

05/08/2020 Allowed, in part, as follows: The request for expedited consideration is granted, as is the request to shorten the required notice to 14 days for the objection deadline and hearing as to the disclosure statement. The Court shall set the objection deadline and schedule the matter for hearing via separate notice. All other requests for relief are to be held for objections and hearing.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In Re:)	
)	
	)	Chapter 11
)	
TELEXFREE, LLC,	)	Case No. 14-40987-MSH
TELEXFREE, INC.,	)	Case No. 14-40988-MSH
TELEXFREE FINANCIAL, INC.,	)	Case No. 14-40989-MSH
)	
Debtors.	)	Jointly Administered

EXPEDITED MOTION TO (A) APPROVE PROPOSED DISCLOSURE STATEMENT, (B) ESTABLISH A RECORD HOLDER DATE, (C) APPROVE SOLICITATION PROCEDURES, FORM OF PARTICIPANT NOTICE AND FORMS OF BALLOTS, (D) ESTABLISH DEADLINES FOR THE FILING OF OBJECTIONS TO CONFIRMATION OF CHAPTER 11 PLAN AND FOR THE SUBMISSION OF BALLOTS, (E) SCHEDULE A HEARING ON CONFIRMATION OF THE CHAPTER 11 PLAN, AND (F) GRANT RELATED RELIEF

Stephen B. Darr, the duly appointed Chapter 11 trustee (the "Trustee") of the bankruptcy estates (the "Estates") of TelexFree, LLC, TelexFree, Inc., and TelexFree Financial, Inc.

(collectively, the "Debtors" or "TelexFree") hereby moves the Court, on an expedited basis, to:

(1) shorten the notice required for the hearing and objections under Fed.R.Bankr.P.

2002(b) with respect to the *Disclosure Statement with respect to Liquidating Plan of Reorganization of Stephen B. Darr, Chapter 11 Trustee of TelexFree, LLC, TelexFree, Inc., and TelexFree Financial, Inc.* (the "Disclosure Statement") from 28 days to 14 days and

schedule a hearing on the Disclosure Statement accordingly, (2) approve the Disclosure

Statement; (3) establish a record holder date; (4) approve the proposed form of notice to

Participants (the "Participant Notice") and the proposed forms of ballots, (5) establish deadlines

for the filing of objections to confirmation of the *Liquidating Plan of Reorganization of Stephen*

B. Darr, Chapter 11 Trustee of TelexFree, LLC, TelexFree, Inc., and TelexFree Financial, Inc.



(the “Plan”)¹ and for submission of ballots, and (6) schedule a hearing on confirmation of the Plan (the “Confirmation Hearing”).

The Plan and Disclosure Statement have been filed contemporaneously herewith. The Plan is a liquidating plan that will provide an initial payment to approximately 100,000 Participants who have Allowed or conditionally Allowed Claims totaling approximately \$350,000,000. There are two classes of Participants under the Plan. Class 2 Participants with Allowed Claims of \$4,250 or less (“Convenience Participant Claims”) will receive a one-time payment equal to 43% of their Allowed Claims, unless they elect to be treated as holders of Class 3 Claims. Class 3 Participants with Allowed Claims in excess of \$4,250 (“General Participant Claims”) will receive an initial payment estimated to be equal to approximately 39% of their Allowed Claims and are expected to receive additional payments as funds become available.

In order to expedite distributions to Participants, all of whom were victims of the Debtors’ Ponzi scheme, and many of whom are experiencing extraordinary hardships as a result of the COVID-19 pandemic, the Trustee requests that the Court shorten the notice required for the hearing and objections under Fed.R.Bankr.P. 2002(b) with respect to the Disclosure Statement from 28 days to 14 days and schedule a hearing on the Disclosure Statement accordingly. In further support of this Motion, the Trustee states as follows:

I. JURISDICTION

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are Sections 102(1), 105(a), 502, 1125, 1126, and 1128 of Title 11 of the United

¹ All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Plan.

States Code, 11 U.S.C. § 101 *et seq.* (the “Bankruptcy Code”) and Rules 2002(b), 3003, 3016, 3017, 3018, 3020, and 9007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

2. Venue of the Debtors’ Chapter 11 cases and this Motion in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

II. THE TRUSTEE’S LIQUIDATING PLAN OF REORGANIZATION

3. The Plan provides for, among other things, an initial distribution to Participants totaling approximately \$145,000,000 from Restitution Funds turned over to the Trustee by the United States. Under the Plan, Participant Claims shall be treated as follows:

- a. Unless they elect to be treated as Allowed General Participant Claims, holders of Allowed Convenience Participant Claims (\$4,250 or less) will receive a one-time payment in an amount equal to 43% of their Allowed Claims;
- b. Holders of Allowed General Participant Claims (greater than \$4,250) will receive an initial payment in an amount equal to approximately 39% of their Allowed Claims and additional distributions as funds become available in the estimated range of 2-10% of their Allowed Claims.

4. An important provision of the Plan involves the approval and implementation of the Trustee’s settlement (the “Settlement”) of the disputed Claims of the Internal Revenue Service (the “Service”), which Settlement is incorporated into the Plan and attached to the Plan. The United States Department of the Treasury approved and executed the Settlement on April 22, 2020, pursuant to which and among other things:

- a. The Trustee will retain approximately \$7,741,000 of a previously issued tax refund;
- b. The Service will receive payment of approximately \$7,741,000;
- c. The remainder of the Service’s Claims will be disallowed or subordinated to payment of all Allowed Administrative Expense Claims and Participant Claims; and

- d. The Debtors and the Reorganized Debtors will retain net operating loss carry-forwards as of December 31, 2014 of approximately \$500,000,000 to offset future taxable income of the Debtors or the Reorganized Debtors.

Confirmation of the Plan will authorize the Trustee to consummate the Settlement.

5. The Participants with Allowed Claims are all victims of the Debtors' Ponzi scheme. Due to the onset of the COVID-19 pandemic, many Participants are suffering extraordinary hardship. Under the circumstances, the Trustee seeks to expedite payments to Participants with Allowed Claims. Because the Plan is a liquidating Plan, parties in interest will not be prejudiced by the Trustee's request to shorten notice of the hearing and objection deadline on the Disclosure Statement.

III. THE DISCLOSURE STATEMENT SHOULD BE APPROVED

6. Pursuant to Section 1125 of the Bankruptcy Code, a plan proponent must provide holders of impaired claims and interests with "adequate information" regarding a debtor's proposed plan of reorganization. Section 1125(a)(1) of the Bankruptcy Code provides, in pertinent part, as follows:

"[A]dequate information" means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, that would enable a hypothetical reasonable investor typical of holders of claims or interests of the relevant class to make an informed judgment about the plan"

11 U.S.C. § 1125(a)(1); *see In re Mahoney Hawkes, LLP*, 289 B.R. 285 (Bankr. D. Mass. 2002).

7. A disclosure statement must, as a whole, provide information that is reasonably calculated to permit an "informed judgment" by impaired creditors entitled to vote on the plan of reorganization. *See In re Dakota Rail, Inc.*, 104 B.R. 138, 142 (Bankr. D. Minn. 1989); *In re Copy Crafters Quickprint Inc.*, 92 B.R. 973, 979 (Bankr. N.D.N.Y. 1988) (adequacy of disclosure statement "is to be determined on a case specific basis under a flexible standard that

can promote the policy of Chapter 11 towards fair settlement through a negotiation process between informed interested parties”).

8. The Court has broad discretion to determine the adequacy of the information contained in a disclosure statement. *See Texas Extrusion Corp. v. Lockheed Corp. (In re Texas Extrusion Corp.)*, 844 F.2d 1142, 1157 (5th Cir. 1988), *cert. denied*, 488 U.S. 926 (1988); *see also Dakota Rail*, 104 B.R. at 143 (court has “wide discretion to determine . . . whether a disclosure statement contains adequate information without burdensome, unnecessary and cumbersome detail”).

9. Courts generally examine whether the disclosure statement contains, if applicable, the following types of information:

- a. the circumstances that gave rise to the filing of the bankruptcy petition;
- b. a complete description of the available assets and their value;
- c. the anticipated future of the debtor;
- d. the source of the information provided in the disclosure statement;
- e. a disclaimer, which typically indicates that no statements or information concerning the debtor or its assets or securities are authorized, other than those set forth in the disclosure statement;
- f. the condition and performance of the debtor while in Chapter 11;
- g. information regarding claims against the estate;
- h. a liquidation analysis setting forth the estimated return creditors would receive under Chapter 7;
- i. information regarding the future management of the debtor;
- j. a summary of the plan of reorganization;
- k. an estimate of all administrative expenses, including attorneys’ fees and accountants’ fees;

- l. any financial information, valuations or pro forma projections that would be relevant to creditors' determinations of whether to accept or reject the plan;
- m. information relevant to the risks being taken by the creditors and interest holders;
- n. the actual or projected value that can be obtained from avoidable transfers;
- o. the existence, likelihood and possible success of non-bankruptcy litigation;
- p. the tax consequences of the plan; and
- q. the relationship of the debtor with its affiliates.

See, e.g., In re Scioto Valley Mortgage Co., 88 B.R. 168, 170-71 (Bankr. S.D. Ohio 1988)

10. The Disclosure Statement contains information to satisfy the categories set forth above. Accordingly, the Disclosure Statement contains adequate information within the meaning of Section 1125 of the Bankruptcy Code and should be approved.

11. The Trustee requests that the Court shorten the notice required for the hearing and objections under Fed.R.Bankr.P. 2002(b) with respect to the Disclosure Statement from 28 days to 14 days and schedule a hearing on the Disclosure Statement accordingly.

IV. SOLICITATION PROCEDURES

A. Record Holder Date for the Holders of Claims.

12. Bankruptcy Rule 3017(d) provides that, for the purposes of voting solicitation, "creditors and equity security holders shall include holders of stock, bonds, debentures, notes and other securities of record on the date the order approving the disclosure statement is entered or another date fixed by the court, after notice and a hearing." Bankruptcy Rule 3018(a) contains a similar provision regarding determination of the record date. The record date is typically the date that the disclosure statement is approved. Accordingly, the Trustee requests that the Court

establish the date upon which the Disclosure Statement is approved as the “Record Holder Date” for purposes of voting on the Plan.²

B. Entitlement to Vote to Accept or Reject the Plan.

13. The Plan designates three (3) Classes of creditors that are entitled to vote: (a) Convenience Participant Claims in Class 2, (b) General Participant Claims in Class 3, and (c) Vendor Claims in Class 4. Class 1 is the non-voting Priority Class. Class 5 receives no distribution under the Plan and is deemed to reject the Plan.

14. The Trustee proposes that the only holders of timely filed Claims in Classes 2, 3 and 4 which have not been disallowed by order of the Court be allowed to vote to accept or reject the Plan (the “Voting Claims”). Assignees of transferred and assigned Voting Claims shall be permitted to vote subject to: (a) evidence of the transfer and assignment of the Claim having been filed in accordance with Federal Rule of Bankruptcy Procedure 3001 as of the close of business on the Record Holder Date, and (b) if an objection to the transfer of a Voting Claim in accordance with Rule 3001 of the Federal Rules of Bankruptcy Procedure is pending on the close of business on the date of the Voting Deadline, the Court having entered an order temporarily allowing such Claim for the purpose of voting pursuant to Section 502(c) of the Bankruptcy Code and Bankruptcy Rule 3018(a).

15. The Trustee submits that the foregoing procedures are reasonable and should be approved.

C. Forms of Ballots and Participant Notices.

16. To avoid unnecessary delay and costs, the Trustee requests to be authorized to make service by electronic mail transmission to holders of Voting Claims in Classes 2 and 3 of a

² The establishment of this Record Holder Date is for voting purposes only and shall have no preclusive effect with regard to who is entitled to receive distributions under the Plan.

notice substantially in the form attached hereto in Exhibit B (the “Participant Notice”) in lieu of serving the Plan and Disclosure Statement on each Participant. The Participant Notice, among other things:

- a. Summarizes the treatment and payment of Allowed Convenience Participant Claims and General Participant Claims under the Plan;
- b. Includes instructions regarding how Convenience Participant Claim holders may elect treatment as General Participant Claim holders;
- c. Directs Participants to a website (www.kcellc.net/TelexFree) (the “TelexFree Website”) to review the Plan and Disclosure Statement and to a website to review the status and amount of Participant Claims (<http://registry.telexfreeclaims.com/>);
- d. Includes an email address for inquiries regarding Participant Claims (ClaimResponse@TelexFreeclaims.com);
- e. Directs Participants to a link to access an electronic ballot to vote to accept or reject the Plan (the “Participant Ballot”);
- f. Sets forth the Voting Deadline, the Objection Deadline (as defined below), and date and location of the Confirmation Hearing; and
- g. Includes a contact for Participants’ inquiries regarding the Plan.

The Plan, Disclosure Statement, and the order approving the Disclosure Statement will be available in Portuguese, Spanish and English on the TelexFree Website.

17. The Participant Notice contains information which assists Participants in understanding their rights under the Plan and the proposed treatment of their Allowed Claims, and directs Participants to resources, including the TelexFree Website to assist Participants if further information is required. Accordingly, the Trustee requests that the Court approve the form of Participant Notice and authorize the Trustee to serve the Participant Notice by electronic

mail transmission to Participants with Voting Claims in lieu of serving the Plan and Disclosure Statement.

18. Bankruptcy Rule 3018(c) provides, in relevant part, as follows:

Form of Acceptance or Rejection. An acceptance or rejection shall be in writing, identify the plan or plans accepted or rejected, be signed by the creditor or equity security holder or an authorized agent, and conform to the appropriate Official Form.

19. Participant Ballot. The Participant Notice directs Participants to an electronic Participant Ballot substantially in the form attached hereto as Exhibit C. The Participant Ballot contains, among other things:

- a. An option for holders of Convenience Participant Claims in Class 2 to elect to be treated as holders of General Participant Claims in Class 3;
- b. An ability to direct electronic payment of distributions; and
- c. A requirement that persons who are not residents of the United States provide information to ensure compliance with the Office of Foreign Asset Control.

20. Vendor Ballot. The Trustee proposes to mail a ballot substantially in the form attached hereto as Exhibit D to the holders of Voting Claims in Class 4 (the “Vendor Ballot” and with the Participant Ballot, the “Ballots”).

21. The forms of the proposed Ballots comply with Bankruptcy Rule 3018(c). Accordingly, the Trustee requests that the Court approve the form of the Participant Ballot and the Vendor Ballot.

D. Procedures for Solicitation of Votes and Notice.

22. Bankruptcy Rule 3017(d) sets forth the materials that must be provided to holders of Claims for purposes of soliciting their votes on a plan of reorganization. Under the Plan, only holders of Voting Claims are entitled to vote to accept or reject the Plan. On or before a date to be set by the Court, the Trustee proposes to serve the following upon the holders of Voting Claims.

23. The Participant Notice. The Participant Notice in the form approved by the Court will be served upon holders of Voting Claims in Classes 2 and 3 by electronic mail transmission. The Participant Notice includes a link which will permit the receiving Participant to access an electronic ballot (the "Participant Ballot") to be submitted to the Trustee's claim agent, BMC Group, Inc. ("BMC"). The Participant Notice will be served in Portuguese, Spanish, and English to each Participant with a Voting Claim.

24. The Vendor Solicitation Package. A solicitation package (the "Vendor Solicitation Package") including the following will be served to holders of Voting Claims in Class 4 by first-class mail will be served by first-class mail:

- a. a copy of the Plan (with exhibits);
- b. a copy of the Disclosure Statement (with exhibits);
- c. a Vendor Ballot in the form approved by the Court; and
- d. a copy of the order approving this Motion.

25. Holders of asserted Claims that have been disallowed by order of the Court will not receive a solicitation package or further notice with respect to the Plan or Disclosure Statement. *See* Fed. R. Bankr. P. 3003(c)(2) (providing that "any creditor . . . whose claim or interest is not scheduled or scheduled as disputed, contingent or unliquidated . . . who fails to

[file a timely proof of claim] shall not be treated as a creditor with respect to such claim for the purposes of voting and distribution.”).

26. The proposed notice and solicitation procedures are reasonable and will eliminate unnecessary expense and delay. Accordingly, the Trustee requests that the Court approve the form and manner of notice described in this Motion.

E. Voting Deadline for Receipt of Ballots.

27. Pursuant to Bankruptcy Rule 3017(c), the Trustee proposes that, in order to be counted as votes to accept or reject the Plan, all Ballots must be substantially executed, completed and delivered no later than 5:00 p.m. Eastern Time ten (10) days prior to the Confirmation Hearing (the “Voting Deadline”). Participant Ballots should be delivered electronically as directed in the ballot to BMC. Vendor Ballots should be delivered to counsel to the Trustee by first-class mail, electronic mail, hand-delivery, overnight courier or facsimile. The Trustee believes that the proposed Voting Deadline is sufficient to provide Participants and other creditors with the opportunity to review and analyze the Plan.

F. Tabulation Procedures with Regard to Holders of Claims.

28. The Trustee proposes that, for purposes of voting, the amount of a Claim used to tabulate acceptance or rejection of the Plan shall be one of the following:

- a. the amount set forth as a Claim in the Debtors’ Schedules that is not listed as contingent, unliquidated or disputed (*excluding* scheduled Claims that have been superseded by filed Claims);
- b. the amount set forth on a timely-filed proof of claim that has not been disallowed or reduced by the Court on or before the Voting Deadline; or
- c. the amount estimated and temporarily allowed with respect to a Claim pursuant to an order of this Court for voting purposes prior to computation of the vote on the Plan.

29. Pursuant to Sections 105 and 1126 of the Bankruptcy Code, the Trustee requests that the Court direct as follows with respect to all Ballots submitted by the holders of a Claim:

- a. any Ballot that is substantially completed, executed and timely returned that does not indicate an acceptance or rejection of the Plan, shall be deemed to be a vote to accept the Plan;
- b. any Ballot that is returned indicating acceptance or rejection of the Plan but that is unsigned shall not be counted, provided, however, that any Ballot returned by electronic mail or similar electronic means that includes an electronic signature, as that term is defined by applicable state law, shall be counted;
- c. whenever a holder of a Claim casts more than one Ballot voting the same Claim prior to the Voting Deadline, only the last timely Ballot received shall be counted;
- d. if a holder of a Claim casts simultaneous duplicative ballots that are voted inconsistently, such Ballots shall count as one vote accepting the Plan;
- e. each holder of more than one Claim in a particular Class shall be entitled to cast only one Ballot regardless of the number of timely-filed proofs of claim in such Class by such holder;
- f. each holder of a Claim shall be deemed to have voted the full amount of its Claim or Claims in each particular Class;
- g. each holder who holds a Claim or Claims in more than one Class shall be entitled to cast one Ballot per Class, *provided, however*, that holders of Claims in Class 2 (Convenience Participant Claim) may only elect treatment as either a holder of a Class 2 Claim (Convenience Participant Claim), or as a holder of a Class 3 Claim (General Participant Claim);
- h. any Ballots that partially reject and partially accept the Plan shall be deemed a vote to accept the Plan in the full amount of such Claim;
- i. a Ballot cast by a holder of a Claim that is subject to a pending objection on the Voting Deadline shall not be counted; and
- j. any Ballot indicating a vote for acceptance or rejection of the Plan and is signed, but fails to provide a complete mailing address, shall be counted if the balloting agent can reasonably determine the identity of the holder of the Claim by reference to the Creditor Matrix, Schedules, return envelope, facsimile, or electronic mail by which said Ballot is delivered, or otherwise.

30. The Trustee submits that establishing the tabulation procedures set forth above is necessary and will simplify the voting and tabulation process.

V. CONFIRMATION HEARING AND OBJECTION DEADLINE

31. Pursuant to Bankruptcy Rule 3020(b)(2), the Trustee requests that the Court enter an order setting a date and time to consider confirmation of the Plan and, due to the COVID-19 pandemic, provide dial-in information, including a phone number and passcode, for telephonic appearances at the scheduled hearing.

32. Pursuant to Bankruptcy Rule 2002, a plan proponent is required to give creditors and equity interest holders not less than twenty-eight (28) days' notice of the time fixed for filing objections to, and the hearing on, confirmation of a plan of reorganization. The Trustee requests that the Court establish a deadline (the "Objection Deadline") for filing and serving objections to confirmation of the Plan ("Confirmation Objections") that is three (3) business days prior to the Confirmation Hearing.

33. The Trustee requests that the Court direct that any Confirmation Objections (a) be in writing, (b) state the name and address of the objector, (c) comply with the Federal Rules of Bankruptcy Procedure and the Massachusetts Local Bankruptcy Rules, (d) state the amount of the objector's claim or the nature of its interest, and the nature of the objection or modification sought and the legal basis therefore, (e) be filed and served on or before 4:30 p.m. Eastern Time on the Objection Deadline; and (f) be filed with the Clerk, United States Bankruptcy Court, 5 Post Office Square, Boston, Massachusetts, 02109, with copies served upon (i) counsel to the Trustee, Murphy & King, Professional Corporation, One Beacon Street, 21st Floor, Boston, Massachusetts, 02108 (Attn: Andrew G. Lizotte, Esq.); and (ii) the Office of the United States

Trustee for the District of Massachusetts, 446 Main Street, 14th Floor, Worcester, Massachusetts 01608 (Attn: Lisa D. Tingue, Esq.).

VI. REQUEST FOR EXPEDITED CONSIDERATION OF REQUEST TO SHORTEN NOTICE.

34. Based upon exigencies facing many Participants with Allowed Claims, the Trustee requests that the Court shorten the notice required for the hearing and objections under Fed.R.Bankr.P. 2002(b) with respect to the Disclosure Statement from 28 days to 14 days and schedule a hearing on the Disclosure Statement accordingly.

35. Based upon the foregoing, the Trustee seeks expedited consideration of this request.

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WHEREFORE, the Stephen B. Darr, the Chapter 11 Trustee of TelexFree, LLC, TelexFree, Inc., and TelexFree Financial, Inc., requests that the Court (a) shorten the notice required for the hearing and objections under Fed.R.Bankr.P. 2002(b) with respect to the Disclosure Statement from 28 days to 14 days and schedule a hearing on the Disclosure Statement accordingly, and (b) enter an order substantially in the form attached hereto as Exhibit E: (1) granting this motion, (2) approving the Disclosure Statement; (3) establishing a record holder date; (4) approving the form of the Participant Notice and the forms of the Ballots and authorizing the Trustee to serve the approved forms on Participants, (5) establishing deadlines for the filing of objections to confirmation of the Plan and for submission of Ballots, (6) scheduling a hearing on confirmation of the Plan, and (7) granting such other and further relief to the Debtor as the Court deems just and proper under the circumstances.

Respectfully Submitted,

STEPHEN B. DARR,
CHAPTER 11 TRUSTEE OF TELEXFREE INC.,
TELEXFREE LLC, AND TELEXFREE
FINANCIAL, INC.,
By his attorneys,

/s/ Andrew G. Lizotte
Harold B. Murphy (BBO #362610)
Andrew G. Lizotte (BBO #559609)
Murphy & King, Professional Corporation
One Beacon Street
Boston, Massachusetts 02108
Telephone: (617) 423-0400
Email: alizotte@murphyking.com

Dated: May 6, 2020

CERTIFICATE OF SERVICE

I, Andrew G. Lizotte, hereby certify that on May 6, 2020, I caused a copy of the foregoing motion to be served electronically through the Court's ECF System to the registered participants as identified on the Notice of Electronic Filing.

/s/ Andrew G. Lizotte

Andrew G. Lizotte

Dated: May 6, 2020

EXHIBIT A

Motion (the "Hearing") had been given; and it appearing that such notice was adequate and sufficient; and all appearances at the Hearing having been duly noted on the record of the Hearing, and, upon the Motion, the Disclosure Statement, and the record of the Hearing and all of the proceedings before the Court and after due deliberation and sufficient cause appearing therefor; and it appearing that no party-in-interest will be prejudiced hereby, it is

ORDERED, FOUND AND DETERMINED THAT:

1. Pursuant to Section 1125(b) of the Bankruptcy Code and Rule 3017(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), (a) the Disclosure Statement is approved as containing adequate information within the meaning of Section 1125 of the Bankruptcy Code and (b) to the extent not withdrawn, settled or resolved, all objections to the Disclosure Statement are overruled.

2. The Disclosure Statement and the Motion are hereby approved.

3. For voting purposes and mailing of notices and Solicitation Packages (as defined below) pursuant to this Order, **May _____, 2020 at 5:00 p.m.** Eastern Prevailing Time, shall be the "Record Holder Date" for the holders of Claims.¹

4. Holders of Claims in Classes 2, 3, and 4 which have not been disallowed by order of the Court are entitled to vote to accept or reject the Plan (the "Voting Claims"). Where the holder of such a Claim is a transferee or assignee of the Claim rather than its original holder, such transferee or assignee shall be permitted to vote such Claim subject to: (a) evidence of the transfer and assignment of the Claim having been filed in accordance with Federal Rule of Bankruptcy Procedure 3001 as of the close of business on the Record Holder Date, and (b) if an objection to the transfer of a Voting Claim in accordance with Rule 3001 of the Federal Rules of

¹ Capitalized terms not otherwise defined in this order shall have the meanings ascribed to them in the Motion.

Bankruptcy Procedure is pending on the close of business on the date of the Voting Deadline, the Court having entered an order temporarily allowing of such Claim for the purpose of voting pursuant to Section 502(c) of the Bankruptcy Code and Bankruptcy Rule 3018(a).

5. The Participant Notice, the Participant Ballot, and the Vendor Ballot, and the Participant Notice attached as Exhibits B, C, and D, respectively, to the Motion are hereby approved.

6. On or before May ____, 2020, the Trustee shall cause to be served: (a) upon the holders of Voting Claims in Classes 2 and 3, the Participant Notice in the form approved by the Court by electronic mail transmission; and (b) upon the holders of Voting Claims in Class 4, the Vendor Solicitation Package containing: a copy of the Plan (with exhibits), a copy of the Disclosure Statement (with exhibits), a Vendor Ballot in the form approved by the Court, and a copy of this Order by first-class mail (collectively, the "Solicitation Packages").

7. Holders of asserted Claims that have been disallowed by order of the Court will not receive Solicitation Packages or further notice with respect to the Plan or Disclosure Statement.

8. All holders of Voting Claims must deliver completed Ballots so as to be received no later than **5:00 p.m., Eastern Standard Time, on _____, 2020** (the "Voting Deadline"). Holders of Voting Claims in Classes 2 and 3 must deliver by the Voting Deadline Participant Ballots electronically to BMC Group, Inc. as directed in the ballot. Holders of Voting Claims in Class 4 must deliver by the Voting Deadline Vendor Ballots by first-class mail,

electronic mail, hand-delivery, overnight courier or facsimile to Trustee's counsel at:

Murphy & King, Professional Corporation
Attn: Andrew G. Lizotte, Esq.
One Beacon Street
Boston, MA 02108
Facsimile: (617) 423-0498
Email: alizotte@murphyking.com

9. Any Ballot received after the Voting Deadline shall not be counted other than as provided for in this Order.
10. For purposes of voting, the amount of a Claim used to tabulate acceptance or rejection of the Plan shall be one of the following:
 - a. the amount set forth as a Claim in the Debtors' Schedules that is not listed as contingent, unliquidated or disputed (*excluding* scheduled Claims that have been superseded by filed Claims);
 - b. the amount set forth on a timely-filed proof of claim that has not been disallowed or reduced by the Court on or before the Voting Deadline; or
 - c. the amount estimated and temporarily allowed with respect to a Claim pursuant to an order of this Court for voting purposes prior to computation of the vote on the Plan.
11. With respect to Ballots submitted by a holder of a Claim:
 - a. any Ballot that is substantially completed, executed and timely returned that does not indicate an acceptance or rejection of the Plan, shall be deemed to be a vote to accept the Plan;
 - b. any Ballot that is returned indicating acceptance or rejection of the Plan but that is unsigned shall not be counted, provided, however, that any Ballot returned by electronic mail or similar electronic means that includes an electronic signature, as that term is defined by applicable state law, shall be counted;
 - c. whenever a holder of a Claim casts more than one Ballot voting the same Claim prior to the Voting Deadline, only the last timely Ballot received shall be counted;
 - d. if a holder of a Claim casts simultaneous duplicative ballots that are voted inconsistently, such Ballots shall count as one vote accepting the Plan;

- e. each holder of more than one Claim in a particular Class shall be entitled to cast only one Ballot regardless of the number of timely-filed proofs of claim in such Class by such holder;
- f. each holder of a Claim shall be deemed to have voted the full amount of its Claim or Claims in each particular Class;
- g. each holder who holds a Claim or Claims in more than one Class shall be entitled to cast one Ballot per Class, *provided, however*, that holders of Claims in Class 2 (Convenience Participant Claim) may only elect treatment as either a holder of a Class 2 Claim (Convenience Participant Claim), or as a holder of a Class 3 Claim (General Participant Claim);
- h. any Ballots that partially reject and partially accept the Plan shall be deemed a vote to accept the Plan in the full amount of such Claim;
- i. a Ballot cast by a holder of a Claim that is subject to a pending objection on the Voting Deadline shall not be counted; and
- j. any Ballot indicating a vote for acceptance or rejection of the Plan and is signed, but fails to provide a complete mailing address, shall be counted if the balloting agent can reasonably determine the identity of the holder of the Claim by reference to the Creditor Matrix, Schedules, return envelope, facsimile, or electronic mail by which said Ballot is delivered, or otherwise.

12. The hearing to consider confirmation of the Plan is scheduled for _____, 2020, at ____:____.m., Eastern Standard Time, at the United States Bankruptcy Court for the District of Massachusetts, 5 Post Office Square, Boston, Massachusetts, 02109, Courtroom 2 (the “Confirmation Hearing”). For reasons of public health and safety, all participants and anyone else wishing to attend the Confirmation Hearing must do so by telephone and not in person. To appear telephonically, attendees must, no later than two (2) minutes prior to the scheduled time of the Confirmation Hearing, **dial** _____ and enter **access code** _____. To facilitate informal discussions similar to those that occur just prior to in-person hearings, the Court urges the parties to confer prior to the scheduled Confirmation Hearing. The Confirmation Hearing may

be adjourned from time to time without further notice other than an announcement of the adjourned date(s) at said hearing and at any adjourned hearing(s).

13. Any objection to the confirmation of the Plan (“Confirmation Objection”) must be filed with the Clerk of the Bankruptcy Court, United States Bankruptcy Court, before the Honorable Judge Melvin S. Hoffman, Courtroom 2, J.W. McCormack Post Office & Court House, 5 Post Office Square, 12th Floor, Boston, MA 02109–3945, together with proof of service, no later than **4:30 p.m., Eastern Standard Time, on or before _____, 2020**, and must be served upon: (i) counsel to the Trustee, Murphy & King, Professional Corporation, One Beacon Street, Boston, Massachusetts 02108 (Attn: Andrew G. Lizotte, Esquire); and (ii) the Office of the United States Trustee for the District of Massachusetts, 446 Main Street, 14th Floor, Worcester, Massachusetts 01608 (Attn: Lisa D. Tingué, Esq.) (collectively the “Service Parties”).

14. Any Confirmation Objection must (a) be in writing, (b) state the name and address of the objecting party, (c) comply with the Federal Rules of Bankruptcy Procedure and the Massachusetts Local Bankruptcy Rules, and (d) state the amount of the objector’s claim or the nature of its interest, and the nature of the objection and the legal basis therefore.

15. CONFIRMATION OBJECTIONS NOT FILED AND SERVED AS SET FORTH IN THIS ORDER MAY BE DEEMED WAIVED AND MAY NOT BE CONSIDERED BY THE COURT.

The Honorable Melvin S. Hoffman
United States Bankruptcy Judge

Dated: _____, 2020

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In Re:)	
	)	Chapter 11
TELEXFREE, LLC ,	)	Case No. 14-40987-MSH
TELEXFREE, INC.,	)	Case No. 14-40988-MSH
TELEXFREE FINANCIAL, INC.,	)	Case No. 14-40989-MSH
)	
Debtors.	)	Jointly Administered
)	

IMPORTANT NOTICE REGARDING LIQUIDATING PLAN

WHY YOU ARE RECEIVING THIS NOTICE:

You are receiving this Notice because:

- You have participated in TelexFree (a "Participant") and you filed a Claim in TelexFree's bankruptcy cases and your Claim has either been conditionally allowed (an "Allowed Participant Claim") or is not yet resolved (a "Disputed Participant Claim").

This Notice contains a summary of the treatment and payment of Allowed Participant Claims under the *TelexFree Liquidating Plan of Reorganization* ("Plan") filed on May 6, 2020 by Stephen B. Darr, the Chapter 11 Trustee ("Trustee") of TelexFree. To review the Plan, the Disclosure Statement, and the Order approving the Disclosure Statement for additional details about the terms and conditions of the Plan and the expected distributions, please go to kccllc.net/TelexFree and click the link "**Disclosure Statement and Liquidating Plan of Reorganization**".

THE TREATMENT AND PAYMENT OF ALLOWED PARTICIPANT CLAIMS:

The Plan divides Participants who have Allowed Participant Claims into two groups:

- (1) Participants who have Allowed Participant Claims of **\$4,250 or less** (the "Convenience Participant Claims"); and
- (2) Participants who have Allowed Participant Claim of **more than \$4,250** ("General Participant Claims").

The Plan treatment for each group is set forth below.

TREATMENT AND PAYMENT OF CONVENIENCE PARTICIPANT CLAIMS:

If you have an Allowed Participant Claim for \$4,250 or less, the Plan gives you the right to:

- **Receive a one-time payment equal to 43% of your Allowed Participant Claim.** This payment is expected to be made as soon as practicable after the Bankruptcy Court approves the Plan **OR**
- **Elect to be treated and paid as a General Participant Claim.** If you have an Allowed Participant Claim of \$4,250 or less and you prefer to be treated and paid as a General

Participant Claim holder, you will need to elect that treatment on the voting ballot and then your Claim will be treated and paid as a General Participant Claim, described below.

TREATMENT AND PAYMENT OF GENERAL PARTICIPANT CLAIMS:

If you have an Allowed Participant Claim of more than \$4,250, the Plan gives you the right to:

- (1) **Receive an initial payment estimated to be approximately 39% of your Allowed Participant Claim**, paid as soon as practicable after the Bankruptcy Court approves the Plan; **AND**
- (2) **Receive additional payments that may become available in amounts yet undetermined** based upon Available Funds and the final amounts of the Allowed Participant Claims.

The amount and timing of any additional payments on your Allowed Participant Claim depends on the timing and amount of additional recoveries. For additional information about the potential for additional distributions, you should review Section 6.3 of the Disclosure Statement at the link referenced above.

YOUR LEGAL RIGHTS AND OPTIONS	
HOW TO CHECK THE STATUS OF YOUR CLAIM	If you do not know the status or the amount of your Participant Claim, you can go to the Claims Register at the website http://registry.telexfreeclaims.com . You can use that link to find your Claim information by typing in your Claim number. If you cannot find your Claim, you can send an inquiry to ClaimResponse@TelexFreeClaims.com .
COMPLETE AND RETURN YOUR BALLOT BY _____, 2020	It is important that you complete and return your ballot by the deadline so that your vote can be taken into account in obtaining Court approval of the Plan and so that you can receive your distribution. Your ballot can be accessed by clicking HERE . Your username is _____ and your passcode is _____. Ballots must be completed electronically by _____, 2020. YOU MUST COMPLETE THE BALLOT, INCLUDING INSTRUCTIONS FOR ELECTRONIC PAYMENT (AND IF YOU ARE NOT A RESIDENT OF THE UNITED STATES INFORMATION TO ENSURE COMPLIANCE WITH THE OFFICE OF FOREIGN ASSET CONTROL) IN ORDER TO RECEIVE YOUR PAYMENT.
ELECT TO BE TREATED AS A GENERAL PARTICIPANT CLAIM	If you have a Convenience Participant Claim and would like your Claim to be treated and paid as a General Participant Claim, you will need to make the election referenced on the ballot.
FILE ANY OBJECTION TO THE PLAN BY _____, 2020	You have right to object to the Plan and explain to the Court why you disagree with the Plan. Objections must be mailed to the Clerk, United States Bankruptcy Court, 5 Post Office Square, Boston, MA 02109 so that it is received by _____, 2020 and a copy must be sent to the undersigned counsel.

ATTEND THE PLAN CONFIRMATION HEARING ON _____, 2020	You <u>may</u> , but are not required to, attend the hearing on the Court's approval of the Plan. The hearing on the Plan will be held at the United States Bankruptcy Court, Courtroom 2, 5 Post Office Square, Boston, MA 02109 on _____, 2020 at _____.m. You may be able to participate telephonically and that information will be posted on the Telexfree website prior to the scheduled hearing. YOU ARE NOT REQUIRED TO ATTEND THE HEARING IN ORDER TO RECEIVE A DISTRIBUTION UNDER THE PLAN.
QUESTIONS	If you have any questions about the information contained in this Notice, you may contact ClaimResponse@TelexFreeClaims.com .

If the Plan is not approved, there will be additional costs incurred by the TelexFree bankruptcy estates that will likely reduce the amount paid to Participants and substantially delay payments to Participants. **Accordingly, the Trustee recommends that you vote to accept the Plan by timely submitting your ballot.**

Stephen B. Darr, Chapter 11 Trustee
By his attorneys,

Harold B. Murphy (BBO #362610)
Andrew G. Lizotte (BBO #559609)
Murphy & King, Professional Corporation
One Beacon Street
Boston, MA 02108

Dated: May _____, 2020
774288

EXHIBIT C



Username



Password



LOGIN



Welcome [Creditor Name]

To review the Plan and the Disclosure Statement for details about the terms and conditions of the Plan and the expected distributions please see the documents linked below. After reviewing the documents, when you're ready, click the Next button at the bottom of this page to get started. During this process, it's important that you use the Next and Back buttons at the bottom each page to navigate back and forward – do not click the Back button on your Browser. Click the Back button will result in your session logging out.

REVIEW

-  Notice of Confirmation Hearing
-  Order Approving Disclosure Statement
-  Disclosure Statement
-  Plan



TelexFree Ballot

Tabulation Report | Logout



IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS

In re:	)	Chapter 11 Cases
)	
TELEXFREE, LLC,	)	14-40987-MSH
TELEXFREE, INC. and	)	14-40988-MSH
TELEXFREE FINANCIAL, INC.,	)	14-40989-MSH
)	
Debtors.	)	Jointly Administered

BALLOT FOR ACCEPTING OR REJECTING
THE TELEXFREE LIQUIDATING PLAN OF REORGANIZATION

Stephen B. Darr, the Chapter 11 Trustee of TelexFree, filed ECF No. ____ TelexFree Liquidating Plan of Reorganization dated _____ (the “Plan”). The Court has approved a disclosure statement with respect to the Plan (the “Disclosure Statement”). The Disclosure Statement provides information to assist you in deciding how to vote your ballot. The Court’s approval of the Disclosure Statement does not indicate approval of the Plan by the Court. You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and your classification and treatment under the Plan.

If your ballot is not voted on or before _____, and such deadline is not extended, your vote may not count. If the Plan is confirmed by the Bankruptcy Court, it will be binding on you whether or not you vote, even if you vote to reject the Plan.

CLASS

Class 2 Participant Convenience Claims ▼

ITEM 1. VOTE AMOUNT

Amount of Class 2 Claim No 000001-000

\$2,440.00

ITEM 2. VOTE IT IS IMPORTANT FOR YOU TO COMPLETE THIS BALLOT AND VOTE IN FAVOR OF THE PLAN
IN ORDER FOR THE PLAN TO BE APPROVED BY THE COURT AND FOR THE TRUSTEE TO BE ABLE TO MAKE PAYMENT ON YOUR CLAIM.

On behalf of above listed Claim, you vote to:

Accept

Reject

ITEM 3. SKIP ITEM 3 AND MOVE ON TO ITEM 4 IF YOU WISH TO REMAIN A CLASS 2 CONVENIENCE CLAIM PARTICIPANT

Yes ELECT TO BE TREATED AND PAID AS A CLASS 3 GENERAL PARTICIPANT CLAIM HOLDER

ITEM 4. AUTHORIZATION

By submitting this Ballot, I certify that (a) this Ballot is the only Ballot submitted for the claim identified in Item 1 above, (b) I have full power and authority to vote to accept or reject the Plan for the claim identified in Item 1, (c) I was the holder of the claim identified in Item 1 as of _____ at ____ (prevailing Eastern Time) and (d) I acknowledge the herein electronic copy of the Disclosure Statement (including the exhibits thereto) and understand that the solicitation of votes for the Plan is subject to all of the terms and conditions set forth in the Disclosure Statement and Plan.

[Creditor Name]

ELECTRONICALLY SIGN

Type Full Name Here *

/s/ _____

To electronically sign, please type in your name above.

IF THIS BALLOT IS VOTED BY A CORPORATION OR PARTNERSHIP:

Name of Signatory: _____

Title: _____

Address 1: _____

Address 2: _____

City, State and Zip: _____

**IF YOU HAVE ANY QUESTIONS REGARDING THIS BALLOT OR THE VOTING INSTRUCTIONS, PLEASE CALL THE
DEBTORS' ELECTRONIC BALLOTING AGENT
BMC GROUP, INC. AT +1 310 321 555_.**

BACK

NEXT



CERTIFICATION REGARDING STATUS
[OFAC Certification]

Creditor Name: Test Test

Claim Number(s): 000001

I, the undersigned, am the above-referenced creditor, or an authorized signatory for the abovereferenced creditor (the "Creditor"), and hereby certify that neither the Creditor nor, to the best of the Creditor's knowledge, any person or entity for whom the Creditor may be acting or who may be the beneficial owner of the applicable claim(s), security/(ies), or interest(s) is a person or entity with whom it is illegal for a U.S. person to transact under the OFAC sanctions regulations and the list of Specially Designated Nationals and Blocked Persons.







Dated:
05/06/2020

To electronically Sign this Certification

Type Name Here
/s/ _____



HOW WOULD YOU LIKE TO BE PAID?:

- PayPal 
- Venmo 
- Zelle 
- Direct Deposit (ACH) 
- Amazon 
- Push to Debit 
- Paper Check

Enter Account Information

Payment Address:

Address 1: _____ Address 2: _____ City, State and Zip: _____

BACK SUBMIT

EXHIBIT D

PLEASE COMPLETE THE FOLLOWING:

ITEM 1. **Amount of Claim.** For purposes of voting to accept or reject the Plan, the undersigned holds a Class 4 Claim in the unpaid amount of \$_____.

ITEM 2. **Vote on the Plan.** The undersigned holder of a Class 4 Claim hereby votes to:

Check one box: ACCEPT the Plan

REJECT the Plan

ITEM 4. **Acknowledgements and Certification.** By signing this Ballot, the undersigned acknowledges that the undersigned has been provided with a copy of the Disclosure Statement, dated _____, including all exhibits thereto. The undersigned certifies that (i) it is the holder of the Claim described in this Ballot and (ii) the undersigned has full power and authority to vote to accept or reject the Plan. The undersigned understands that if the Ballot is validly executed, but does not indicate either acceptance or rejection of the Plan, then this Ballot will be counted as an **acceptance** of the Plan. The undersigned further acknowledges that the Trustee's solicitation of votes is subject to all terms and conditions set forth in the Disclosure Statement and the order approving the Disclosure Statement.

Print or Type Name of Claimant: _____

Social Security/Federal Tax I.D. No. of Claimant: _____

Signature: _____

If by Authorized Agent, Name and Title of Agent: _____

If Agent is NOT an Individual, Name of Entity: _____

Street Address: _____

City, State, and Zip Code: _____

Telephone Number: _____

Date Completed: _____

RETAIN A COPY OF THIS BALLOT FOR YOUR OWN RECORDS.