

**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 DARR AS HE IS THE TRUSTEE  
OF THE CHAPTER 11 ESTATES OF  
TELEXFREE, LLC, TELEXFREE, INC. and  
TELEXFREE FINANCIAL, INC.,

Plaintiff,

Adv. Proc. No. 16-4080

v.

SUNWIND ENERGY DOYLE NORTH LLC,  
SUNWIND ENERGY SOLUTIONS DOYLE  
NORTH, LLC, SUNWIND ENERGY  
SOLUTIONS LLLP, and SUNWIND ENERGY  
GROUP LLLP,

Defendants,

and

TOP NOTCH PERFORMERS, LLC

Reach and Apply Defendant.

**RESPONSE TO NOTICE OF INACTIVITY AND TRUSTEE’S MOTION FOR ENTRY  
OF JUDGMENT ON COUNT ONE OF COMPLAINT**

Stephen Darr, as he is the duly appointed and acting Trustee (the “Trustee”) of the  
Chapter 11 Estates of TelexFree, Inc., TelexFree, LLC and TelexFree Financial, Inc.,



(collectively, “TelexFree” or the “Debtors”), respectfully submits this response to the Notice of Inactivity entered on April 12, 2017.

1. The Trustee commenced this action on August 23, 2016. The Complaint seeks, in Count One, entry of judgment in favor of the Trustee against Sunwind Energy Doyle North LLC, Sunwind Energy Solutions Doyle North LLC, Sunwind Energy Solutions LLLP, and Sunwind Energy Group LLLP (collectively, “Sunwind”) in an amount previously agreed to in a settlement between the Trustee and Sunwind that was approved by the Court on or about July 27, 2016 [see docket entry 18, adv. proc. no. 16-4019; docket entry 784 in case no. 14-40987]. Count Two seeks entry of judgment reaching funds payable by Top Notch Performers, LLC (“Top Notch”) to Sunwind pursuant to a purchase and sale agreement and applying such funds against Sunwind’s indebtedness to the Trustee. Count Three seeks entry of an injunction restraining and enjoining Sunwind from disbursing the sale proceeds from its sale to Top Notch in a manner inconsistent with payment in full of Sunwind’s obligation to the Trustee.

2. Service of the Complaint was made on Sunwind on or about August 24, 2016 and on Top Notch on or about September 8, 2016.

3. On September 1, 2016, a preliminary injunction entered against Sunwind and Top Notch.

4. Responses to the Complaint were due by September 23, 2016.

5. Neither party filed a responsive pleading.

6. On September 29, 2016, the Court entered a notice of default against the defendants.

7. The Trustee is informed that the sale by Sunwind to Top Notch did not occur as provided for in the purchase and sale agreement dated August 8, 2016 but that the parties continue to be in negotiation respecting a potential agreement.

8. As part of the settlement agreement entered into between the Trustee and Sunwind in adv. proc. no. 16-4019, Sunwind assented, in paragraph 1, to the entry of judgment in favor of the Trustee in the amount of the agreed obligation [docket entry 13, adv. proc. no. 16-4019].

9. Based upon the foregoing, the Trustee asserts that judgment is appropriate on Count One of the Complaint, as Sunwind did not file a responsive pleading and previously agreed to consent to judgment. Counsel to Sunwind, who agreed to accept service in this matter, has been served with both the Complaint and this pleading.

10. Further relief on Counts Two and Three appears to be premature given the ongoing discussions respecting the sale of Sunwind's assets. The Trustee suggests that the matter be continued as to Counts Two and Three pending further updates by Sunwind as to the status of sale efforts.

**WHEREFORE**, Stephen Darr, as Trustee of the Debtors' Estates, respectfully prays that the Court enter judgment on Count One in the form attached hereto and grant such other relief as is just and proper.

STEPHEN DARR AS TRUSTEE OF  
TELEXFREE, LLC, TELEXFREE, INC.  
and TELEXFREE FINANCIAL, INC.  
By his attorneys,

/s/ Andrew G. Lizotte

Charles R. Bennett, Jr. (BBO #037380)

Andrew G. Lizotte (BBO #559609)

Murphy & King, Professional Corporation

One Beacon Street

Boston, MA 02108

(617) 423-0400

[ALizotte@murphyking.com](mailto:ALizotte@murphyking.com)

Dated: April 27, 2017  
725674

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DISTRICT OF MASSACHUSETTS**

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SUNWIND ENERGY SOLUTIONS DOYLE  
NORTH, LLC, SUNWIND ENERGY  
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**JUDGMENT**

This matter having come before the Court on the Complaint of Stephen Darr, as he is the duly appointed and acting Trustee of the Chapter 11 Estates of TelexFree, Inc., TelexFree, LLC and TelexFree Financial, Inc., for the entry of Judgment on Count One in accordance with a

certain Settlement Agreement dated June 7, 2016, filed in Adversary Proceeding No. 16-4019, docket entry 13, and for good cause shown,

Judgment is hereby entered for Stephen Darr, as he is the duly appointed and acting Trustee of the Chapter 11 Estates of TelexFree, Inc., TelexFree, LLC and TelexFree Financial, Inc., against Sunwind Energy Doyle North LLC, Sunwind Energy Solutions Doyle North LLC, Sunwind Energy Solutions LLLP, and Sunwind Energy Group LLLP in the principal amount of \$2,608,889 and interest in the amount of \$423,497.35 plus interest from and after April 1, 2016, at the per annum rate of five (5) percent.

Dated:

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Melvin S. Hoffman  
United States Bankruptcy Judge

714008

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Defendants,

and

TOP NOTCH PERFORMERS, LLC,

Reach and Apply/Defendant.

Adv. Proc. No. 16-4080

**CERTIFICATE OF SERVICE**

I, Andrew G. Lizotte, hereby certify that I have this day caused to be served a copy of the  
*Response to Notice of Inactivity and Trustee's Motion for Entry of Judgment on Count One of*

*Complaint* via this Court's CM/ECF System and by First Class Mail, Postage Prepaid to the attached service list as indicated.

/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](mailto:ALizotte@murphyking.com)

Dated: April 27, 2017  
726142



BY ECF:

Charles R. Bennett   cbennett@murphyking.com,  
[bankruptcy@murphyking.com](mailto:bankruptcy@murphyking.com); [imccormack@murphyking.com](mailto:imccormack@murphyking.com);

BY FIRST CLASS MAIL:

Bruce A. Singal  
Donoghue, Barrett & Singal, P.C.  
One Beacon Street, 13th Floor  
Boston, MA 02108