Docket #0026 Date Filed: 12/2/2016

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In re: TELEXFREE, LLC, TELEXFREE, INC. and TELEXFREE FINANCIAL, INC., Debtors.	Chapter 11 Cases 14-40987-MSH 14-40988-MSH 14-40989-MSH Jointly Administered
STEPHEN B. DARR AS HE IS TRUSTEE OF THE CHAPTER 11 ESTATES OF TELEXFREE, LLC, TELEXFREE, INC. and TELEXFREE FINANCIAL, INC., Plaintiff, v. OPT 3 SOLUTIONS, INC. AND JAY BORROMEI, Defendant(s).	Adversary Proceeding No.16-4034-MSH

MOTION FOR ENTRY OF DEFAULT

Stephen B. Darr, as he is the Trustee (the "Trustee") of the Chapter 11 estates of TelexFree, LLC, TelexFree, Inc., and TelexFree Financial, Inc. (collectively, the "Debtors"), moves pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, as incorporated herein by Rule 7055 of the Rules of Bankruptcy Procedure, that the Defendant Opt 3 Solutions, Inc. ("Opt 3") be defaulted for failure to answer or otherwise defend this action.

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In support of his motion, the Trustee states that the Defendant Opt 3 was served with a copy of the Summons and the Complaint, and has failed to defend.[1] In further support, the Trustee relies on the Affidavit of Andrew G. Lizotte, Esquire, annexed hereto as Exhibit A.

WHEREFORE, the Stephen B. Darr, as he is the Trustee of the Chapter 11 Estates of TelexFree, LLC, TelexFree, Inc., and TelexFree Financial, Inc., respectfully prays that his Motion be allowed and that this Court enter an order defaulting Opt 3.

STEPHEN DARR AS HE IS THE TRUSTEE OF THE CHAPTER 11 ESTATES OF EACH OF THE DEBTORS
By his attorneys,

/s/ Andrew G. Lizotte

Andrew G. Lizotte (BBO #559609)
Murphy & King, Professional Corporation
One Beacon Street
Boston, MA 02108
(617) 423-0400
ALizotte@murphyking.com

Dated: December 2, 2016
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[1] The co-defendant, Jay Borromei, filed a Suggestion of Bankruptcy on September 20, 2016. The Trustee's claims against Borromei are therefore stayed. Borromei is the principal of Opt 3.

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AFFIDAVIT OF ANDREW LIZOTTE IN SUPPORT OF TRUSTEE'S MOTION FOR ENTRY OF DEFAULT

I, Andrew Lizotte, being duly sworn, depose and state that:

1. I am a member of the law firm of Murphy & King, which law firm is counsel to Stephen Darr, as he is the Chapter 11 Trustee (the "Trustee") of TelexFree, LLC, TelexFree, Inc., and TelexFree Financial, Inc. (the "Debtors"). I am making this affidavit based upon my personal knowledge except with respect to those statements made on information and belief, and as to those statements, I believe them to be true based upon the books and records of the Debtors.

2. On April 5, 2016, the Trustee commenced this action by filing the Complaint.

3. On or about April 5, 2016, I caused a copy of the Summons and Complaint to be mailed, by first class mail and certified mail – return receipt requested, upon the Defendant Opt 3 Solution, Inc. ("Opt 3") at 120 Vantis, Suite 300, Aliso Viejo, CA 92656.

4. On May 4, 2016, I filed a certificate of service attesting that Opt 3 was successfully served with the Complaint and Summons by certified mail.

5. As a result of a series of motions to extend time to file answer, the deadline for Opt 3 to submit a responsive pleading expired on August 17, 2016.

6. The docket reflects that no responsive pleading has been filed.

7. Jay Borromei, the co-Defendant and principal of Opt 3, filed a Chapter 7 bankruptcy petition in the Central District of California on September 13, 2016. Mr. Borromei filed a Suggestion of Bankruptcy with this Court on September 20, 2016 and the matter is stayed as to Borromei.

Signed under the pains and penalties of perjury this 2nd day of December, 2016.

Andrew G. Lizotte

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CERTIFICATE OF SERVICE

I, Andrew G. Lizotte, hereby certify that I have this day served a copy of the Motion for Entry of Default via this court's CM/ECF System and by first class mail, postage prepaid to the following on the attached service list.

/s/ Andrew G. Lizotte
Andrew G. Lizotte (BBO #559609)
Murphy & King Professional Corporation
One Beacon Street
Boston, MA 02108
(617) 423-0400
ALizotte@murphyking.com

DATED: December 2, 2016

By CM/ECF:

Timothy J. Durken tdurken@jagersmith.com, bankruptcy@jagersmith.com, tdurken@ecf.inforuptcy.com

By First Class Mail:

Opt3 Solutions, Inc.
120 Vantis, Suite 400
Aliso Viejo, CA 92656