

**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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**NOTICE OF FILING RECEIVER'S FIRST REPORT**

David M. Levine, not individually, but solely in his capacity as the court-appointed receiver ("the Receiver") for eCareer Holdings, Inc. and eCareer, Inc. (the "Corporate Defendants"), hereby files the attached First Report dated August 21, 2015.

**LEVINE KELLOGG LEHMAN SCHNEIDER + GROSSMAN LLP**

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Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that, on August 21, 2015, 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 via U.S. mail.

/s/Stephanie Hauser  
Stephanie Hauser, Esq.

**SERVICE LIST**

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<p><b>Frederick J. Birks</b> Defendant 3685 Cassia Drive Orlando, FL 32828</p>	<p><b>Gryphon Asset Management, LLC</b> Defendant Attention: Frederick J. Birks 3685 Cassia Drive Orlando, FL 32828</p>

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CARLA AZZATA,

Relief Defendants.

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**FIRST REPORT OF RECEIVER DAVID M. LEVINE**

Pursuant to the Court's May 22, 2015 Order Granting Plaintiff's Motion for Appointment of Receiver (the "Receivership Order") [ECF No. 72], Receiver David M. Levine, not individually, but solely in his capacity as the court-appointed receiver for Corporate Defendants eCareer Holdings, Inc. and eCareer, Inc. (the "Corporate Defendants"), submits the following Report. The purpose of this Report is to advise the Court of the assets and liabilities of the Corporate Defendants pursuant to Section 3 of the Receivership Order, and to more specifically advise the Court and the parties, investors, and creditors as to the material actions that I have taken since the commencement of this matter.

## **I. Introduction**

As a matter of background, on April 7, 2015, the Securities and Exchange Commission (the “Commission”) commenced the above-styled action against the Corporate Defendants, their principal, Defendant Joseph J. Azzata (“Azzata”), Defendants Dean A. Esposito, Joseph Devito, and Frederick J. Birks (the “Finders”), who were individuals who solicited investors on behalf of the Corporate Defendants, and other related individuals and entities (the “Relief Defendants”), for making material misrepresentations to investors in violation of various provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934. *See* Compl., ECF No. 1. More specifically, the Commission alleges that the investors were told that their funds would be used as working capital to expand the Corporate Defendants’ business, but, in reality, the vast majority of funds raised from the Corporate Defendants’ investors were funneled to or for the benefit of Azzata and the Finders. *See, e.g., id.* ¶¶ 3, 4 & 7. The Corporate Defendants’ business purportedly was to operate an online staffing company through which the Corporate Defendants supposedly sold job advertisements to companies to be posted on the Corporate Defendants’ website. *See, e.g., id.* ¶ 43. Ultimately, while the Corporate Defendants were receiving substantial amounts of investor funds on a monthly basis, the Corporate Defendants generated negligible revenues through their purported business.

On April 7, 2015, the Court granted the Commission’s Motion for Temporary Restraining Order and Other Emergency Relief (“TRO”). [ECF No. 8]. Pursuant to the TRO, Corporate Defendants, Azzata, the Finders, and the Relief Defendants were ordered to cease making misrepresentations to investors. Additionally, the assets of the Corporate Defendants, Azzata, the Finders, and the Relief Defendants were frozen. Ten days later, on April 17, 2015, the Court entered unopposed Preliminary Injunctions against the Corporate Defendants, Azzata, the Finders, and the Relief Defendants. [ECF Nos. 37–40].

The following month, on May 22, 2015, the Court appointed me as receiver for the Corporate Defendants. *See* Receivership Order. I have served as a District Court receiver and as counsel to a receiver in numerous SEC fraud cases.

By the time I was appointed on May 22, 2015, the business operations of the Corporate Defendants had already ceased as a result of the Court's TRO and Preliminary Injunctions. Additionally, all of the computers and a majority of the files and records of the Corporate Defendants were seized by the authorities as of April 7, 2015. On June 18, 2015, upon my consent, the Court entered a Permanent Injunction against the Corporate Defendants. [ECF No. 89].

Since my appointment, and in light of the fact that the Corporate Defendants had ceased operations prior to my appointment, I have focused my attention on locating and preserving the assets of the Corporate Defendants, and investigating potential claims for the benefit of the Corporate Defendants' investors. I have marshalled the frozen assets of the Corporate Defendants into accounts at Northern Trust in the names of the Corporate Defendants (the "Receivership Account").<sup>1</sup> Pursuant to the freeze order, I have so far only been able to obtain the transfer of \$18,838.65 in cash. I also have secured the Corporate Defendants' business premises, removed (or abandoned, with Court approval)<sup>2</sup> any remaining property of the Corporate Defendants, and subsequently surrendered the Corporate Defendants' business premises to the landlord. Additionally, since my appointment, I identified and took control of certain personal property of the Corporate Defendants, including more than 70 domain names that may bring

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<sup>1</sup> Pursuant to the Receivership Order, I am filing a Standard Fund Accounting Report for May 22, 2015 through August 21, 2015 concurrently with this Report.

<sup>2</sup> On August 4, 2015, the Court granted the Receiver's motion to abandon certain office furniture and equipment, the value of which did not warrant the expenses associated with an auction and sale. [ECF No. 100].

value to the Receivership Estate. Further, I, along with my counsel at Levine Kellogg Lehman Schneider + Grossman, LLP (“LKLSG”), have interviewed former employees of the Corporate Defendants, including one of the Corporate Defendants’ Directors, Timothy Kardok, the Corporate Defendants’ former CFO, John Barbar, and the Corporate Defendants’ former bookkeeper, Eszter Butz (none of whom are defendants in the Commission’s lawsuit). We have also met with and spoken to various investors of the Corporate Defendants.

## **II. The Corporate Defendants’ Assets and Liabilities**

Pursuant to the Receivership Order, I am authorized to “[t]ake immediate possession of all property, assets and estates of every kind of the Corporate Defendants, whatsoever and wheresoever located belonging to or in the possession of the Corporate Defendants, . . . and to administer such assets as is required to comply with the directions contained in this Order, and to hold all other assets pending further order of this Court.” *See id.*, at 2 ¶ 1. These receivership assets, to the extent they exist and have any value, will ultimately be liquidated for the benefit of the hundreds of defrauded investors who will be repaid through distributions through a Court-approved claims process.

### ***A. The Marshalling and Preservation of Assets for the Benefit of Investors***

#### ***i. Bank and Brokerage Accounts***

Upon the Court’s granting of the TRO in April, the SEC served freeze orders on several banks and brokerage firms where the Corporate Defendants, Azzata, the Finders, and the Relief Defendants had maintained accounts. The accounts were, among others, at Bank of America, Wells Fargo, and TD Ameritrade. As a result of the freeze orders, a total of \$18,838.65 in Corporate Defendants’ cash was frozen. Those funds have since been transferred to the Receivership Account.

**ii. Office Furniture, Fixtures, and Equipment**

I secured the Corporate Defendants' business premises in Boca Raton, Florida, which contained various items of office furniture, fixtures, and equipment. In my business judgment, and upon the advice of professionals, the cost to sell the bulk of the office furniture, fixtures, and equipment (the "Office Furniture") would have outweighed any value to the Receivership Estate. Upon consideration of the lack of an available and cost-effective option to sell or donate the Office Furniture, I received Court approval to abandon the Office Furniture at the Corporate Defendants' leased office space so that the Corporate Defendants' landlord could remove the Office Furniture at the landlord's sole expense. Abandoning the Office Furniture saved the Receivership Estate the expense of disposing of the Office Furniture, and enabled the Receiver to surrender the Corporate Defendants' office space on August 5, 2015.

I remain in possession of various pieces of electronic equipment (e.g., telephones and printers) from the Corporate Defendants' office space, which I will attempt to sell for the benefit of the Receivership Estate upon the filing of a motion and receipt of an appropriate order from the Court permitting me to do so.

**iii. Domain Names**

I have identified over 70 domain names owned by the Corporate Defendants, 65 of which do not contain the name of or make reference to the "eCareer" name or the Corporate Defendants' website, OpenReq (the "Domain Names"). Most of the domain names contain medical references, such as "cardiologists.com" and "pharmacists.today.com." I have since taken control of those Domain Names, and believe that many of the Domain Names could have re-sale value. On July 6, 2015, the Court granted my motion to sell these Domain Names, and to employ Trustee Services, Inc. as a sales broker to assist in the marketing and sale of the domain names.



[ECF No. 96]. Trustee Services, Inc. is in the process of marketing the Domain Names and posting them for sale on public auction sites.

**iv. *The Public Shell***

Upon my appointment, I explored the possibility of selling the Corporate Defendants' public shell as a means to raise funds for the benefit of the Corporate Defendants' investors. Unfortunately, after consulting with various attorneys and accountants who have experience in and specialize in the re-sale of public shells, I determined that there was not a viable market in which to sell this particular shell, particularly in light of the fact that, as of my appointment, the public entity was already late in one set of 10-Q filings.

Additionally, upon my appointment, Timothy Kardok, a former Director and insider of the Corporate Defendants, introduced me to a private company called CNC Jobs, Inc. out of Lapeer, Michigan as a potential buyer of the Corporate Defendants' public shell and shares. Ultimately, I determined that a sale to CNC Jobs, Inc. was not a viable deal and would not be in the best interest of the Receivership Estate and Corporate Defendants' investors, because (1) CNC Jobs, Inc. was not willing to contribute any cash for the purchase of the Corporate Defendants' public shell and shares; (2) instead, CNC Jobs, Inc. proposed to provide the Corporate Defendants' investors with shares in the newly merged, public entity at a value to be set by CNC Jobs, Inc.—which, based on the unaudited and incomplete financial information provided to me by CNC Jobs, Inc., I was unable to confirm or recommend; (3) the sale was to be conditioned on the investors signing waivers to release all claims of liability against the Corporate Defendants' public shell; and (4) Timothy Kardok, a former Director and insider of the Corporate Defendants, was to have a role in the CNC Jobs, Inc. business going forward.

**v. *Litigation Claims***

My counsel and I have been exploring potential litigation claims against the named Defendants and Relief Defendants, as well as third parties to recover assets for the benefit of the investors. My investigations have been somewhat inhibited due to the Receivership Estate's lack of sufficient funds to retain a forensic accountant. To preserve certain claims, however, I have executed tolling agreements with Timothy Kardok, a former director of the Corporate Defendants who is not a named defendant in the Commission's lawsuit, as well as with American Express, which, from my review of certain documents, appears to have received payments from the Corporate Defendants for various American Express credit cards issued to the Corporate Defendants and their insiders. I will continue to investigate potential claims against the named Defendants and third parties. To facilitate these investigations, I will arrange for a complete forensic analysis of the Corporate Defendants' finances as soon as the Receivership Estate has sufficient funds to retain a forensic accountant.

**B. *The Corporate Defendants' Liabilities***

Attached as **Exhibit A** is a list of the liabilities that have been claimed to exist by third parties. In addition to those claimed liabilities, I believe the Corporate Defendants may have outstanding liabilities related to the non-payment of payroll taxes and related expenses.

**III. Receivership Website**

I have established a receivership website that: (1) informs investors and creditors that the Corporate Defendants are now in receivership; (2) provides access to certain court documents, such as the Receivership Order, Permanent Injunction, as well as the Court's Orders on the disposition of certain personal property of the Corporate Defendants; (4) permits investors to submit a registration form with their contact information; and (5) contains updates on the general progress of the receivership. The receivership website address is [www.ecareer-receiver.com](http://www.ecareer-receiver.com).

**IV. Conclusion**

My overall investigation is ongoing. Therefore, I will supplement this initial Report with additional information when it is appropriate.

/s/ David M. Levine  
David M. Levine

Dated: August 21, 2015

<b>CREDITOR</b>	<b>AMOUNT DUE</b>
American Bureau of Collections	\$1,632.00
Earthlink	\$5,094.17
Convergent Commercial, Inc. Global News Wire (NASDAQ)	\$540.00
Intuit	\$1,727.83
Transworld Systems, Inc.	\$738.02
Wells Fargo Merchant Services	\$166.29
WPTS World Patent & Trademark Services	\$2,356.00
Pitney Bowes	\$121.86
Borer Financial Communications, Inc.	\$4,720.50
McCarthy, Burgess & Wolff	\$2,133.40
Windstream	\$3,858.29
<b>Total</b>	<b>\$23,088.36</b>

**EXHIBIT "A"**