

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS**

<p>In re:</p> <p>TELEXFREE, LLC, TELEXFREE, INC. and TELEXFREE FINANCIAL, INC.,</p> <p style="text-align: center;">Debtors.</p> <hr/> <p>STEPHEN B. DARR AS HE IS TRUSTEE OF THE CHAPTER 11 ESTATES OF TELEXFREE, LLC, TELEXFREE, INC. and TELEXFREE FINANCIAL, INC.,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>OPT 3 SOLUTIONS, INC. AND JAY BORROMEI,</p> <p style="text-align: center;">Defendant(s).</p>

Chapter 11 Cases

14-40987-MSH
14-40988-MSH
14-40989-MSH

Jointly Administered

Adversary Proceeding
No.16-4034-MSH

MOTION BY PLAINTIFF FOR ENTRY OF JUDGMENT

Pursuant to Rule 55(b) of the Federal Rules of Civil Procedure, made applicable to this adversary proceeding by Rule 7055 of the Federal Rules of Bankruptcy Procedure, Stephen B. Darr (the “Trustee”), as chapter 7 trustee of the bankruptcy estates of TelexFree LLC, TelexFree, Inc., and TelexFree Financial, Inc., and the Plaintiff herein, hereby submits this motion (the “Motion”) for entry of default judgment against the Defendant, Opt 3 Solutions, Inc. (the “Opt 3”). A proposed Judgment is attached to this Motion as Exhibit A. In further support of this Motion, the Plaintiff respectfully states as follows:



1. On January 11, 2017, the Trustee made a motion for the issuance of an alias summons.
2. The motion was approved and a summons issued on January 11, 2017.
3. On January 17, 2017, the Trustee filed a notice of service of the summons.
4. Opt 3 was required to file a responsive pleading by February 10, 2017. No responsive pleading was filed.
5. On May 3, 2017, the Court entered an order approving the motion by Timothy Durken and Bruce Smith to withdraw as counsel to Opt 3.¹
6. On May 5, 2017, the Trustee filed a motion for entry of default. On or about May 24, 2017, the Court entered a Notice of Default.
7. Opt 3 is not an infant or incompetent person and is not currently in military service within the meaning of the *Servicemembers Civil Relief Act*, 50 U.S.C. § 521.
8. Based upon the foregoing, the Plaintiff is entitled to judgment against the Defendant Opt 3. The Plaintiff further relies upon the Affidavit filed in support of the motion for entry of default.

WHEREFORE, the Plaintiff respectfully requests that the Court enter judgment, substantially in the form attached hereto as Exhibit A, as a final judgment in this adversary proceeding against the Defendant Opt 3 and grant to the Plaintiff such other and further relief as this Court deems just and proper in the circumstances.

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.

STEPHEN B. DARR,
CHAPTER 11 TRUSTEE
By counsel,

/s/ Andrew G. Lizotte _____

Andrew G. Lizotte (BBO #559609)
MURPHY & KING, Professional Corporation
One Beacon Street
Boston, MA 02108-3107
Tel: (617) 423-0400
Fax: (617) 556-8985
alizotte@murphyking.com
Attorneys for Plaintiffs

Dated: May 30, 2017
727728

**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,

Adversary Proceeding
No.16-4034-MSH

v.

OPT 3 SOLUTIONS, INC. AND JAY
BORROMEI,

Defendant(s).

JUDGMENT

Upon consideration of the *Plaintiff's Motion for Entry of Judgment against Defendant Pursuant to Fed. R. Bankr. P. 7055(b)* (the "Motion"), and due cause appearing to me therefore, and due notice of the Motion having been provided, it is hereby ORDERED and ADJUDGED as follows:

1. The Motion is granted.
2. Pursuant to the provisions of Rule 7055(b) of the Federal Rules of Bankruptcy Procedure and MLBR 7055-1, final Judgment shall be and hereby is entered on this date in favor of the Trustee against the Defendant Opt 3 Solutions, Inc. as follows:

- (i) On Counts I and II, avoiding the transfers made by the Debtors TelexFree LLC, TelexFree Inc., and TelexFree Financial Inc. to Opt 3 within two years of the petition date as actual and constructive fraudulent transfers, and preserving such transfers for the benefit of the Debtors' estates, pursuant to 11 U.S.C. §548, 550, and 551;
 - (ii) Entering judgment in favor of the Plaintiff in the amount of \$939,079.50 plus interest from the date of the filing of the complaint at the federal judgment rate.
3. The Court shall retain jurisdiction to enter any further orders necessary for the enforcement of this Judgment.

Dated: _____, 2017

Honorable Melvin S. Hoffman
Chief United States Bankruptcy Judge

727728

**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,	Adversary Proceeding No.16-4034-MSH
v. OPT 3 SOLUTIONS, INC., JAY BORROMEI, Defendant(s).	

CERTIFICATE OF SERVICE

I, Andrew G. Lizotte, hereby certify that I have this day caused to be served the *Motion for Entry of Judgment* via first class mail, postage prepaid as indicated below:

Opt3 Solutions, Inc.
c/o Jay Borrromei, President
15642 Sand Canyon Ave
#52255
Irvine, CA 92619-2255

/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: May 30, 2017
727728