

X SEALED
— NOT SEALED

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

CASE NO. **15-80446**

SECURITIES AND EXCHANGE COMMISSION,)

Plaintiff,)

v.)

**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)

Per Rule 5.4(d), the matter(s) shall remain sealed:
— years; — (specific date);
— permanently; (other).

CIV-COHN

Until further order of the Court.

**ORDER GRANTING PLAINTIFF SECURITIES AND EXCHANGE
COMMISSION'S MOTION FOR TEMPORARY RESTRAINING ORDER AND OTHER
EMERGENCY RELIEF**

This cause comes before the Court upon the Emergency Motion by Plaintiff Securities and Exchange Commission for the following orders with respect to Defendants eCareer Holdings, Inc., eCareer, Inc., Joseph J. Azzata ("Azzata"), Dean A. Esposito ("Esposito"), Joseph DeVito ("DeVito"), and Frederick J. Birks ("Birks") (collectively "Defendants"), and Relief Defendants Viper Asset Management, LLC, Espo Consulting, LLC, DJC Consulting, J & D Marketing, LLC, Gryphon Asset Management, LLC, and Carla Azzata (collectively, "Relief Defendants"):

1. a Temporary Restraining Order;
2. an Order to Show Cause Why a Preliminary Injunction Should Not be Granted;

3. an Order Freezing the Assets of the Defendants and Relief Defendants;
4. an Order Requiring Sworn Accountings;
5. an Order Prohibiting Destruction of Documents;
6. an Order Expediting Discovery; and
7. a Temporary Officer and Director Bar and Bar from Voting eCareer's Stock.

The Court has considered the Commission's Complaint, its Emergency Motion for a Temporary Restraining Order and Other Relief and Memorandum of Law in Support, and the declarations and exhibits filed in support thereof. The Court finds the Commission has made a sufficient and proper showing in support of the relief granted herein by: (i) presenting a *prima facie* case of securities laws violations by the Defendants; and (ii) showing a reasonable likelihood Defendants will harm the investing public by continuing to violate the federal securities laws unless they are immediately restrained. The Court also finds good cause to believe that unless immediately restrained and enjoined by Order of this Court, the Defendants and Relief Defendants will continue to dissipate, conceal or transfer from the jurisdiction of this Court assets which could be subject to an Order of Disgorgement.

Accordingly, the motion is **GRANTED**, and the Court hereby orders as follows:

I.

SHOW CAUSE HEARING

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Defendants and Relief Defendants show cause, if any, before the Honorable James I. Cohn of this Court, at 9:00 o'clock a.m., on the 20th day of April, 2015, in Courtroom 203E, United States Courthouse, in Fort Lauderdale, Florida, or as soon thereafter as the matter can be heard, why a Preliminary Injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure should not be granted against the Defendants and Relief Defendants, as requested by the Commission.

II.

TEMPORARY RESTRAINING ORDER

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pending determination of the Commission's request for a Preliminary Injunction:

A. **Section 17(a) of the Securities Act**

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that each of the Defendants are restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser;

by, directly or indirectly (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor; about: (A) any investment in or offering of securities, (B) the registration status of such offering or of such securities, (C) the prospects for success of any product or company, (D) the use of investor funds, or (E) the misappropriation of investor funds or investment proceeds.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Temporary Restraining Order by personal service or otherwise: (a) any of the Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with any Defendant or with anyone described in (a).

B. Section 10(b) and Rule 10b-5 of the Exchange Act

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that each of the Defendants are restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;

by (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about: (A) any investment in or offering of securities, (B) the registration status of such offering or of such securities, (C) the prospects for success of any product or company, (D) the use of investor funds, or (E) the misappropriation of investor funds or investment proceeds.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Temporary Restraining Order by personal service or otherwise: (a) any of the Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with any Defendant or with anyone described in (a).

C. Section 5(a) and 5(c) of the Securities Act

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that each of the Defendants are restrained and enjoined from violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;
- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or
- (c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration

statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Temporary Restraining Order by personal service or otherwise: (a) any of the Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with any Defendant or with anyone described in (a).

D. Section 15(a) of the Exchange Act

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants Azzata, Esposito, DeVito and Birks are hereby restrained and enjoined from violating Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a), by using any means or instrumentality of interstate commerce, the mails, or any facility of any national securities by acting as broker or dealer by effect transactions in securities, or to induce or attempt to induce the purchase or sale of securities, without being associated with a broker or dealer that was registered with the Commission in accordance with Section 15(b) of the Exchange Act [15 U.S.C. § 78o(b)].

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Temporary Restraining Order by personal service or otherwise: (a) any of the Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendants Azzata, Esposito, DeVito or Birks or with anyone described in (a).

E. False Reports in Violation of 13(a) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-13 thereunder

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant eCareer Holdings, Inc. is hereby restrained and enjoined from violating Section 13(a) of the Exchange Act, 15 U.S.C. § 78m(a), and Rules 12b-20, 13a-1, and 13a-13 thereunder, 17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13, by failing to timely and accurately file annual and quarterly reports with the Commission regarding its assets, liabilities, and related party descriptions and transactions; omitting information necessary to make the required information, in the light of the circumstances under which they were made, not misleading; and by filing or causing to be filed with the Commission materially false and misleading financial statements.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Temporary Restraining Order by personal service or otherwise: (a) any of eCareer Holdings, Inc.'s officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with eCareer Holdings, Inc. or with anyone described in (a).

F. Control Person Liability for Section 13(a) of the Exchange Act and Aiding and Abetting False Reports in Violation of 13(a) of the Exchange Act

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Azzata is restrained and enjoined from, directly or indirectly, controlling any person who violates Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] by failing to timely and accurately file annual and quarterly reports with the Commission regarding its assets, liabilities, and related party descriptions and transactions; omitting information necessary to make the required information, in the light of the circumstances under which they were made, not misleading; and

by filing or causing to be filed with the Commission materially false and misleading financial statements, unless Defendant acts in good faith and does not directly or indirectly induce the act or acts constituting the violation.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Azzata is restrained and enjoined from aiding and abetting any violation of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] by knowingly or recklessly providing substantial assistance to an issuer that fails to timely and accurately file annual and quarterly reports with the Commission regarding its assets, liabilities, and related party descriptions and transactions; omitting information necessary to make the required information, in the light of the circumstances under which they were made, not misleading; and by filing or causing to be filed with the Commission materially false and misleading financial statements,.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraphs also bind the following who receive actual notice of this Temporary Restraining Order by personal service or otherwise: (a) any of Azzata's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Azzata or with anyone described in (a).

G. False Certification in Violation of Exchange Act Rule 13a-14

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Azzata is hereby restrained and enjoined from violating Rule 13a-14 of the Exchange Act [17 C.F.R. § 240.13a-14] by, directly or indirectly, as an officer or director of an issuer, falsely certifying in annual and quarterly reports that based on his knowledge, disclosure reports did not contain any untrue statement of a material fact or omit to state a material fact necessary

in order to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by the report.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Temporary Restraining Order by personal service or otherwise: (a) any of Azzata's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Azzata or with anyone described in (a).

III.

ASSET FREEZE

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that, pending determination of the Commission's request for a Preliminary Injunction:

- A. Defendants eCareer Holdings, Inc., eCareer, Inc., Azzata, Esposito, DeVito, and Birks and Relief Defendants Viper Asset Management, LLC, Espo Consulting, LLC, DJC Consulting, J & D Marketing, LLC, Gryphon Asset Management, LLC, and Carla Azzata, and their respective directors, officers, agents, servants, employees, attorneys, depositories, banks, and those persons in active concert or participation with any one or more of them, and each of them, who receive notice of this order by personal service, mail, email, facsimile transmission or otherwise, be and hereby are, restrained from, directly or indirectly, transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating or otherwise disposing of, or withdrawing any assets or property, including but not limited to cash, free credit balances, fully paid for securities, personal property, real property, and/or property pledged or hypothecated as collateral for loans, or charging upon or drawing from any lines of credit, owned by, controlled by, or in the possession of, whether jointly or singly, and wherever located; and
- B. Any financial or brokerage institution or other person or entity holding any such funds or other assets, in the name, for the benefit or under the control of any Defendant or Relief Defendant, directly or indirectly, held jointly or singly, and

wherever located, and which receives actual notice of this order by personal service, mail, email, facsimile, or otherwise, shall hold and retain within its control and prohibit the withdrawal, removal, transfer, disposition, pledge, encumbrance, assignment, set off, sale, liquidation, dissipation, concealment, or other disposal of any such funds or other assets.

IV.
SWORN ACCOUNTINGS

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that within five calendar days of the issuance of this Order, each Defendant and Relief Defendant shall:

- (a) make a sworn accounting to this Court and the Commission of all funds, whether in the form of compensation, commissions, income (including payments for assets, shares or property of any kind), and other benefits (including the provision of services of a personal or mixed business and personal nature), of any kind, received from any other Defendant or Relief Defendant;
- (b) make a sworn accounting to this Court and the Commission of all assets, funds, or other properties, whether real or personal, held by any Defendant or Relief Defendant, jointly or individually, or for his direct or indirect beneficial interest, or over which any of them maintains control, wherever situated, stating the location, value, and disposition of each such asset, fund, and other property; and
- (c) provide to the Court and the Commission a sworn identification of all accounts (including, but not limited to, bank accounts, savings accounts, securities accounts and deposits of any kind and wherever situated) in which he (whether solely or jointly), directly or indirectly (including through a corporation, partnership, relative, friend or nominee), any of them has an interest or over which any of them has the power or right to exercise control.

V.

RECORDS PRESERVATION

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that, pending determination of the Commission's request for a Preliminary Injunction, each of the Defendants and Relief Defendants, any of their directors, officers, agents, servants, employees, attorneys, depositories, banks, and those persons in active concert or participation with any one or more of them, and each of them, be and they hereby are restrained and enjoined from, directly or indirectly, destroying, mutilating, concealing, altering, disposing of, or otherwise rendering illegible in any manner, any of the books, records, documents, correspondence, brochures, manuals, papers, ledgers, accounts, statements, obligations, files and other property of or pertaining to any of the Defendants or Relief Defendants, wherever located and in whatever form, electronic or otherwise, until further Order of this Court.

VI.

EXPEDITED DISCOVERY

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that:

- (a) Immediately upon entry of this Order, and while the Commission's request for a Preliminary Injunction is pending, the parties may take depositions upon oral examination of parties and non-parties subject to two days' notice. Should any Defendant or Relief Defendant fail to appear for a properly noticed deposition, that party is prohibited from introducing evidence at the hearing on the Commission's request for a preliminary injunction;
- (b) Immediately upon entry of this Order, and while the Commission's request for a Preliminary Injunction is pending, the parties shall be entitled to serve requests for the production of documents. The parties shall respond to such discovery requests within two days of service;
- (c) Immediately upon entry of this Order, and while the Commission's request for a Preliminary Injunction is pending, the parties may issue subpoenas for documents,

things and electronically stored information to non-parties pursuant to Fed. R. Civ. P. 45, with responses due within one week of the date of service;

- (d) All responses to the Commission's discovery requests shall be delivered to Christopher E. Martin, Esq., Senior Trial Counsel, at 801 Brickell Avenue, Suite 1800, Miami, Florida 33131 by the most expeditious means available; and
- (e) Service of discovery requests shall be sufficient if made upon the parties by email, facsimile or overnight courier, and depositions may be taken by telephone or other remote electronic means.

VII.

OFFICER AND DIRECTOR BAR & BAR FROM VOTING ECAREER'S STOCK

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that, pending determination of the Commission's request for a Preliminary Injunction, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] and Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)], Defendant Azzata is prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

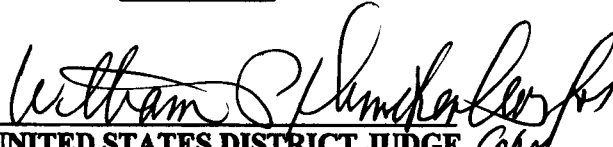
IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that, pending determination of the Commission's request for a Preliminary Injunction, pursuant to Section 21(d)(5) of the Exchange Act, Section 305(b)(5) of the Sarbanes-Oxley Act of 2002, and the Court's equitable powers, Azzata is barred from voting any shares of eCareer Holdings, Inc. or eCareer, Inc. he, directly or indirectly, owns or controls.

VIII.

RETENTION OF JURISDICTION

IT IS HEREBY FURTHER ORDERED that this Court shall retain jurisdiction over this matter and the Defendants and Relief Defendants in order to implement and carry out the terms of all Orders and Decrees that may be entered and/or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstances.

DONE AND ORDERED this 7th day of April 2015, at Fort Lauderdale, Florida. at 1:37 P.M.


UNITED STATES DISTRICT JUDGE *W.S.H.*

Copy to:

Christopher E. Martin, Esq.
Senior Trial Counsel
801 Brickell Avenue, Suite 1800
Miami, Florida 33131
Counsel for Securities and Exchange Commission
Phone: (305) 982-6386
Fax: (305) 536-4154
martinc@sec.gov