Motion for Sale and Amended Motion for Sale. [D.E. 96, 125].

<sup>2</sup> Only one domain name, [monstermedical.com](http://monstermedical.com), has been sold to date. This domain name sold for \$500.

obtain the above-referenced e-mail lists.<sup>3</sup>

8. Given that the online auction websites have not generated any significant interest for the sale of the Domain Names, the Receiver moves to modify the sale procedure in the manner stated herein and requests this Court's approval to use \$5,500 of the funds held for the benefit of the Receivership Estate to purchase the e-mail lists in accordance with the Order Granting Plaintiff's Motion for Appointment of Receiver. [D.E.72 at ¶ 4].

9. Trustee Services anticipates that the sale of the Domain Names will exceed the cost of the e-mail list.

10. The Receiver has conferred with counsel for the SEC, and the SEC has advised that it has no objection to the relief requested herein.

**WHEREFORE**, for the foregoing reasons, the Receiver respectfully requests that the Court enter an Order granting this motion and providing such other and further relief as the Court deems just and proper. A proposed Order is submitted herewith as Exhibit "1."

Respectfully submitted,

**LEVINE KELLOGG LEHMAN  
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<sup>3</sup> The Motion for Sale provides that "Trustee Services, Inc. will be solely responsible for all the expenses associated with the marketing, auction, and sale of the Domain Names." [D.E. 93 at 5]. At the time the Motion for Sale was filed, however, neither the Receiver nor Trustee Services anticipated that the purchase of marketing e-mail lists would be necessary to effectively reach individuals in the relevant target markets.

By: /s/ Matthew J. McGuane  
MATTHEW J. MCGUANE  
FL Bar No. 0084473  
E-mail: mjm@lklsg.com

**CERTIFICATE OF SERVICE**

I hereby certify that, on July 19, 2016, a true and correct copy of the foregoing has been served upon all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF and to all *pro se* parties identified on the attached Service List.

/s/ Matthew J. McGuane  
MATTHEW J. MCGUANE

**SERVICE LIST**

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<p><b>Frederick J. Birks</b>                  Defendant                  3685 Cassia Drive                  Orlando, FL 32828  <a href="mailto:fredbirks1@gmail.com">fredbirks1@gmail.com</a></p>	<p><b>Gryphon Asset Management, LLC</b>                  Defendant                  Attention: Frederick J. Birks                  3685 Cassia Drive                  Orlando, FL 32828  <a href="mailto:fredbirks1@gmail.com">fredbirks1@gmail.com</a></p>

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Relief Defendants.

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**ORDER GRANTING RECEIVER'S SECOND UNOPPOSED MOTION  
FOR LIMITED MODIFICATION TO SALE PROCEDURE FOR DOMAIN NAMES**

**THIS CAUSE** is before the Court on the Receiver's Second Unopposed Motion for Limited Modification to Sale Procedure for Domain Names [D.E. \_\_\_] (the "Motion"). The Court has reviewed the Motion and the record in this case, and is otherwise advised in the premises. It is accordingly

**ORDERED AND ADJUDGED** that the Motion is **GRANTED**.

**DONE AND ORDERED** in Chambers at Fort Lauderdale, Broward County, Florida, this \_\_\_ day of July 2016.

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**JAMES I. COHN**  
UNITED STATES DISTRICT JUDGE

Copies provided to: *Counsel of Record & Pro Se Parties*