

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
CENTRAL DIVISION

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

**STATUS REPORT BY STEPHEN B. DARR, CHAPTER 11 TRUSTEE**

To the Honorable Melvin S. Hoffman, United States Bankruptcy Judge:

Stephen B. Darr, the duly appointed Chapter 11 trustee (the "Trustee") of the bankruptcy estates of TelexFree, LLC, TelexFree, Inc., and TelexFree Financial, Inc. (collectively, the "Debtors"), respectfully submits this Status Report in conjunction with the Status Hearing scheduled to be held on February 5, 2015.

**I. INTRODUCTION**

The Debtors purported to be operating a multi-level marketing company engaged in the sale of voice over internet protocol services, but they were, in actuality, perpetrating a pyramid scheme involving as many as a million or more participants (hereinafter, parties who became members of the Debtors' pyramid scheme shall be referred to as "Participants"). The Debtors and an affiliated company located in Brazil, known as Ympactus Comercial Ltda. ("Ympactus"), together obtained as much as \$1,800,000,000 from individuals located throughout the world over a period of approximately two years. Shortly after the Debtors' Chapter 11 filings, the Securities and Exchange Commission and the Massachusetts Securities Division commenced litigation against the Debtors and others alleging, among other things, that the Debtors were engaged in the



fraudulent sale of securities in violation of numerous securities laws. The Trustee was appointed approximately two months after the Chapter 11 filings and after the seizure of substantially all of the Debtors' assets and records by federal authorities.

The Trustee's principal tasks to date have included reconstructing the Debtors' books and records, developing a thorough understanding of the Debtors' operations and financial affairs, identifying the Debtors' assets and liabilities, responding to applications by the Debtors' professionals for approval and payment of compensation, meeting with representatives of various creditor groups, the Securities and Exchange Commission, the Office of the United States Attorney, and Homeland Securities Investigation, and developing a process for the submission and allowance of claims that Participants have in connection with their involvement in the pyramid scheme. The Status Report provides a summary of these efforts.

## **II. CASE SUMMARY AND PROCEDURAL POSTURE**

1. On April 13, 2014 (the "Petition Date"), each of the Debtors filed voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code ("Bankruptcy Code") with the United States Bankruptcy Court for the District of Nevada ("the Nevada Bankruptcy Court").
2. The Debtors initially operated as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.
3. On the Petition Date, the Debtors filed a motion for joint administration of the cases, with TelexFree, LLC as the lead case. By order dated April 24, 2014, the order for joint administration was approved.
4. Prior to the filings, the Commonwealth of Massachusetts Securities Division ("MSD") commenced an investigation into the Debtors' business practices.

5. On or about April 15, 2014, the MSD commenced an administrative proceeding against the Debtors. Also on April 15, 2014, the Securities and Exchange Commission (“SEC”) commenced an action against the Debtors and others in the United States District Court for the District of Massachusetts. The foregoing actions alleged, among other things, that the Debtors were engaged in an illegal pyramid scheme and were raising funds through the fraudulent and unregistered offering of securities. In connection with the commencement of the SEC action, federal authorities seized the Debtors’ assets, books, and records, including forty-six (46) computers and servers comprising the backbone of the Debtors’ system of accounting for Participant activity.

6. On or about April 22, 2014, the Office of the United States Trustee filed a motion for the appointment of a Chapter 11 Trustee based upon the allegations of illegal activity.

7. On April 23, 2014, the SEC filed a motion to transfer venue of the cases to the United States Bankruptcy Court for the District of Massachusetts. By order dated May 6, 2014, the motion to change venue was approved. The cases were transferred on May 9, 2014.

8. On May 30, 2014, this Court approved the motion to appoint a Chapter 11 trustee, and the Trustee was appointed on June 6, 2014.

9. The Debtors have not filed schedules or statements of financial affairs, nor a matrix of creditors. The Debtors have filed only a list of the alleged thirty (30) largest creditors in the cases.

10. The principals of the Debtors are Carlos Wanzeler and James Merrill. On or about July 23, 2014, the United States of America indicted Wanzeler and Merrill (the “Indictment”) based upon their involvement in the Debtors’ pyramid scheme, styled as case no. 14-CR-40028-TSH, pending in the United States District Court for the District of Massachusetts.

Merrill was initially detained and has been released pending trial. Wanzeler has fled the country and is believed to be in Brazil.

11. The Indictment also sought a determination that various items of real and personal property standing in the name of the Debtors, Wanzeler, Merrill, and certain related parties constituted proceeds of the commission of offenses that were subject to the forfeiture provisions of 18 U.S.C. §981(a)(1)(C) and 28 U.S.C. §2461(c). In connection therewith, the federal government seized more than \$100,000,000 in cash and checks payable to the Debtors, their principals, or their affiliates.<sup>1</sup> Federal authorities also made forfeiture claims against approximately forty (40) other items of real and personal property standing in the name of Wanzeler, Merrill, and their affiliates, including automobiles, real property, and notes secured by mortgages on real property.

12. In addition to the actions commenced by federal and state authorities, numerous civil actions have been commenced by Participants against the Debtors, their principals, advisors, financial institutions and others who allegedly took part in the scheme. Several of these actions have been transferred to the United States District Court (“USDC”) for the District of Massachusetts to be administered pursuant to the rules governing multi-district litigation, styled as case no. 4:14-md-2566-TSH (the “MDL Action”). Other actions have been removed to the USDC and are awaiting consolidation into the MDL Action. A list of certain of these actions is set forth below:

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<sup>1</sup> As set forth in Section VII herein, the Trustee has been engaged in ongoing discussions with federal authorities respecting the establishment of a claims allowance process and the distribution of funds that may be recovered by both the Trustee and by the federal government.

<b>Case No.</b>	<b>Caption</b>	<b>Formerly Pending</b>
4:14-md-2566 MDL Action	Cellucci, <i>et al.</i> v. TelexFree, Inc. <i>et al.</i>	Formerly case no. 14-40093 in USDC for Dist. of MA
4:14-md-2566 MDL Action	Martin, <i>et al.</i> v. TelexFree, Inc. <i>et al.</i>	Formerly case no. 14-40095 in USDC for Dist. of MA
4:14-md-2566 MDL Action	Githere, <i>et al.</i> v. TelexElectric, LLLP, <i>et al.</i>	Formerly case no. 14-12825 in USDC for Dist. of MA
4:14-md-2566 MDL Action	Ferguson, <i>et al.</i> v. TelexElectric, LLLP, <i>et al.</i>	Formerly case no. 14-40138 in USDC for Dist. of MA, transferred from USDC for EDNC case no. 14-00136
4:14-md-2566 MDL Action	Guevara v. Merrill, <i>et al.</i>	Formerly case no. 14-40156 in USDC for Dist. of MA, transferred from USDC for SD Fla. case no. 14-22405
4:14-md-2566 MDL Action	Cook, <i>et al.</i> v. TelexElectric, LLLP, <i>et al.</i>	Formerly case no. 14-40154 in USDC for Dist. of MA, transferred from USDC for N.D. Ga., case no. 14-00134
4:14-md-2566 MDL Action	Magalhaes, <i>et al.</i> v. Merrill,	Formerly case no. 14-12437 in

	<i>et al.</i>	USDC for Dist. of MA, removed from Middlesex Superior Court, case no. 14-04349
4:14-md-2566 MDL Action	Ferrari, <i>et al.</i> v. TelexFree, Inc. <i>et al.</i>	Formerly case no. 14-40144 in USDC for Dist. of MA, reference withdrawn from USBC Dist. MA, Adv. Proc. No. 14-04080
4:14-md-2566 MDL Action	Abdelgadir, <i>et al.</i> v. TelexElectric, LLLP, <i>et al.</i>	None
4:14-md-2566 MDL Action	Griffith, <i>et al.</i> v. Merrill, <i>et al.</i>	Formerly case no. 14-12058 in USDC for Dist. of MA
14-13029 Not yet consolidated into MDL Action	Paul, <i>et al.</i> v. Wanzeler, <i>et al.</i>	USDC for Dist. of MA (removed from Norfolk Superior Court, case no. 14-00877)
14-13030 Not yet consolidated into MDL Action	Touissant, <i>et al.</i> v. Wanzeler, <i>et al.</i>	USDC for Dist. of MA (removed from Suffolk Superior Court, case no. 14-2163C)
14-12926 Not yet consolidated into MDL Action	Vicente, <i>et al.</i> v. Wanzeler, <i>et al.</i>	USDC for Dist. of MA (removed from Suffolk Superior Court, case no. 14-1896B)

13. Prior to the Trustee’s appointment, the Nevada Bankruptcy Court established a bar date for the filing of prepetition claims. On July 2, 2014, the Trustee filed a motion to vacate (the “Motion to Vacate”) the bar date established prior to the transfer of venue [docket entry no. 298]. The Motion to Vacate was approved by order dated July 3, 2014 [docket entry no. 310]. In support of the Trustee’s requested relief, the Motion to Vacate stated that the Trustee intended

to develop a protocol for the filing and administration of claims consistent with the circumstances of the cases, and that such protocol would include a new bar date, procedures for the noticing of the bar date and requirements for submission of claims.

14. Since the Petition Date, approximately 25,000 claimants have filed proofs of claim, either hard copy or electronic versions, with the Debtors' claims agent, Kurtzman Carson Consultants ("KCC"), or the Clerk of the Court, utilizing the standard form proof of claim. Additionally, upon information and belief, approximately 10,000 Participants have submitted victim notification forms with the Federal Bureau of Investigation ("FBI") or the Commonwealth of Massachusetts, Secretary of State ("SOS"). Claims have also been submitted to various agencies assisting Participants, such as the Greater Boston Legal Services and The Chelsea Collaborative. The Trustee has not yet determined the extent to which claims filed with KCC or the Court are duplicative of submissions to the FBI or SOS or the aforementioned agencies.

### **III. TRUSTEE'S EFFORTS TO DATE**

15. Upon his appointment, the Trustee had no access to the Debtors' books and records, because they had been seized by federal authorities, primarily Homeland Security Investigations ("HSI"). Neither of the Debtors' principals has been available. While certain of the Debtors' employees have been willing to provide assistance, others have been unwilling to cooperate. As discussed below, the Trustee has accessed a variety of resources to assemble the information needed to understand the Debtors' activities and the mechanics of the pyramid scheme, and to formulate a strategy for administering these cases. The Trustee's investigation is ongoing, and the information provided herein is preliminary. The Trustee reserves the right to amend or supplement the statements provided herein as further information becomes available.

**A. Rule 2004 Motions**

16. The Trustee filed motions for authority to obtain documents from, and conduct examinations of, twenty-nine (29) separate entities pursuant to Federal Rule of Bankruptcy Procedure 2004 (the “2004 Motions”), as further described below. Many of the Rule 2004 deponents (the “Deponents”) raised concerns as to the breadth of the documents requested. Several Deponents, most particularly financial institutions, objected to the production of those documents governed by applicable bank secrecy laws, as well as documents subject to applicable privileges and immunities. The Trustee negotiated with numerous Deponents respecting the timing and scope of production, which in several instances resulted in the production of documents, by category, on a phased-in basis. The Trustee also entered into numerous confidentiality agreements with financial institutions, payment processors and professional service providers.

17. The Trustee uploaded the documents onto Relativity, a searchable document review platform hosted by Epiq Systems (“Epiq”), and subjected the documents to relevant search inquiries. The process of uploading documents onto Relativity was impeded in several instances because of deficiencies in the production process. Deponents were directed to provide documents in a standard “load file” format to facilitate copying the data onto Relativity. While some parties adhered to the format requirement, many did not. The Technology Advisory Services team of Mesirrow Financial Consulting, LLC (“MFC”), the Trustee’s financial advisor, has been responsible for receiving, logging and formatting the documents produced, as well as following up with producing parties on technical issues, to provide Epiq with consistent, uniquely numbered productions to load onto Relativity. In some instances, Deponents produced all of their documents in a single portable document facsimile file. MFC performed document



unitization so that each document could be uploaded separately onto Relativity. MFC also performed optical character recognition (“OCR”) on many productions because Deponents produced only scanned copies rather than actual text. OCR was required to make the data searchable. Files were also on occasion provided with inconsistent metadata fields, in which case MFC had to standardize the fields prior to loading onto Relativity. Currently, there are approximately 156,000 documents available on Relativity.

18. A summary of the Deponents who provided documents pursuant to the 2004 Motions is set forth below:

19. Prepetition and Postpetition Professionals. The Trustee filed 2004 Motions respecting eleven (11) professional firms that provided prepetition and/or postpetition services to the Debtors, including PriceWaterhouseCoopers (prepetition tax accountants); Alvarez & Marsal (postpetition financial advisors); Gordon Silver (postpetition bankruptcy counsel); Greenberg Traurig (prepetition and postpetition securities and bankruptcy counsel); Lane Powell (prepetition securities counsel); Garvey Schubert Barer (prepetition securities counsel); The Sheffield Group (prepetition multi-level marketing consultants); Babener & Associates (prepetition multi-level marketing counsel); Nehra & Waak (prepetition multi-level marketing counsel); Joele Frank, Wilkinson, Brimmer, Katcher (postpetition public relations advisors); and KCC (postpetition claims agent).

20. Financial Institutions. The Trustee filed 2004 Motions respecting nine (9) financial institutions who had prepetition and/or postpetition banking relationships in some respect with the Debtors, including Fidelity Bank, Wells Fargo, Bank of America, Citizens Bank, Digital Credit Union, Orient Bank, JP Morgan Chase, TD Bank, and Santander.

21. Payment Processors. The Trustee filed 2004 Motions respecting six (6) firms who provided payment processing services to facilitate payments made between the Debtors and Participants in the pyramid scheme, including Global Payroll Gateway, International Payout Systems, Propay, Inc., Propay.com, Argus Payments, and Allied Wallet.

22. Technology Firms. The Trustee filed 2004 Motions respecting three (3) firms who provided consulting services to the Debtors or otherwise were believed to have had business relationships with the Debtors, including Ciao Telecom, Telecom Logic, and Opt3 Solutions. Ciao was alleged to have had a prepetition business relationship with the Debtors, although documents later produced by Ciao demonstrated that discussions between the parties apparently did not lead to any binding agreements. Telecom Logic and Opt3 provided prepetition technology support to the Debtors.

23. The Trustee is reviewing the documents produced by the Deponents and intends to schedule examinations following this review.

**B. Analysis of Debtors' Books and Records**

24. Most of the Debtors' records were kept electronically. As noted above, prior to the Trustee's appointment, federal authorities shut down and seized the Debtors' computer system, which consisted of forty-six (46) computers and servers containing more than 20 terabytes of data. The Trustee did not have any copies of the Debtors' electronic records. The computers and servers remain under the control of HSI pending criminal proceedings against the Debtors' principals. At the Trustee's earlier request, HSI provided copies of the Debtors' computers and servers to the Trustee beginning in August 2014. Once a copy of the Debtors' computers and servers was provided to the Trustee, MFC performed the following tasks in order to make the information on the Debtors' computer system usable:

- (i) Located the key database server containing the bulk of the Debtors' operational and Participant activity;
- (ii) Determined the proper configuration of the Debtors' servers, so that the servers could interface with one another;
- (iii) Converted the data obtained from the Debtors' servers into "virtual servers" maintained by MFC;
- (iv) Determined the other essential computers and servers needed to obtain necessary information respecting the Debtors' operations and Participant activity; and
- (v) Developed a preliminary understanding of the Debtors' database structure, including data fields and process flow.

25. Location of key database: After obtaining a copy of the Debtors' servers from federal authorities, MFC, through a process of experimentation, ultimately located a large database operating on one of the Debtors' servers that appeared to contain much of the Debtors' "big data". MFC attempted to access the contents of the database through a variety of means, initially without success. MFC also determined that its copy of the database did not contain all of the information on the Debtors' server from which it was copied due to the manner in which the data was stored. MFC worked with HSI to access the missing data and through a variety of means, HSI and MFC were able to acquire the necessary data from the Debtors' servers to allow MFC to access all relevant data from the Debtors' database.

26. Configuration of data: MFC learned at the outset that system configuration details were not available to restore the Debtors' systems, in other words, there was no blueprint to understand how the servers were intended to be interconnected. Because of the absence of system configuration details, MFC was initially unable to configure the database in a usable

fashion.<sup>2</sup> Through extensive testing, MFC was able to determine the appropriate configuration for the drives and start the process of restoring the servers to a virtual machine (“VM”) environment.

27. The use of virtual servers: Once the physical configuration of the hard drives was determined, MFC was then able to begin the process of “virtualizing the servers.” MFC loaded the Debtors’ data onto a “Virtual Machine”, or “VM”, housed on MFC’s existing computer network. The use of a VM on MFC’s network was necessary because the federal authorities were in possession of the original servers. The only other alternative to access the Debtors’ electronic information would be to restore the forensic images onto entirely new physical servers, which would have been much more difficult, costly, and time consuming.

28. Location of other essential servers: Through the process of virtualizing the Debtors’ network, MFC identified additional servers that were necessary to operate the Debtors’ network. MFC and HSI worked together to locate and copy the missing drives. Once the key component servers were operating, it was necessary to obtain system passwords. Passwords were ultimately obtained through a combination of research into various document productions received by the Trustee, communications with federal authorities, and password cracking. After considerable research, the Trustee was able to ultimately determine that three (3) physical servers virtualized by MFC were necessary to access most of the essential data to understand the Debtors’ operations and Participant activity.

29. Understanding the Debtor’s database structure: After rebuilding the system, MFC worked to better understand the database structure, table relationships, fields, and process flow. The database contains billions of records and perhaps over a trillion individual data points.

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<sup>2</sup> Reconstructing the Debtors’ electronic records without configuration details was akin to assembling an airplane based upon 1,000 parts scattered on a manufacturing floor without assembly instructions.

There was no instruction manual or documentation of any kind. The database was developed by programmers in Brazil; hence all field references are in Portuguese. The developers apparently lacked the expertise to create and manage a system of this magnitude. As a result, system modifications were often done in a haphazard and disorganized fashion. The Debtors' system is permeated with "dirty" data because of limited efforts at data validation. For example, any modern enterprise level web application would have controls in place to prevent the entry of alphabetic or special characters in phone number fields. The Debtors had no such data validation in place, and a phone number could be entered as "zzzz###zzz1111zz" if one desired. Numerous problems were detected in the electronic mail field as well. Participants could enter any information desired in the electronic mail field, just as in the example above. Any modern enterprise level web application would require electronic mail validation, where an electronic mail is sent to the address that was entered, and a link is clicked to confirm with the system that the electronic mail address is valid. Not so with the Debtors. While it appears electronic mail validation was offered in mid-2013, it was never required. Perhaps most importantly, there is no field in the database to link all accounts for a particular Participant. Each time a Participant purchased a membership plan, the Participant was supposed to provide an electronic mail address and the Debtors' system would assign the Participant an account with a login number. A Participant could have multiple accounts and login numbers, which could be linked to multiple different electronic mail addresses. The Debtors' system was unable to track the account relationships of an individual Participant. Because of the absence of a mechanism to link accounts for an individual Participant, this process must be performed by manual search on a case by case basis.

30. The Trustee is informed that additional electronic records of the Debtors, including electronic mail communications, may reside on servers in Brazil, and the Trustee is working with law enforcement authorities in Brazil and the United States to obtain access to these records.

**C. Interviews/Meetings**

31. The Trustee has interviewed certain of the Debtors' former employees and consultants, some on more than one occasion. These interviews provided insight into the workings of the Debtors' electronic records and Quickbooks software, including the method of accounting for certain transactions and the procedures for accessing reports. The Trustee has also developed additional information respecting the mechanics of the Debtors' business plan and potential assets available for administration.

32. The Trustee has communicated regularly with state, national, and foreign governmental authorities regarding a variety of issues, including accessing the Debtors' records and developing a better understanding of the Debtors' operations and the interrelationship between the bankruptcy cases and the other pending matters.

33. The Trustee met on several occasions with Participants and other community organizations such as the Chelsea Collaborative and the Greater Boston Legal Services. These meetings have benefited the Trustee's understanding of the mechanics of the Debtors' pyramid scheme, including the different types of transactions entered into between the Debtors and Participants, as well as inter-Participant activity.

**SUMMARY OF PRELIMINARY ISSUES AND FINDINGS**

34. As a result of the investigation conducted to date, the Trustee has acquired the following information respecting the background of the Debtors and certain affiliates, the

mechanics of the pyramid scheme, the state of the Debtors' assets, books, and records, and information respecting Participants.

**A. Background of the Debtors**

35. TelexFree, Inc. is a Massachusetts corporation that, prior to February 2012, was known as Common Cents Communications, Inc. ("Common Cents"). Common Cents was incorporated in 2002 by Wanzeler, Merrill, and Labriola. Upon information and belief, the shareholders of TelexFree, Inc. are Wanzeler and Merrill.

36. TelexFree, LLC is a Nevada corporation that was incorporated by Wanzeler, Merrill, and Carlos Costa, a resident of Brazil, in July 2012 and registered to do business in Massachusetts in April 2013. Upon information and belief, the members of TelexFree, LLC are Wanzeler and Merrill.

37. TelexFree Financial, Inc. is a Florida corporation formed in 2013. Upon information and belief, TelexFree Financial, Inc. is wholly owned by TelexFree, LLC.

38. Carlos Costa previously held an ownership interest in the Debtors. Upon information and belief, in the fall of 2013, Costa assigned his interest in the Debtors to Merrill.

39. In the late 1990s, Wanzeler and Merrill became sales agents for WorldxChange, a multi-level marketing company that sold inexpensive long-distance telephone service using sales agents to recruit other sales agents as well as customers. In 2002, Wanzeler, Merrill, and Labriola incorporated Common Cents as a vehicle for their sales efforts on behalf of WorldxChange. In 2003, the three individuals ceased working with WorldxChange after it was acquired by another company and discontinued the multi-level marketing program.

40. In 2005, Wanzeler began selling analog telephone adapters, using the name “Brazilian Help” in the United States and “Disk A Vontade Telefonía” in Brazil. In 2007, Wanzeler incorporated Brazilian Help in Massachusetts.

41. In early 2012, Wanzeler, Merrill, and Costa changed the name of Common Cents to TelexFree, Inc. for the apparent purpose of using a multi-level marketing platform to sell voice over internet telephone service. In July 2012, Wanzeler, Merrill, and Costa formed TelexFree, LLC, purportedly to handle TelexFree transactions outside Massachusetts. The Debtors commenced operating the pyramid scheme in the spring of 2012.

**B. Ympactus**

42. On or about February 2012, Wanzeler and Costa formed Ympactus. Merrill may also hold an ownership interest in Ympactus.

43. Ympactus, which also used the name “TelexFree”, began operations in Brazil with a business model similar to that of the Debtors. Upon information and belief, the Debtors advanced the costs for the voice over internet protocol, or “VOIP”, service for both the Debtors and Ympactus. Ympactus contracted to pay a portion of its revenues to the Debtors as a commission, but it is unclear the extent to which these payments were ever made. In December 2013, six months after the seizure of Ympactus’ assets by the Brazilian authorities, the Debtors established, and then subsequently wrote off, a receivable due from Ympactus in the approximate amount of \$180,000,000, purportedly for unpaid commissions and related services.

44. As discussed in more detail below, Ympactus grew much more quickly than the Debtors and its shutdown by Brazilian authorities in the summer of 2013 was the first of many red flags that the Debtors were operating an unsustainable pyramid scheme.



**C. Other Affiliates**

45. There are a number of affiliates and subsidiaries of the Debtors.<sup>3</sup> A summary of the entities uncovered thus far, as well as any information respecting their function and connection to the Debtors, is set forth below:

<b>Entity</b>	<b>Ownership</b>	<b>Purpose</b>
TelexFree International, LLC	Wanzeler, Costa, and Merrill	Formed to conduct international customer transactions other than those in the U.S. and Brazil (based in Nevis Island)
TelexFree Mobile Holdings, Inc.	Wanzeler and Merrill	Ownership interest in Graham Bell Telex, LLC
Graham Bell Telex, LLC	TelexFree Mobile Holdings, LLC and Costa	Ownership interest in TelexMobile, LLC
TelexFree Mobile, LLC	Graham Bell Telex, LLC and Infinium Wireless	Joint venture created to develop mobile telephone application
TelexElectric, LLLP	Wanzeler, Costa, and Merrill	Ownership interest in Bright Lite, LLC; established to participate in Sunwind wind farm project
Bright Lite Future, LLC	Wanzeler, Costa, and Merrill	Established to participate in Sunwind wind farm project
Brazilian Help, Inc.	Wanzeler	Provided cleaning services; may have engaged in sale of telephone adapters
Sunwind Energy Group, LLLP	1127 Enterprises, LLC and Merchant Enterprises, Inc.	Ownership interest in Sunwind Energy Solutions LLLP
Sunwind Energy Solutions,	1127 Enterprises, Inc., ACE	Ownership interest in

<sup>3</sup> The Debtors and their principals may have formed other subsidiaries and affiliates which have not yet been discovered by the Trustee.

LLLP	LLP, Executive Marketing, Inc. and Sunwind Energy Group LLLP	Sunwind Energy Doyle North, LLC
Sunwind Energy Doyle North, LLC	Sunwind Energy Southern, LLLP, ACE LLP, Adams Craft Ewing LLLP, Guasti LLC	The Debtors apparently directly or indirectly invested and/or loaned more than \$2,000,000 to the Sunwind entities for a wind farm project in Kansas
ACE LLP	Undetermined	Interest in Sunwind
Executive Marketing Inc.	Undetermined	Interest in Sunwind
1127 Solutions LLC	Undetermined	Interest in Sunwind
Merchant Enterprises Inc.	Undetermined	Interest in Sunwind

46. There may have been other entities formed by the Debtors' principals to conduct similar operations in other jurisdictions, including TelexFree Ecuador, TelexFree Columbia, TelexFree Dominican Republic, TelexFree Canada, and TelexFree International, Ltd. (Cayman Islands).

47. In addition, other entities appear to have been formed by the Debtors' principals for related or unrelated purposes, including JC Real Estate Investments LLC; JC Real Estate Management Co., LLC; Above and Beyond the Limit LLC; CNW Real Estate LLC; CNW Realty State LLC; Acceris Realty Estate LLC; KC Realty State LLC; Makeover Investments LLC; Eagleview Realty Estate LLC; and Grandview Realty Estate LLC.

**D. The Mechanics of the Scheme and Methods of Compensation**

48. The Debtors purported to be in the business of providing a VOIP service for a monthly charge of \$49.90 to conduct international phone calls. Customers registered their phone

numbers with the Debtors and received software that enabled their computers to place phone calls through the Debtors' computer servers in Marlborough, Massachusetts.

49. The primary business of the Debtors, however, was the recruitment of new Participants to generate revenues for the Debtors and existing Participants.

50. To reach prospective Participants, the Debtors relied on the company website, recruiting efforts of existing Participants, videos posted on the internet (primarily on the "YouTube" website), and large gatherings at hotels and resorts.

51. The Debtors charged \$50 for a Participant to become a "member" or "partner." Until it changed its compensation plan on March 9, 2014, the Debtors had two membership options:

- a. "AdCentral": \$339 for a one-year contract (\$50 membership fee plus \$289 contract fee). Participants received ten one-month packages of the VOIP service at the outset and were required to place one internet ad per day. For each week in which they placed the required ads, Participants received one additional VOIP package. The additional VOIP package could be exchanged for \$20. Thus, Participants who posted the required ads were eligible to receive \$20 per week, or \$1,040 for the year (*i.e.*, a return of 207% on an investment of \$339).
- b. "AdCentral Family": \$1,425 for a one-year contract (\$50 membership fee plus \$1,375 contract fee). Participants received fifty one-month packages of VOIP service at the outset and were required to place five internet ads per day. For each week in which they placed the required ads, Participants received five additional VOIP packages. The five additional VOIP packages could be exchanged for \$100. Thus, the Participants who posted the required ads were eligible to receive \$100 per week, or \$5,200 for the year (*i.e.*, a return of 265% on an investment of \$1,425).

52. The Debtors had a multi-level marketing structure, with several bonus plans for Participants who recruited new Participants:

- a. \$20 for each new Ad Central Participant and \$100 for each new AdCentral Family Participant.

- b. \$20 for each Participant in one's "network," up to a maximum of \$440, as long as the Participant had recruited at least two Participants.
- c. 2% of all payments made to each Participant in a Participant's network with at least one VoIP customer (which could be the Participants themselves), down to six "levels."
- d. 2% of the Debtors' net monthly billing, up to a maximum of \$39,600, for an AdCentral Family Participant who recruited ten new AdCentral Family Participants, each of whom sold five VOIP packages (to themselves or to others).

53. The Debtors also promised commissions for selling the VOIP service:

- a. 90% (or \$44.90) for the initial sale of a monthly VOIP package at \$49.90.
- b. 10% (or \$4.99) per month for each Participant who renewed the monthly VOIP service and 2% (or \$0.99) per month for each indirect Participant who renewed the service, down to six levels of the Participant's network.
- c. 2% of all sales of the VOIP service by direct or indirect Participants in a Participant's network, down to six levels.

54. Participants earned credits based upon bonuses or commissions "earned" during their involvement in the scheme. These credits could be redeemed for cash, transferred to another Participant, or applied in satisfaction of an invoice.

55. Participants could pay their membership fees in one of two ways – either by direct payment to the Debtors or by payment of their fees to the Participant who recruited them. In the case of payment of a membership fee by a new Participant directly to the Debtors, the process worked, generally, as follows:

- a) The Participant joined the Debtors' organization and created an online account with the assistance of a recruiting Participant, who needed to be identified. It was not possible to join the Debtors' organization without a recruiting Participant. The Debtors' database records the details entered by the new Participant and assigns a unique identification number to the new Participant account;

- b) The Participant created a third-party online payment processing account and would fund the account directly or add a credit card or bank account to it. A Participant could also pay money directly to the Debtors in the form of a check, cashier's check, or wire transfer, although this was less common;
- c) The Participant purchased a plan from the Debtors online;
- d) The Debtors recorded the purchase, issued an invoice number, and marked the invoice as 'pending';
- e) The Participant would then pay the invoice, the Debtor would update the invoice as 'paid', and the account setup would be complete. The new Participant would then start building a pyramid underneath the newly created account by recruiting other Participants (or by purchasing new accounts themselves) and generating bonuses and commissions in accordance with the scheme.

56. Before the compensation plan was changed on March 9, 2014, there was no requirement that AdCentral Participants actually sell the VOIP service to receive the promised weekly payments. The only requirement for receiving the payments was to post internet advertisements (one per day for each AdCentral contract and five per day for each AdCentral Family contract). These advertisements were of questionable utility, however, because they were placed principally on classified ad websites and were not directed toward the general public. In many instances, the ads placed were generated by the Debtors.

#### **E. Inter-Participant Transactions**

57. The Debtors' business plan was complicated in and of itself. The scheme's complexity was expanded further, however, through a web of inter-Participant transactions that permeated the scheme.

58. First, a new Participant could purchase a membership plan by making payment directly to the Debtors as described above or by redeeming accumulated credits.

59. In lieu of paying funds directly to the Debtors, it appears that many Participants became involved in the scheme by paying their membership fee directly to a recruiting

Participant who often did not remit the payment from the new Participant to the Debtors. Rather, the recruiting Participant frequently retained the payment from the new Participant in return for a reduction, or redemption, of their accumulated credits. The mechanics of this transaction were as follows:

- a) After an invoice was issued to the new Participant and marked as pending, the new Participant would forward the invoice through the system to the recruiting Participant for payment;
- b) The recruiting Participant would then pay the invoice using the recruiting Participant's credits. The Debtors' database would charge the recruiting Participant's credits for the invoice and mark the invoice as paid.

60. In this manner, new Participants often joined the Debtors' scheme without any money actually being paid to the Debtors.

61. In addition to the two scenarios outlined above, there appears to have been a third type of transaction that did not involve the Debtors at all. This type of transaction involved the transfer of credits by one Participant to another Participant in exchange for cash or other consideration. The motivation for the transfer of credits is not always clear, although in some instances recruiting Participants may have purchased credits so that such recruiting Participant had sufficient credits to be redeemed after receiving payment from a new Participant.

#### **F. Growth of the Pyramid Scheme and Eventual Collapse**

62. Ympactus initially grew much more rapidly than the Debtors, with growth accelerating in the fall of 2012 through the early summer of 2013. The Debtors' records indicate that by the spring of 2013, Ympactus had cash receipts of more than \$100,000,000 per month. These receipts do not reflect inter-Participant transactions that did not involve direct payment to Ympactus.

63. In June 2013, the Brazilian authorities suspended the operations of Ympactus and froze its assets in Brazil based upon allegations that it was a pyramid scheme. Upon information and belief, the Brazilian authorities seized as much as \$300,000,000 from Ympactus in connection with the shutdown, and civil and criminal proceedings are pending in Brazil against Ympactus and its principals.

64. Following the shutdown of Ympactus, the Debtors' revenues increased dramatically such that by the end of 2013 and early 2014, the Debtors were generating cash of as much as \$50,000,000 per month, without regard to inter-Participant transactions for which consideration did not pass to the Debtors.

65. As their operations grew in size and complexity, the Debtors were unable to maintain any semblance of normal banking relationships. Multiple banks closed the Debtors' operating accounts apparently based upon suspicious activity in those accounts.<sup>4</sup>

66. Although the Debtors were apprised in mid-2013 by counsel that the business plan was a pyramid scheme, they continued to operate using that plan until March 2014. At that time, the Debtors introduced a new business plan, even though the Debtors were apparently advised that the new plan did not rectify the problem. The new plan was unanimously rejected by the Participants, which appears to have precipitated a 'run on the bank' inasmuch as \$58,000,000 or more was paid out to certain Participants in the several weeks leading up to the filing of the petitions. An additional \$100,000,000 was requested by Participants but was not paid.

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<sup>4</sup> In the late fall of 2013, the Debtors opened accounts with Fidelity Bank. The president of Fidelity Bank, John Merrill, is the brother of James Merrill. The SOS commenced an administrative action against Fidelity Bank alleging that it failed to comply with appropriate regulations in the administration of the Debtors' accounts. In settlement of this administrative action, Fidelity Bank agreed to pay \$3,500,000 to the SOS.

**G. SIG/Back Office**

67. The Debtors had two separate applications for accessing its databases of Participant activity – SIG, which was used by the Debtors’ personnel, and Back Office, which was used by Participants. These applications are key to understanding the Debtors’ operations and Participant activity.

*i. SIG*

68. SIG was the web browser based front-end application used by the Debtors’ personnel to access the Debtors’ database to obtain reports on, and administer, Participant activity.

69. The Debtors’ database contains the combined the activity of both Ympactus and the Debtors. It was therefore important to attempt to separately identify activity of the Participants from that of the Participants in the Ympactus scheme (the “Ympactus Participants”) for purposes of administering the Debtors’ cases. Ultimately, the Trustee believes he has been able to segregate the Debtors’ Participants from Ympactus Participants through a forensic analysis of the data fields.

70. When a Participant created a new account, the invoices associated with the account contained a designation of either Brazilian Reais or United States Dollars.<sup>5</sup> This field only exists in the invoice table and as a result can only be considered for invoice payment. In addition, the data fields identified the country of origin for Participant’s bank accounts, electronic mail addresses, and physical mail addresses. Through an examination of these data fields, the Trustee believes that he can identify those Participants involved in the Debtors’ scheme as distinguished from Ympactus Participants for the following reasons:

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<sup>5</sup> The relevant data field simply said “R” or “D”. The Trustee and his advisors were able to determine, as part of their forensic analysis, that these initials appear to be currency abbreviations for Reais and Dollars.



- a) Nearly every login denominated in Reais was associated with a Brazilian mailing address;
- b) Similarly, nearly every login denominated in Dollars was associated with a non-Brazilian mailing address;
- c) The vast majority of invoices generated and paid prior to June 21, 2013 were denominated in Reais. Invoices generated and paid after that date were almost entirely in US Dollars.

71. The database identifies more than 2,100,000 electronic mail addresses for Participants in the operations of both the Debtors and Ympactus. Of this amount, approximately 1,000,000 appear to be provided by Participants of the Debtors, with the balance related to the Ympactus Participants. The database identifies more than 17,000,000 different accounts, of which approximately 12,000,000 are those of Participants and 5,000,000 are those of Ympactus Participants. As referenced earlier, an individual Participant could maintain multiple accounts using a single electronic mail address, and an individual Participant could also maintain more than one electronic mail address. During the period February 2012 to April 2014, the total combined cash receipts for the Debtors and Ympactus were in excess of \$1,800,000,000 and combined noncash revenue was approximately \$4,200,000,000.

72. Each time that a new Participant purchased a membership, that Participant would be provided an account number in the system. In addition to account numbers, the system contains data fields for a Participant's name, electronic mail address, and physical mail address.

73. As referenced above, the Debtors' computer system does not link all accounts for an individual Participant, and the Participant name field enabled Participants to use different variations of their name in the input process.

74. Certain accounts do not contain electronic mail address information. Of those accounts that do contain electronic mail address information, in some instances, the information

is facially inaccurate, such as the Participant's use of the Debtors' electronic mail address as a placeholder (such as [telex@telexfree.com](mailto:telex@telexfree.com)). In other instances, a Participant may have used the same electronic mail address as other Participants, including the sharing of electronic mail addresses with family members. Unlike the computer systems of similar type enterprises, the Debtors' system did not require confirmation of an electronic mail address.

75. Similarly, certain accounts do not contain physical address information. Some other accounts contain physical address information that is facially inaccurate, such as the use of a country code that is inconsistent with the address, e.g., 'San Paulo, USA.'

76. In addition to maintaining data fields to identify a Participant, the Debtors' system tracked each Participant's activity in the scheme on an account level, and maintained a running balance of credits to which a Participant was entitled on each account. Participants earned credits through bonuses and commissions provided for in the Debtors' business plan, or could purchase credits from another Participant. Participants could also accumulate credits through a process referred to as "manual credits", and it appears that the manual credit system may have been subject to manipulation or outright fraud.

77. Manual credits were credits assigned to a Participant's account balance on account of money paid to the Debtors for one of several reasons, as distinguished from credits "earned" from the placement of advertisements or other components of the compensation scheme. The Debtors' records reflect approximately \$151,000,000 of manual credits issued to certain Participants. The issuance of manual credits appears to be a fraud within the larger fraud of the pyramid scheme with the Debtors' insiders adding large amounts of credits to certain accounts whereby the credits could then be sold to other Participants. There appears to be no corresponding payment supporting many of these large manual credits.

ii. Back Office

78. The Back Office was the web browser based front-end application used by Participants to access the Debtors' database, and was the primary way in which Participants interacted with the Debtors. For example, Participants logged onto the Back Office to obtain information on their accounts, such as their account balances and the identification and status of the Participants within their multi-level "tree", to create new accounts, to request payment, and to transfer credits among accounts.

iii. eWallet/Payment Processors

79. Participants typically established an eWallet account through one of several payment processors used by the Debtors in order to effectuate receipts and disbursements. The eWallet account could be used by a Participant to pay an invoice for themselves or another Participant and to request payment from the Debtors in exchange for accumulated credits identified in the Back Office. As referenced earlier, the Trustee has obtained documents from the payment processors pursuant to the 2004 Motions and is in the process of reconciling the receipts and disbursement data recorded by the payment processors with the data reflected in SIG.

**V. RESOLUTION OF DISPUTED FEE APPLICATIONS**

80. Shortly after the Trustee was appointed, the Debtors' professionals filed applications for compensation and reimbursement of expenses. The amounts sought by each professional are set forth below:

<b>Professional</b>	<b>Fees Requested</b>	<b>Expenses Requested</b>	<b>Total Requested</b>	<b>Retainer</b>
Greenberg Traurig	\$968,740.13	\$76,073.82	\$1,044,813.95	\$3,726,604.89
Gordon Silver	\$225,592.50	\$ 4,120.35	\$ 229,712.85	\$ 694,764.50
Alvarez Marsal	\$876,463.72	\$0	\$ 876,463.72	\$1,000,000.00
Stuart MacMillan	\$ 88,333.51	\$ 18,755.94	\$ 107,089.45	\$ 177,576.81

81. As noted above, the Trustee filed 2004 Motions to obtain documents from each of the Debtors' prepetition and postpetition professionals to better understand the circumstances that led to the filing of the Chapter 11 petitions and the merits of the compensation requests. The Trustee raised various formal and informal objections to the requested fees and ultimately reached a consensual resolution with each professional. The final amounts agreed to by the Trustee and each respective professional, and approved by the Court, were as follows:

<b>Professional</b>	<b>Fees Allowed</b>	<b>Expenses Allowed</b>	<b>Total Allowed</b>	<b>Excess Retainer</b>
Greenberg Traurig	\$320,000.00	\$76,073.82	\$396,073.82	\$3,330,531.07
Gordon Silver	\$146,635.13	\$ 4,120.35	\$150,755.48	\$ 544,009.02
Alvarez Marsal	\$435,000.00	\$0	\$435,000.00	\$ 565,000.00
Stuart MacMillan	\$ 61,833.46	\$18,755.94	\$ 80,589.40	\$ 96,987.41

82. The aggregate compensation requested by the Debtors' professionals was reduced by nearly \$1,200,000 and the Debtors' professionals turned over more than \$4,500,000 of excess retainers to the Trustee.

## VI. ASSET ANALYSIS AND RECOVERY

83. To date, the Trustee has recovered in excess of \$17,000,000. The principal sources of these recoveries have been as follows:

- a) Postpetition professionals: as referenced in the prior section, the Trustee recovered approximately \$4,500,000 in excess retainers from the Debtors' postpetition professionals;
- b) Prepetition professionals: the Trustee recovered approximately \$1,000,000 in excess retainers that were in the possession of the Debtors' prepetition professionals as of the Petition Date;
- c) Credit card chargebacks: many Participants paid their membership plan fees via credit card. As of the Petition Date, certain credit card merchants held substantial balances in favor of the Debtors. The merchants have released more than \$11,000,000 to the Trustee constituting funds held in excess of reserves;
- d) Cashiers' checks: The Trustee has negotiated approximately \$700,000 in cashiers' checks payable to the Debtors.

84. In addition to the foregoing recoveries, the Trustee continues to investigate numerous other potential sources of recovery, as discussed below.

85. Tax refunds: The Trustee is reviewing the Debtors' prior year tax returns for the propriety of the accounting treatment of the pyramid scheme. In the event that the Trustee, in consultation with his tax professionals, determines that amendment to prior year returns is warranted, the bankruptcy estate may be able to recover refunds of taxes already paid.

86. Cashiers' checks: After his appointment, the Trustee came into possession of more than \$1,100,000 in cashiers' checks payable to the Debtors. While, as set forth above, approximately \$700,000 in cashiers' checks were deposited and cleared, more than \$400,000 of

these checks were dishonored. The Trustee has made document requests to the financial institutions to obtain additional information respecting the remitters of the checks and the reasons for dishonor, to determine if additional recourse may be available.

87. Foreign accounts: As discussed above, the Debtors' principals were working to expand TelexFree operations in other countries and toward that end were in the process of forming international affiliates. The Trustee continues to investigate the status of these operations and any related assets, including foreign bank accounts.

88. Mobile telephone service application: The Trustee has been informed that the Debtors were involved in the development of a mobile telephone application, or "app", which would have facilitated international long distance telephone calls by mobile phone. Upon information and belief, development of the app was being done in collaboration with Infinium and the Debtors' affiliates TelexMobile Holdings, Inc. and TelexMobile, LLC. The Trustee continues to investigate the status of the app, its potential marketability, and the extent of the Debtors' interest therein.

89. Termination contracts: The Debtors, or one of their affiliates, entered into termination contracts with providers to ensure that telephone calls reached their final destination. The Trustee has interviewed third party consultants to obtain a better understanding of the mechanics of the termination contracts and any residual value that may exist in the Debtors' relationships with termination providers.

90. Domain name: The Debtors' domain name is currently registered with an affiliate of the Debtors, Disk a Vontade. The Trustee has conducted an initial investigation into any residual value that may exist in the domain name and steps that may be taken to acquire ownership of the name and control over the site's content. The domain's registrars have been

unwilling to provide the Trustee with control over the domain because it was not purchased by the Debtors.

91. Avoidance Actions: The Trustee is evaluating potential claims and causes of action. These estate rights are being considered in conjunction with claims asserted by individual plaintiffs in the pending MDL Action and claims asserted by the federal government in the Indictment.

## **VII. COORDINATION/COOPERATION WITH GOVERNMENTAL AUTHORITIES**

92. The Trustee has been in regular contact with governmental authorities throughout the administration of these cases, including the Office of the United States Attorney, the SEC, HSI, MSD, and representatives of the Brazilian government. These discussions have centered on three principal areas of concern: data recovery and reconstruction, cash management and collection activity, and strategies for the allowance of claims and distribution of funds.

- a) Data recovery and analysis: As referenced above, at the time of the Trustee's appointment, the Debtors' books and records were in the possession of federal authorities and the electronic records required reconstruction. The Trustee and MFC worked with forensic experts at HSI over many weeks to restart the computers and servers, determine the appropriate reconfiguration of hard drives and servers to reintegrate the servers and to make the system usable, and to mine for data in order to better understand the Debtors' operations, flow of funds, and treatment of Participants' claims;
- b) Cash management and collection activity: On May 9, 2014, well prior to the Trustee's appointment, a Consent Order was entered in the SEC action that potentially impinged upon the Trustee's ability to perform essential functions in these cases. The Consent Order, among other things: enjoined the Debtors or their representatives from selling, transferring or withdrawing any funds constituting assets of the Debtors, and directed various financial institutions to freeze estate assets and to prohibit any transfer or withdrawal of same. The Trustee has worked with the federal authorities to obtain modifications to the Consent Order which enabled the Trustee to, among other things, open requisite bank accounts, deposit excess retainers recovered from the Debtors' professionals, and pursue other recoveries in the ordinary course of the administration of the cases;

- c) Case administration/claims determination: The Trustee has engaged in an ongoing dialogue with federal authorities on a myriad of other issues related to the administration of the cases including coordination of third party interviews, discussion of the manner in which funds in the possession of federal authorities will be administered, and the process for filing and allowing Participant claims, which must take into account claims already filed with KCC, the Court, the FBI, and the SOS. The Trustee is in discussions with Brazilian authorities respecting the potential exchange of information and documents and opportunities for cross-border cooperation in the administration of the cases of the Debtors and Ympactus.

### **VIII. SCHEDULES AND STATEMENT OF FINANCIAL AFFAIRS/MONTHLY REPORTS**

93. As referenced earlier, during the eight (8) weeks in which the Debtors served as debtors-in-possession, no schedules or statements of financial affairs (“Schedules and Statements”) were filed, nor was a matrix of creditors filed. Other than the voluntary petitions, the Debtors have filed only a list of their thirty (30) allegedly largest creditors.

94. After successfully restarting and reconfiguring the Debtors’ computer system into a usable format, the Trustee has been able to begin assembling the data required for the completion of the Schedules and Statements. The Trustee anticipates filing the Debtors’ Schedules and Statements by the end of February 2015 with the recognition that, given the complexity of the Debtors’ operations and records and the continuing discovery of new information, amendments and supplements to the Schedules and Statements may be required as circumstances warrant.

95. In addition to preparing the Schedules and Statements, the Trustee has attended to other case administration matters, including the submission of monthly operating reports and payment of United States Trustee quarterly fees.



## **IX. OTHER PENDING MATTERS**

96. As discussed earlier, the Debtors and their Participants engaged in a variety of different transactions involving both cash and credits and often involving multiple parties to a single transaction. Given the complexity of the Debtors' business relationship with Participants, the Trustee intends to seek approval of the Court for a modified proof of claim form uniquely tailored to the circumstances of these cases. The Trustee and his advisors are currently working on the development of a prototype claim form for the Court's consideration.

97. The Trustee also intends to seek Court approval for the manner of providing notice of the claims bar date and for the manner of submission of the modified proofs of claim. Given the sheer volume of Participants, and the manner in which the Debtors communicated with Participants, the Trustee anticipates that the claims process will need to be, and should be, administered electronically. The Trustee and his advisors are actively engaged in preparing a comprehensive claims filing and noticing process for the Court's consideration.

## **X. CONCLUSION**

98. The Trustee's investigation is by no means complete. The Trustee has made substantial progress toward the administration of these cases, particularly given the chaotic state of affairs that existed upon his appointment – the absence of any accessible books and records, the reluctance of the Debtors' principals and some key employees to provide assistance, the proliferation of litigation involving the federal government, state government, and private plaintiffs, and the competing concerns of each constituency. Since the Trustee's appointment, a working version of the Debtors' electronic records has been established and is being dissected, substantial assets have been recovered, and a framework has been established for working with governmental bodies and administering the cases.

STEPHEN B. DARR,  
CHAPTER 11 TRUSTEE,

By his attorneys,

/s/ Andrew G. Lizotte

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