

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.

**RECEIVER'S UNOPPOSED MOTION FOR ORDER AUTHORIZING CLAIMS
PROCEDURE AND APPROVING FORM AND MANNER OF PROOF OF CLAIM
FORM**

Receiver, David M. Levine, not individually, but solely in his capacity as the court-appointed receiver for eCareer Holdings, Inc. and eCareer, Inc. (the "Corporate Defendants"), moves this Court for entry of an Order authorizing a claims procedure and approving the form and manner of a proof of claim form. In support thereof, the Receiver states as follows:

1. This receivership proceeding was commenced on May 22, 2015, by this Court issuing, among other orders, an Order Granting Plaintiff's Motion for Appointment of Receiver (the "Receivership Order"). [D.E. 72].

2. Pursuant to the Receivership Order, the Receiver is obligated to take custody, control and possession of the Corporate Defendants' assets for the benefit of the Corporate Defendants' defrauded investors and has the full power, duty and authority to administer and manage the Corporate Defendants' business affairs and take whatever actions are necessary for the protection of the Corporate Defendants' investors.

3. The Receiver has determined that it would be in the best interest of the Corporate Defendants' receivership estate to establish a claims procedure and a deadline for filing of all claims arising out of the Corporate Defendants' pre-receivership business dealings because the Receiver and the Securities and Exchange Commission (the "SEC") have recovered assets, and additional assets may be recovered, that can be distributed to investors and other creditors.

4. The Receiver has prepared a proposed proof of claim form for the investors and creditors of the Corporate Defendants to complete, a copy of which is attached hereto as Exhibit A. The claim form contains a claims filing deadline of January 15, 2018. The proposed form, including the proposed claims filing deadline, would be sent by first-class mail to all known investors and other known creditors of the Corporate Defendants, and would be posted on the website, which the Receiver has been using to apprise interested parties of the Receiver's activities and progress (<http://www.ecareer-receiver.com>). The Receiver reserves the right to ask additional questions to the

investors and creditors of the Corporate Defendants and seek to implement new procedures if necessary.

5. In the proposed claim form attached hereto, the claims bar date is January 15, 2018. That date assumes that this motion is granted by no later than the end of October 2017, and that the claim form can be mailed out to all known investors and creditors of the Corporate Defendants by no later than November 15, 2017.

6. Upon the expiration of the claims bar date, the Receiver shall make application to the Court for recommended procedures to be established by the Court regarding the filing and determination of objections to claims.

7. 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, the Receiver respectfully requests that this Court enter an order approving the proposed claims procedures and the form and manner of proof of claim form described herein and attached hereto as Exhibit A.¹

Dated: September 19, 2017

Respectfully submitted,

**LEVINE KELLOGG LEHMAN
SCHNEIDER + GROSSMAN LLP**
Counsel for the Receiver
Citigroup Center, 22nd Floor
201 South Biscayne Blvd.
Miami, Florida 33131
Phone: (305) 403-8788
Fax: (305) 403-8789

¹ For the Court's convenience, a proposed order granting this motion is attached hereto as Exhibit B.

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

CERTIFICATE OF SERVICE

I hereby certify that, on September 19, 2017, 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.

/s/ Matthew J. McGuane
MATTHEW J. MCGUANE

SERVICE LIST

<p>Arthur C. Koski Arthur C Koski P.A. Counsel for DJC Consulting, LLC, Espo Consulting, LLC, J & D Marketing, LLC, Viper Asset Management, LLC, Dean A. Esposito, and Joseph Devito 101 N Federal Highway Suite 602 Boca Raton, FL 33432 561-362-9800 362-9870 (fax) akoski@koskilaw.com</p>	<p>Christopher E. Martin Securities & Exchange Commission 801 Brickell Avenue Suite 1800 Miami, FL 33131 305-982-6386 536-4154 (fax) martinc@sec.gov</p>
<p>Mark C. Perry Counsel for Joseph J. Azzata 2400 East Commercial Blvd Suite 201 Fort Lauderdale, FL 33308 954-351-2601 954-351-2605 (fax) markperryesq@yahoo.com</p>	<p>James D. Sallah Sallah Astarita & Cox, LLC Counsel for Carla Azzata One Boca Place 2255 Glades Road Suite 300E Boca Raton, FL 33431 561 989-9080 561-989-9020 (fax) jds@sallahlaw.com</p>
<p>Frederick J. Birks Defendant 3685 Cassia Drive Orlando, FL 32828 fredbirks1@gmail.com</p>	<p>Gryphon Asset Management, LLC Defendant, Attention: Frederick J. Birks 3685 Cassia Drive Orlando, FL 32828 fredbirks1@gmail.com</p>
<p>Joseph A. Azzata azzataj@gmail.com</p>	<p>Carla Azzata carlaazzata@gmail.com</p>

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CARLA AZZATA,

Relief Defendants.

**SWORN PROOF OF CLAIM FORM
AGAINST ECAREER RECEIVERSHIP ESTATE
Each Investor Or Other Creditor Must Complete
Its/Their Own Separate Form**

GENERAL INFORMATION

1. _____
Full name of person or entity completing this form

2. _____
Full name of corporate officers, directors, and shareholders of entity
completing this form (if applicable)

3. _____
Any previous, maiden, or other name(s) used by person completing this
form (if applicable)

4. _____
Any previous or other name(s) used by entity completing this form
(including d/b/a) (if applicable)
5. _____
Current address of person or entity completing this form
6. _____
Telephone number and e-mail address of person or entity completing this
form
7. _____
Social Security Number of person completing this form (or Tax ID
Number of entity completing this form)

INVESTMENT INFORMATION

8. My claim is that of an investor, arising from my investment of the following amount(s) on the following date(s):

1st investment with eCareer totaled \$ _____ and was made on _____ (date).

If applicable, 2nd investment with eCareer totaled \$ _____ and was made on _____ (date).

If additional investments were made, please attach a separate sheet identifying those amounts and the dates on which they were made.

9. Subsequent to my investment(s) referenced above, I received from eCareer:

\$ _____, as a return on my 1st investment, on _____ (date).

\$ _____, as an additional return on my 1st investment, on _____ (date),
which I reinvested/accepted (circle one).

\$ _____, as an additional return on my 1st investment, on _____ (date),
which I reinvested/accepted (circle one).

If applicable, \$ _____, as a return on my 2nd investment, on _____ (date).

\$ _____, as an additional return on my 2nd investment, on _____ (date),

which I reinvested/accepted (circle one).

\$ _____, as an additional return on my 2nd investment, on _____ (date),
which I reinvested/accepted (circle one).

If additional returns on investments were received from eCareer, please attach a separate sheet identifying those amounts and the dates on which they were received and whether those amounts were reinvested or accepted.

If you received anything of value other than money from eCareer at any point in time, please identify what you received, from whom, and the date on which you received it.

10. Please identify the broker(s) who you dealt with at eCareer and state whether you worked with any of eCareer's broker(s) prior to investing in eCareer.

11. Please state whether you were ever employed at eCareer.

12. If your answer to the above question Number 11 was, yes, please identify the date on which you became employed at eCareer and explain the nature of your employment position at eCareer.

13. Please state whether you are related to anyone affiliated with eCareer and, if so, please state the name of such person(s).

14. Please identify with specificity any other information that you believe may assist the Receiver in his efforts to locate assets for the benefit of investors and/or creditors of eCareer.

PLEASE ATTACH COPIES OF ANY DOCUMENTS DESCRIBED ABOVE OR RELATED IN ANY WAY TO YOUR DEALINGS WITH ECAREER, INCLUDING COPIES OF YOUR CANCELLED CHECKS, BANK ACCOUNT STATEMENTS SHOWING THE TRANSFER OF FUNDS INVESTED AND RECEIVED, STATEMENTS FROM ECAREER, LETTERS AND MEMORANDA RECEIVED FROM AND SENT TO ECAREER, WIRE TRANSFER CONFIRMATIONS, AND ANY OTHER DOCUMENTS.

INFORMATION REQUIRED FROM NON-INVESTOR CREDITORS IN ADDITION TO GENERAL INFORMATION SET FORTH IN NUMBERS 1-7 ABOVE

15. Please attach copies of all invoices or bills sent to eCareer.
16. Please itemize and attach copies of records regarding the dates and amounts of any payments of such bills made to you by eCareer.

17. What is the current amount of your claim, if any, against eCareer. Please provide factual detail for the amount you are claiming against eCareer.

OATH REQUIRED OF ALL CLAIMANTS

I HEREBY CERTIFY that all of the foregoing information contained on this Proof of Claim Form is true and correct.

Print Name: _____

Witnesses:

(Print name)

(Print name)

STATE OF _____)
COUNTY OF _____)

SWORN TO AND SUBSCRIBED before me this _____ day of _____,
_____ by _____, who is personally known to me or produced
as identification.

My Commission expires: _____
Notary Public

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both.

**SEND THIS PROOF OF CLAIM FORM, BY CERTIFIED MAIL,
RETURN RECEIPT REQUESTED, TO:**

Levine Kellogg Lehman Schneider + Grossman, LLP
201 South Biscayne Boulevard
22nd Floor
Miami, Florida 33131
Attention: Ana M. Salazar

**PROOF OF CLAIM FORMS MUST BE RECEIVED BY
5:00 P.M. ON JANUARY 15, 2018**

IMPORTANT INFORMATION TO READ PRIOR TO SUBMITTING CLAIM FORM

ANY PERSON OR ENTITY SUBMITTING A PROOF OF CLAIM FORM SHALL SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA FOR ALL PURPOSES INCLUDING, WITHOUT LIMITATION, AS TO ANY CLAIMS, DEFENSES OR COUNTERCLAIMS WHICH COULD BE ASSERTED BY THE RECEIVER AGAINST SUCH CLAIMANT OR THE HOLDER OF SUCH CLAIM ARISING OUT OF ANY AND ALL DEALINGS OR BUSINESS TRANSACTED BY OR WITH ECAREER.

**IF A PROOF OF CLAIM FORM IS NOT RECEIVED AT THE ABOVE-
STATED ADDRESS BY 5:00 P.M. ON JANUARY 15, 2018, THEN YOU
ARE FOREVER BARRED FROM ASSERTING ANY AND ALL CLAIMS
AGAINST ECAREER AND, ACCORDINGLY SHALL NOT BE
ENTITLED TO RECEIVE ANY DISTRIBUTIONS TO BE MADE BY THE
RECEIVER TO THE HOLDERS OF ALLOWED CLAIMS.**

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CARLA AZZATA,

Relief Defendants.

_____/

**ORDER GRANTING RECEIVER'S UNOPPOSED MOTION FOR ORDER
AUTHORIZING CLAIMS PROCEDURE AND APPROVING FORM AND MANNER OF
PROOF OF CLAIM FORM**

THIS MATTER is before the Court upon Receiver David M. Levine's Unopposed Motion for Order Authorizing Claims Procedure and Approving Form and Manner of Proof of Claim Form (the "Motion") [D.E. ____]. The Court having reviewed the Motion, being advised that the Motion is not opposed by the Securities and Exchange Commission, and otherwise being duly advised in the premises, it is hereby **ORDERED AND ADJUDGED** as follows:

1. The Motion is **GRANTED**.

2. The Court approves the claims procedure set forth in the Motion and the form and manner of proof of claim form attached thereto as Exhibit A.

DONE AND ORDERED in Chambers in Broward County, Florida, this ___ day of _____ 2017.

JAMES I. COHN
United States District Judge

cc: Counsel of Record & Pro Se Parties