Docket #0022 Date Filed: 11/9/2018

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS

In Re:	)	Chapter 11
	)	
TELEXFREE, LLC,	)	Case No. 14-40987-MSH
TELEXFREE, INC., and	)	Case No. 14-40988-MSH
TELEXFREE FINANCIAL, INC.,	)	Case No. 14-40989-MSH
	)	
Debtors.	)	Jointly Administered
	)	
STEPHEN DARR, AS HE IS THE TRUSTEE OF THE CHAPTER 11 ESTATES OF EACH OF THE DEBTORS,	)	
	)	Adv. Proc. No. 18-04091
Plaintiff and Counterclaim Defendant,	)	Judge Melvin S. Hoffman
	)	
v.	)	
	)	
UNITED STATES OF AMERICA, DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE,	)	
	)	
Defendant and Counterclaim Plaintiff.	)	

UNITED STATES' STATEMENT OF CONTESTED MATERIAL FACTS IN SUPPORT OF ITS OPPOSITION TO TRUSTEE'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND STATEMENT OF ADDITIONAL UNDISPUTED MATERIAL FACTS IN SUPPORT OF ITS OPPOSITION AND UNITED STATES' CROSS-MOTION FOR PARTIAL SUMMARY JUDGMENT

The Defendant and Counterclaim Plaintiff United States of America, named and sued as the United States of America, Department of Treasury, Internal Revenue Service ("IRS"), in accordance with Local Rule 7056-1, hereby submits this statement of contested material facts and statement of additional material facts in support of its opposition to the *Motion by Chapter 11 Trustee for Partial Summary Judgment* (Doc. No. 12). In addition, the United States submits

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its statement of additional undisputed material facts in support of the *United States' Cross-Motion for Partial Summary Judgment*.

For the Court's convenience, the United States has copied the separately-numbered paragraphs (in *italics*) identified in the *Statement by Chapter 11 Trustee of Undisputed Material Facts in Support of Motion for Partial Summary Judgment* (Doc. No. 15) followed by the United States' "response" that admits, denies with facts and supporting evidence, and/or identifies an objection in accordance with Fed. R. Civ. P. 56(c)(2) (made applicable to adversary proceedings by Fed. R. Bankr. P. 7056). Please note that when the United States "admits" the allegations contained in the Trustee's statement, the United States is only admitting these allegations for purposes of the cross motions for partial summary judgment.

Many of the "facts" identified in the Trustee's statement are not material to resolving the cross motions for partial summary judgment currently before the Court—the only issues raised are whether (1) in the event that the government proves that the Trustee received an erroneous refund in the amount of $15,532,441, the Trustee must return the funds from the erroneous refund to the United States outright as property belonging to the United States, or to the extent that $15,532,441 cannot be returned to the United States for some legal reason, the erroneous refund made to the Trustee related to TelexFree, LLC's 2013 income tax year is afforded administrative expense status under 11 U.S.C. § 503; and (2) any unpaid tax liabilities for TelexFree, LLC's 2014 income tax year are administrative expenses under 11 U.S.C. § 503 subject to any voluntary subordination that the United States agrees to collaterally. Accordingly, when the United States denies or objects to the Trustee's "facts," the United States will identify whether or not the "fact" is actually "material" for purposes of the motions for summary judgment.

After addressing the "facts" identified in the Trustee's statement, the United States sets forth its statement of additional undisputed material facts continuing with the last number used by the Trustee. The intent is to identify only those facts that are necessary to resolve the motions for partial summary judgment currently before the Court.

RESPONSES TO TRUSTEE'S STATEMENT OF UNDISPUTED MATERIAL FACTS

1. On April 13, 2014 (the "Petition Date"), each of TelexFree, Inc., TelexFree, LLC, and TelexFree Financial, Inc. (collectively, the "Debtors" or "TelexFree") 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").

Response: The United States admits the allegations contained in paragraph 1.

2. The Debtors initially operated as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

Response: The United States admits the allegations contained in paragraph 2, and the Court should take judicial notice of the fact that the bankruptcy case is still pending under Chapter 11 of the Bankruptcy Code.

3. On the Petition Date, the Debtors filed a motion for joint administration of the cases, with TelexFree, LLC designated as the lead case [docket entry 4]. By order dated April 24, 2014, the order for joint administration was approved [docket entry 77].

Response: The United States admits the allegations contained in paragraph 3.

4. 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 asserting that the Debtors were engaged in an illegal Ponzi/pyramid scheme and the fraudulent and unregistered offering of securities. Affidavit of Stephen Darr in Support of Motion by Chapter 11 Trustee for Partial Summary Judgment ("Affidavit"), at ¶7.

Response: The United States admits the allegations contained in paragraph 4.

5. Substantially contemporaneously with the commencement of the SEC action, Homeland Securities Investigation ("HSI") seized the Debtors' assets, books, and records. See Affidavit at ¶8. The Debtors' operations were suspended as a result of the actions by the HSI, and TelexFree did not generate any revenue after the Petition Date. Affidavit, at ¶8.

Response: The United States admits that Homeland Security Investigations seized TelexFree, LLC's assets, books, and records. However, the United States denies that TelexFree, LLC's operations were suspended as a result of the actions by Homeland Security Investigations and that TelexFree, LLC, did not generate any revenue after the petition date. The bankruptcy estate is not a separate taxpayer, *see* 26 U.S.C. §§ 1398 and 1399; thus, TeleFree, LLC continues to operate and generate revenue, i.e., through sales of property.

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 [docket entry 65].

Response: The United States admits the allegations contained in paragraph 6.

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 (the "Court") [docket entry 67]. By order dated May 6, 2014, the motion to change venue was approved [docket entry 199]. The cases were transferred to the Court on May 9, 2014 [docket entry 206].

Response: The United States admits the allegations contained in paragraph 7.

8. On May 30, 2014, this Court allowed the United States Trustee's motion to appoint a Chapter 11 trustee, and Stephen B. Darr was appointed trustee (the "Chapter 11 Trustee") on June 6, 2014 [docket entries 234 and 250] and continue to serve in that position.

Response: The United States admits the allegations contained in paragraph 8.

9. After his appointment, the Chapter 11 Trustee and his advisors retrieved and reconstructed copies of the TelexFree written and electronic records seized by the federal authorities through a painstaking data analysis and recovery process. These records were used, along with other investigative tools, to determine the mechanics of the TelexFree Ponzi scheme and how transactions were processed and recorded. Affidavit, at ¶12.

Response: The United States admits the allegations contained in paragraph 9.

10. The Debtors purported to be in the business of selling a voice over internet service, or "VoIP" to conduct international phone calls. The Debtors ostensibly used a multi-level marketing plan to sell the VoIP packages. TelexFree sold membership plans to its members, or "Participants", which provided Participants with the opportunity to recruit other Participants and to sell VoIP packages, although the phone plans were rarely sold and those that were sold were hardly ever used. Affidavit, at ¶13.

Response: The United States admits the allegations contained in paragraph 10.

11. The product that TelexFree sold was, in reality the membership plans and the right to earn credits by advertising TelexFree and recruiting other Participants. TelexFree promised its members substantial returns for placing daily internet advertisements. The ability to earn credits enticed individuals into the program, generated growth and widespread interest among Participants and perpetuated the business. The issuance of the credits, whether for advertisement or recruiting new Participants, was essential to increase TelexFree's customer base and encouraged current Participants to purchase additional plans and recruit additional Participants. Affidavit at ¶14.

Response: The United States objects to the allegation that the "[t]he product that TelexFree sold was, in reality the membership plans and the right to earn credits by advertising TelexFree and recruiting other Participants," as this is either an argument or an opinion, but not a fact based upon personal knowledge or a lay opinion. To the extent that the Trustee is offering an expert opinion, the United States needs an opportunity to determine the qualifications of the expert witness and to test the facts underlying this opinion, through discovery and cross-examination at a deposition, which the parties specifically recognized in the Joint Discovery Plan and Rule 26(f) Certification. *See* Doc. No. 8 at 4.

The United States admits that "TelexFree promised its members [] returns for placing daily internet advertisements," but denies the allegation to the extent that it is meant to imply that the activity of "placing daily internet advertisements" was legitimate "advertising" for TelexFree, LLC, or an ordinary and necessary business expense. The credits given to members for placing daily internet advertisements were *not* for the purpose of advertising; as testified to by Special Agent John S. Soares in an affidavit attached to the criminal complaint filed in *United States v. Wanzeler, et al.*:

> [The promotor] was able to copy advertisements already prepared by TelexFree, after which the promotor pasted these pre-made ads into various other websites that allowed free "classified" advertising. TelexFree provided the links to those sites; the promotor could post the ads to whichever of these sites he chose….

> Agents, on multiple dates, reviewed the approximately ten sites to which TelexFree directed its promotors to post advertisements. These sites, each of which allowed people to post small ads for free, bore hundreds of identical ads for TelexFree….
>
> Beyond the seeming futility of posting ads like those above, promotors were prohibited from posting TelexFree ads anywhere else….

United States v. Wanzeler, et al., Case No. 4:14-cr-40028-TSH (D. Mass.), Doc. No. 2-1, Affidavit of John S. Soares In Support of Criminal Complaint, ¶¶ 35-37.

The United States objects to allegation that "[t]he ability to earn credits enticed individuals into the program, generated growth and widespread interest among Participants and perpetuated the business" as this is either an argument or an opinion, but not a fact based on personal knowledge or a lay opinion. To the extent that the Trustee is offering an expert opinion, the United States needs an opportunity to determine the qualifications of the expert witness and to test the facts underlying this opinion, through discovery and cross-examination at a deposition, which the parties recognized in the Joint Discovery Plan and Rule 26(f) Certification providing for a discovery schedule on the issue of the merits of TelexFree, LLC's tax liabilities. *See* Doc No. 8 at 4.

The United States objects to the allegation that "[t]he issuance of the credits, whether for advertisement or recruiting new Participants, was essential to increase TelexFree's customer base and encouraged current Participants to purchase additional plans and recruit additional Participants" as this is either an argument or an opinion, but not a fact based on personal knowledge or a lay opinion. To the extent that the Trustee is offering an expert opinion, the United States needs an opportunity to determine the qualifications of the expert witness and to test the facts underlying this opinion, through discovery and cross-examination at a deposition, which the parties recognized in the Joint Discovery Plan and Rule 26(f) Certification providing

for a discovery schedule on the issue of the merits of TelexFree's tax liabilities. *See* Doc No. 8 at 4.

Nevertheless, the allegations contained in paragraph 11 are not material "facts" necessary to decide the motions for partial summary judgment before the Court.

12. The use of the credits for advertising was instrumental to the implementation and growth of the business, as the credits served as a form of currency amongst the Participants and TelexFree. The credits issued to Participants could be redeemed for cash or used to purchase additional membership plans or VoIP packages. Invoices for the purchase of a membership plan or VoIP package could be satisfied in one of two ways: Participants could pay the invoice in cash directly to the Debtors, or Participants could pay a recruiting Participant for the purchase of a membership plan, who then redeemed accumulated credits to satisfy the TelexFree invoice (referred to as a "Triangular Transaction"). Affidavit, at ¶15.

Response: The United States objects to the allegation that "[t]he use of the credits for advertising was instrumental to the implementation and growth of the business, as the credits served as a form of currency amongst the Participants and TelexFree" as this is either an argument or an opinion, but not a fact based on personal knowledge or a lay opinion. To the extent that the Trustee is offering an expert opinion, the United States needs an opportunity to determine the qualifications of the expert witness and to test the facts underlying this opinion, through discovery of those facts and cross-examination at a deposition, which the parties recognized in the Joint Discovery Plan and Rule 26(f) Certification providing for a discovery schedule on the issue of the merits of TelexFree's tax liabilities. *See* Doc No. 8 at 4. Nevertheless, this allegation is not a material "fact" necessary to decide the motions for partial summary judgment before the Court.

The United States admits the remaining allegations contained in paragraph 12.

13. Accordingly, the issuance of credits to Participants represented an essential expense necessary to growing TelexFree's business. In the TelexFree Ponzi scheme, as with any Ponzi scheme, it was necessary to allow individuals to monetize their credits either by redeeming the credits for cash or through their use in Triangular Transactions, thereby providing credence to the business. Affidavit, at ¶16.

Response: The United States objects to the allegations contained in paragraph 13 as they are either argument or an opinion, but not a fact based on personal knowledge or a lay opinion. To the extent that the Trustee is offering an expert opinion, the United States needs an opportunity to determine the qualifications of the expert witness and to test the facts underlying this opinion, through discovery of those facts and cross-examination at a deposition, which the parties recognized in the Joint Discovery Plan and Rule 26(f) Certification providing for a discovery schedule on the issue of the merits of TelexFree's tax liabilities. *See* Doc No. 8 at 4.

Nevertheless, these allegations are not material "facts" necessary to decide the motions for partial summary judgment before the Court.

14. Ultimately, the TelexFree program involved upwards of 1,000,000 Participants, from both the United States and more than forty (40) other countries, who collectively lost in excess of $1,700,000,000. Affidavit, at ¶17.

Response: The United States admits the allegations contained in paragraph 14.

15. As of the Petition Date, TelexFree had filed a federal income tax return for calendar year 2012 but had not filed a return for calendar year 2013. Affidavit, at ¶18.

Response: The United States admits the allegations contained in paragraph 15.

16. On March 17, 2014, the original due date for filing its 2013 federal income tax return, the records show that TelexFree attempted to pay its 2013 estimated tax electronically. That payment was rejected. On March 31, 2014, the records show that TelexFree successfully submitted a payment to the Service in the amount of $15,792,982 for tax year 2013. Affidavit, at ¶19.

Response: The United States admits that TelexFree, LLC's original due date for filings its 2013 federal income tax return was on March 17, 2014, and that on March 17, 2014, TelexFree, LLC, attempted to make an estimated tax payment (or "installment payment") in the amount of $15,792,982.00 towards its income tax liabilities for the tax year. *See* Declaration of IRS Bankruptcy Specialist (hereinafter referred to as the "Bankruptcy Specialist Decl."),

attached as **Exhibit A**, at ¶ 11.

The United States denies the allegation that the "payment was rejected" to the extent that it is meant to imply that the IRS rejected the payment. The payment was dishonored and the IRS assessed a penalty for the dishonored payment. *See* Bankruptcy Specialist Decl., at ¶ 11. Nevertheless, this allegation is not a material "fact" necessary to decide the motions for partial summary judgment before the Court.

The United States admits that, on or about March 31, 2014, TelexFree, LLC, successfully submitted a payment to the IRS in the amount of $15,792,982.00 towards its 2013 income taxes. *See* Bankruptcy Specialist Decl., at ¶ 11.

17. On or about October 1, 2015, the Chapter 11 Trustee retained KPMG, LLP as tax accountants and advisors to prepare and file necessary original and amended tax returns [docket entry 619].

Response: The United States admits the allegations contained in paragraph 17.

18. With the assistance of KPMG, the Chapter 11 Trustee filed original tax returns for TelexFree LLC for tax years 2013 and 2014 and later filed amended returns for 2013 and 2014, as well as filing first and second amended returns for tax year 2012. The returns were filed in accordance with the well-established principle that expenses incurred in connection with the operation of a Ponzi scheme are tax deductible. Affidavit, at ¶21.

Response: The United States admits that with the assistance of KPMG, the Chapter 11 Trustee untimely filed tax returns on Forms 1120 for TelexFree, LLC, for tax years 2013 and 2014 and later filed amended Forms 1120 for 2013 and 2014, as well as filing first and second amended Forms 1120 for the tax year 2012. The United States object to the use of the terms "original tax returns" and "amended returns" as vague and ambiguous.

The United States objects to the Trustee's allegations that there is a "well-established principle that expenses incurred in connection with the operation of a Ponzi scheme are tax deductible" as this is either argument or an opinion, but not a fact based upon personal

knowledge or a lay opinion. Whether expenses are deductible is a legal conclusion governed by the Internal Revenue Code (specifically 26 U.S.C. §§ 162 and 461). Nevertheless, this allegation is not a material "fact" necessary to decide the motions for partial summary judgment before the Court.

19. Specifically, on September 12, 2016, the Chapter 11 Trustee filed a tax return for TelexFree LLC for tax year 2013 (the "Original 2013 Return") which reflected a taxable loss of $2,101,985,935 and a refund due of $15,858,111. Complaint of Chapter 11 Trustee for Declaratory Judgment and Disallowance of Claim ("Complaint"), at ¶33; United States' Answer to Complaint of Chapter 11 Trustee for Declaratory Judgment and Disallowance of Claim and Counterclaim ("Answer"), at ¶33; Affidavit, at ¶22.

Response: The United States admits the allegations contained in paragraph 19. The amounts reflected on the return, however, are hearsay and therefore not proof of any loss or refund.

20. By September 2016, the Service had been alerted to the filing of the petition. In fact, during this time frame, both the Chapter 11 Trustee and KPMG actively coordinated with the Service's Insolvency Advisor and Large Business & International Division Revenue Agent that the Service had assigned to TelexFree's bankruptcy cases. By September 2016, the Service reportedly had placed litigation and active examination controls on TelexFree's accounts. Furthermore, the Chapter 11 Trustee requested prompt refunds and prompt determinations from the Service under Sections 505(a) and 505(b) of the Bankruptcy Code. Affidavit, at ¶23.

Response: The United States admits that by September 2016, the IRS was notified of the filing of the bankruptcy petition. However, the United States denies that "during this time frame [September 2016], both the Trustee and KPMG actively coordinated with the Service's Insolvency Advisor and Large Business & International Division Revenue Agent that the Service assigned to TelexFree's bankruptcy cases. Neither the Trustee nor his KPMG representatives had any contact with the IRS Bankruptcy Specialist had any contact with the IRS Bankruptcy Specialist in the September 2016 timeframe and the last contact between IRS Insolvency and the Trustee and/or his KPMG representatives before this timeframe was in December 2015. *See* Bankruptcy Specialist Decl., at ¶ 6. The IRS Revenue Agent assigned to this did not have any

contact with the Trustee or his KPMG representatives until December 2016. *See* Declaration of IRS Revenue Agent (hereinafter referred to as the "Revenue Agent Decl."), attached as **Exhibit B**, at ¶ 5. Nevertheless, this allegation is not a material "fact" necessary to decide the motions for partial summary judgment.

The United States admits that by September 2016, the IRS had placed bankruptcy/litigation hold codes on the TelexFree, LLC's IRS accounts. *See* Bankruptcy Specialist Decl., at ¶ 7. However, the United States denies that "by September 2016," the IRS had placed an examination code on TelexFree, LLC's IRS accounts because an examination code was not placed on TelexFree, LLC's IRS account for the income tax year 2013 until on or about December 9, 2016. *See id.*, at ¶ 8. Nevertheless, this allegation is not a material "fact" necessary to decide the motions for partial summary judgment.

The United States admits the Trustee requested prompt refunds and determinations under 11 U.S.C. § 505; however, the IRS denied these requests.

21. Nevertheless, on December 26, 2016, the Service processed TelexFree's Original 2013 Return, making an assessment on its books and records that TelexFree owed zero tax for the 2013 tax year. On December 27, 2016, the Service issued a refund to TelexFree LLC relating to the 2013 tax year in the amount of $15,532,440 (the "2013 Refund"). The 2013 Refund was made up of three components: estimated taxes paid of $15,792,982, plus accrued interest of $55,318, less a $315,860 bad check penalty. Complaint at ¶34; Answer at ¶34.

Response: The United States admits that on December 26, 2016, the IRS "processed" TelexFree's 2013 income tax return, which was filed by the Trustee, and made an "assessment" that TelexFree, LLC, owed no tax for 2013; however, the United States denies this allegation to the extent that it is meant to imply that the IRS had determined TelexFree, LLC's income tax liability for 2013 by processing the return. The 2013 income tax return was received from the Trustee and processed by the IRS Service Center in Ogden, Utah, on December 26, 2014. The 2013 income tax return filed by the Trustee claimed that TelexFree, LLC, had no income, so the

Service Center had nothing to assess at that time and the account transcript reflects a zero dollar "assessment" by the Service Center. Since the return reported no tax liability, no deficiency in taxes could legally be assessed at that time. *See* 26 U.S.C. §§ 6212 and 6213(a). The Service Center processes original tax returns and issues refunds for claimed overpayments often prior to examination of the tax return; however, there is a difference between "processing" a tax return (which just means the return is accepted at the Service Center as filed and may be selected later for examination) and "examining" a tax return. *See* Revenue Agent Decl., at ¶ 9. The United States denies the allegation that the IRS issued a refund to TelexFree, LLC, as the erroneous refund was issued to the Trustee. *See* Bankruptcy Specialist Decl., at ¶ 9. The United States also denies the allegation that the erroneous refund was made up of "estimated taxes of $15,792,982" as the $15,792,982 payment was made after the taxes were due. *See* id., at ¶ 11. Nevertheless, this allegation is not a material "fact" necessary to decide the motions for partial summary judgment before the Court.

The United States admits that remaining allegations contained in paragraph 21.

22. Despite the Service's initial acceptance of the Original 2013 Return, the zero-dollar assessment, and the Service's issuance of the 2013 Refund, the examination division of the Service later disallowed substantially all expenses claimed by the Chapter 11 Trustee, issued a notice of deficiency for tax year 2013, and filed an administrative proof of claim in the amount of $15,532,440.39 for tax year 2013, representing the amount refunded to the Chapter 11 Trustee [Claim No. 2987 filed with the Court]. Complaint at ¶35-37; Answer at ¶35-37.

Response: The United States admits that the IRS accepted for filing the 2013 income tax return that the Trustee filed on behalf of TelexFree, LLC, in which the Trustee reported that TelexFree, LLC, had no income taxes for 2013, that the 2013 income tax return was processed by the IRS, that the Ogden Service Center "assessed" a zero-dollar tax based on the Trustee's report on the income tax return, that the IRS Revenue Agent disallowed certain expenses claimed by the Chapter 11 Trustee, that the IRS issue a notice of deficiency for the 2013 income tax year,

and filed a request for payment under 11 U.S.C. § 503 in the amount of $15,532,440.39 related to the 2013 income tax year, representing the amount refunded to the Trustee. However, the United States denies the allegation to the extent that it is meant to imply that the IRS made a determination that TelexFree, LLC's income tax liability for 2013 was zero, as detailed in the response to paragraph 21. Nevertheless, the allegations contained in paragraph 22 are not material "facts" necessary to decide the motions for partial summary judgment before the Court.

23. On June 27, 2017, the Chapter 11 Trustee filed an original tax return for the Estate of TelexFree LLC for calendar year 2014 reflecting revenue of $161,550,353, expenses of $2,450,176,063, and a taxable loss of $2,288,625,710. Complaint at ¶38; Answer at ¶38.

Response: Since the Trustee is relying on the United States' judicial admissions in the Answer to establish these allegations, the United States denies the allegations to the extent that it deviates from the United States' response to paragraph 38 in the Answer. Thus, the United States admits that on July 6, 2017, the IRS received an income tax return for TelexFree, LLC, for the tax year 2014, that was filed by the Trustee, and in which he claimed total income of $161,550,353.00, claimed total deductions of $2,450,176.063.00, and claimed a loss of $2,288,625,710.00. The amounts reflected on the returns, however, are hearsay and therefore not proof of any expenses or loss. Since the return reported no tax liability, no deficiency in taxes could legally be assessed at that time. *See* 26 U.S.C. §§ 6212 and 6213(a). Nevertheless, any dispute regarding the allegations are not material and the Court may still decide the motions for partial summary judgment currently before the Court.

24. As with the 2013 return, the Service disallowed substantially all of the expenses claimed by the Chapter 11 Trustee on the 2014 return. Complaint at ¶41; Answer at ¶41.

Response: Since the Trustee is relying on the United States' judicial admissions in the Answer to establish these allegations, the United States denies the allegations to the extent that it deviates from the United States' response to paragraph 41 in the Answer. Thus, the United

States admits that the IRS issued Notices of Proposed Adjustment (NOPAs) related to TelexFree, LLC's 2014 income tax return that was filed by the Trustee, which proposed disallowing the claimed advertising credits expense claimed on the 2014 tax return in the amount of $2,442,705,606.00 and disallowing the claimed net operating loss carry over deduction in the amount of $2,578,363,363.00. Nevertheless, any dispute regarding the allegations are not material and the Court may still decide the motions for partial summary judgment currently before the Court.

25. On November 30, 2017, the Service filed an amended administrative proof of claim [Claim No. 2987-2 filed with the Court] against the TelexFree LLC Estate asserting an administrative claim in the aggregate amount of $69,460,404 [as amended, the "Administrative Claim"]. Complaint at ¶42; Answer at ¶42.

Response: Since the Trustee is relying on the United States' judicial admissions in the Answer to establish these allegations, the United States denies the allegations to the extent that it deviates from the United States' response to paragraph 42 in the Answer. Thus, the United States admits that on November 30, 2017, the IRS filed an amended request for payment against the Estate of TelexFree, LLC, asserting an administrative claim in the aggregate amount of $69,460,404.39. Nevertheless, any dispute regarding the allegations are not material and the Court may still decide the motions for partial summary judgment currently before the Court.

26. The Administrative Claim was amended to add a claim in the amount of $53,927,964 for income tax allegedly incurred for calendar year 2014 by the TelexFree LLC Estate. Complaint at ¶42; Answer at ¶42.

Response: Since the Trustee is relying on the United States' judicial admissions in the Answer to establish these allegations, the United States denies the allegations to the extent that it deviates from the United States' response to paragraph 42 in the Answer. Thus, the United States admits that administrative claim was amended to add a claim in the amount of $53,927,964.00 for TelexFree, LLC's federal income tax liabilities for 2014. Nevertheless, any

dispute regarding the allegations are not material and the Court may still decide the motions for partial summary judgment currently before the Court.

27. On or about March 7, 2018, the Chapter 11 Trustee filed amended tax returns for 2013 and 2014 (the "Amended Tax Returns").

Response: The United States admits that the Trustee filed amended Forms 1120 for 2013 and 2014, with a cover letter dated March 7, 2018. *See* Answer, at ¶ 43. The United States objects to the use of the term "amended tax return" as vague and ambiguous.

28. The amended tax return for 2013 (the "Amended 2013 Return") reflected a taxable loss of $3,143,851. Complaint at ¶45; Answer at ¶45.

Response: The United States admits that the amended Form 1120 for 2012 reflected a taxable loss of $3,143,851. The amounts reflected on the form, however, are hearsay and therefore not proof of any loss.

29. The amended tax return for 2014 (the "Amended 2014 Return") reflected a taxable loss of $535,594,148. Complaint at ¶46; Answer at ¶46.

Response: The United States admits that amended Form 1120 for 2014 reflected a taxable loss of $535,594,148. The amounts reflected on the form, however, are hearsay and therefore not proof of any loss.

30. The Chapter 11 Trustee prepared and filed these amended tax returns as additional information became available. The Service has taken no action respecting the Amended Tax Returns. Affidavit, at ¶33.

Response: The United States admits that the Chapter 11 Trustee prepared and filed these amended Forms 1120 as additional information became available.

The United States objects to the allegation that "[t]he Service has taken no action respecting the Amended Tax Returns" as the Trustee has no personal knowledge regarding the IRS's internal actions regarding the amended Forms 1120. In addition, the United States denies this allegation because the IRS has taken action, i.e., the IRS sent a letter to the Trustee

informing him that his prompt determination request was denied, and the IRS Revenue Agent has drafted Notices of Proposed Adjustment (NOPAs) and claim disallowance letters related to the amended tax returns for 2013 and 2014. *See* Revenue Agent Decl., at ¶ 14.

Nevertheless, the allegations contained in paragraph 30 are not material "facts" necessary to decide the motions for partial summary judgment currently before the Court.

31. On August 14, 2018, the Service informed the Chapter 11 Trustee that pursuant to Tax Division Directive No. 137, the Service agreed to subordinate the Prepetition Claim and $52,593,821 of the Administrative Claim to the payment of allowed administrative claims and allowed claims of Participants. Affidavit, at ¶34.

Response: This adversary proceeding does not involve the subordination of any claims; the fact that the United States has agreed to subordinate a portion of its claims are immaterial to the motions for partial summary judgment before the Court. The government points this out only so that the Court is not confused about the issues before it.

Still, the United States admits that, on or about August 14, 2018, the government informed the Trustee that, under Tax Division Directive No. 137, the government had been authorized to subordinate the prepetition unsecured priority claims related to income tax year 2013 (Claim 2988-1, Claims Register), and $52,593,821 of the request for payment related to the unpaid federal income tax liability for 2014 (Claim 2987-2, Claims Register) to administrative expenses allowed by the Court and claims of the defrauded investors. The United States denies the allegations to the extent that it is meant to imply that the government has been authorized to subordinate the claim for an erroneous refund in the amount of $15,532,441 that the Trustee received related to TelexFree, LLC's 2013 income tax year, or the amount of $1,334,143 (plus statutory interest and penalties) for TelexFree, LLC's and the estate's income tax liabilities for 2014. The United States also denies the allegation to the extent that it is meant to imply that the IRS authorized this subordination—the Trustee may be confusing the IRS and the U.S.

Department of Justice, Tax Division. As the name implies, Tax Division Directive No. 137 is a directive of the U.S. Department of Justice, Tax Division, not the IRS, and the U.S. Department of Justice authorized the subordination. Nevertheless, the allegations contained in paragraph 31 are not material "facts" necessary to decide the motions for partial summary judgement before the Court.

32. Tax Division Directive No. 137 recognizes the appropriateness of subordinating tax claims to the claims of investors who are victims of an illegal business. Affidavit, at ¶35.

Response: The United States objects to this allegation because it is argument or an opinion, but not a fact based on personal knowledge or a lay opinion. Nevertheless, the allegation contained in paragraph 32 are not material "facts" necessary to decide the motions for partial summary judgement before the Court.

33. The Service has not agreed to subordinate so much of the Administrative Claim as was computed based upon income tax liability for tax year 2013 relating to the 2013 Refund (the "2013 Claim") and $1,334,143 of alleged calendar year 2014 income tax liability (the "2014 Claim"). See Joint Discovery Plan and Rule 26(f) Certification [docket entry 8 in Adv. Proc. No. 18-4091, f/n 2].

Response: The United States admits that the government has not authorized subordination of $15,532,441 of the alleged erroneous refund made to the Trustee related to TelexFree, LLC's income taxes for 2013 or $1,334,143 (plus statutory interest and penalties) for TelexFree, LLC's and the estate's income tax liabilities for 2014, which are identified on the request for payment (Claim 2987-2, Claims Registry).

34. The Chapter 11 Trustee commenced this adversary proceeding seeking a determination that no tax liability is owing to the Service for calendar years 2012, 2013, and 2014, and that the Chapter 11 Trustee is entitled to retain the 2013 Refund and to receive a refund of taxes paid for 2012. Alternatively, if any tax is due the Complaint seeks a declaration that any such tax is not an administrative claim. See Complaint.

Response: The United States admits the allegations contained in paragraph 34.

UNITED STATES' STATEMENT OF UNDISPUTED MATERIAL FACTS

The Erroneous Refund Related to Income Tax Year 2013

35. On or about March 24, 2014, the IRS received a Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns, for TelexFree, LLC's 2013 income tax return, as well as a cashier's check dated March 24, 2014, in the amount of $15,792,982.00, to be applied towards TelexFree, LLC's 2013 income taxes. *See* Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns, and Cashier's Check dated March 24, 2014, collectively attached as **Exhibit C**.

36. On April 13, 2014, TelexFree, LLC, filed a bankruptcy petition under Chapter 11 of the Bankruptcy Code.

37. Between May 4, 2014, and May 10, 2014, the IRS was notified of TelexFree, LLC's bankruptcy petition.

38. Between May 4, 2014, and May 10, 2014, the IRS placed a bankruptcy/litigation hold code on TelexFree, LLC's IRS accounts, including its account for the 2013 income tax year. This hold code should have stopped any tax refund from being generated. The bankruptcy/litigation hold code "freezes" the taxpayer's "Master File" and should prohibit any offsets, refunds, or credit elects for automatically being processed. *See* Bankruptcy Specialist Decl., at ¶ 7.

39. The Trustee filed a 2013 Form 1120, U.S. Corporation Income Tax Return, for TelexFree, LLC, which was received by the IRS on or about September 21, 2016. *See* 2013 Form 1120, U.S. Corporation Income Tax Return, for TelexFree, LLC, dated September 9, 2016, attached as **Exhibit D**; Bankruptcy Specialist Decl., at ¶ 10. On the 2013 income tax return, the Trustee claimed a loss of $2,101,985,935.00 and sought a refund in the amount of

$15,858,111.00. *See* Exhibit D. The return is being offered to show what was reported by the Trustee, and not for the truth of anything set forth on the return.

40. On or about December 9, 2016, the IRS selected the 2013 income tax return for examination. *See* Bankruptcy Specialist Decl., at ¶ 8.

41. Despite the bankruptcy/litigation hold code that was put on TelexFree, LLC's IRS accounts, on or about December 26, 2016, the IRS issued a tax refund check to the Trustee in the amount of $15,532,440.39, related to TelexFree, LLC's 2013 income tax year. This was a computer-generated refund (as opposed to a manual refund), which should have been prevented by the bankruptcy/litigation hold code. *See* Bankruptcy Specialist Decl., at ¶ 9; Tax Refund Check dated December 27, 2016, attached as **Exhibit E**.

42. On February 8, 2017, the IRS Revenue Agent examining TelexFree, LLC's income tax return spoke with the Trustee's representative at KPMG. The KPMG representative informed the IRS Revenue Agent that the Trustee had received a tax refund related to the 2013 income tax year, which surprised the IRS Revenue Agent because TelexFree, LLC's 2013 income tax return was still under examination. The KPMG representative informed the IRS Revenue Agent that, if the IRS wanted to recover the refund, the government would have to sue the Trustee in this Court. *See* IRS Revenue Agent Decl., at ¶ 8.

43. On June 8, 2017, the IRS filed an administrative expense form—Form 6338, Request for Payment of Internal Revenue Taxes—for the erroneous refund related to the 2013 income tax year. On the form, the IRS identified the $15.5 million erroneous refund and specifically stated:

> The claim for tax period 12/31/2013 reflects that the Service mistakenly refunded the claimed amount to the Trustee in contravention of a control code input on the tax account that should have prevented a refund. The Service claims that it is entitled to recoup the mistakenly-refunded money with priority over all other claims, including other

> administrative-priority claims, whether based on the imposition of a constructive trust or other legal remedy.

See Claim No. 2987-1, Claims Registry.

44. On October 31, 2017, the IRS issued a statutory notice of deficiency related to TelexFree, LLC's income tax liabilities for 2013 that determined a deficiency in tax in the amount of $300,507,248.00, and a late-filing penalty in the amount of $75,126,857.00. *See* Compl., at ¶ 40; Answer, at ¶ 40; *also* Revenue Agent Decl., at ¶ 11.

45. The Trustee agreed to segregate and hold the erroneous refund pending resolution of this dispute. *See*, *e.g.*, Case No. 14-40987, Doc. No. 961, at ¶ 3 ("Until the asserted administrative claim of the Service is determined by the Court or as otherwise ordered by the Court, the Trustee shall *segregate* and reserve the sum of $15,532,440 in order to adequately protect the request for payment filed by the Service.") (Emphasis added).

46. The United States has asserted a counterclaim against the Trustee in this adversary proceeding to recover the erroneous refund related to the 2013 income tax year. *See* Answer, at ¶¶ 74-84. In this counterclaim, the United States seeks a judgment against the Trustee for the erroneous refund in the amount of $15,532,440.39, plus statutory additions from and after December 26, 2016.

The Tax Claim for Income Tax Year 2014

47. On July 6, 2017, the IRS received an income tax return (Form 1120) for TelexFree, LLC, for the tax year 2014, that was filed by the Trustee, and in which he claimed total income of $161,550,353.00, claimed total deductions of $2,450,176.063.00, and claimed a loss of $2,288,625,710.00. *See* Compl., at ¶ 38; Answer, at ¶ 38.

48. On November 6, 2017, the IRS issued three Notices of Proposed Adjustment (NOPAs) related to TelexFree, LLC's 2014 income tax return, which proposed the following

adjustments: (a) disallowing the claimed advertising credits expense claimed on the 2014 tax return in the amount of $2,442,705,606.00; (b) imposing a failure to file penalty in the amount of $13,481,991; and (c) disallowing the claimed net operating loss carry over deduction in the amount of $2,578,363,363.00. *See* Compl., at ¶ 41; Answer, at ¶ 41.

49. On November 30, 2017, the IRS filed its amended request for payment against the Estate of TelexFree, LLC, to add an administrative expense in the amount of $53,927,964.00 for TelexFree, LLC's federal income tax liabilities for 2014. *See* Claim 2987-2, Claims Register.

50. The Trustee filed an amended Form 1120 for TelexFree, LLC, for the tax year 2014, claiming a $148,000,000 deduction for "165 Loss SEC Asset Seizure" in addition to $2,140,637 and $3,896,209 deductions for "Legal and Professional Fees" and "Consulting Expense," respectively, which were purportedly for expenses incurred *after* TelexFree, LLC, filed its bankruptcy petition. *See* Compl.,at ¶ 43;.Answer, at ¶ 43. The Trustee alleged that these expenses were for a "casualty loss for assets seized by the federal government during that calendar year, and a deduction for the administrative expenses incurred by the bankruptcy Estates…." Compl., at ¶ 43.

Respectfully submitted,

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General
Tax Division, U.S. Department of Justice

/s/ Carl L. Moore
CARL L. MOORE
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 55
Washington, D.C. 20044
202-307-5892 (v)
202-514-5238 (f)
Carl.L.Moore@usdoj.gov

CERTIFICATE OF SERVICE

I certify that on November 9, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all CM/ECF-registered participants.

/s/ Carl L. Moore
CARL L. MOORE
Trial Attorney, Tax Division
U.S. Department of Justice

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS

In Re:	)	Chapter 11
	)	
TELEXFREE, LLC,	)	Case No. 14-40987-MSH
TELEXFREE, INC., and	)	Case No. 14-40988-MSH
TELEXFREE FINANCIAL, INC.,	)	Case No. 14-40989-MSH
	)	
Debtors.	)	Jointly Administered
	)	
STEPHEN DARR, AS HE IS THE TRUSTEE OF THE CHAPTER 11 ESTATES OF EACH OF THE DEBTORS,	)	
	)	Adv. Proc. No. 18-04091
Plaintiff and Counterclaim Defendant,	)	Judge Melvin S. Hoffman
	)	
v.	)	
	)	
UNITED STATES OF AMERICA, DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE,	)	
	)	
Defendant and Counterclaim Plaintiff.	)	

Exhibit
A

DECLARATION OF IRS BANKRUPTCY SPECIALIST

I, Michael Rodkey, pursuant to the provisions of 28 U.S.C. § 1746, declare and state:

1. I am a Bankruptcy Specialist with the Internal Revenue Service (IRS), Insolvency Group. My primary duties are to monitor taxpayers' (debtors') compliance with the Bankruptcy Code and Internal Revenue Code as well as pursue collection using the bankruptcy process. Through my work and training experiences at the IRS, I am familiar with IRS records and record-keeping practices.

2. I am the Bankruptcy Specialist assigned to this case.

3. In my official capacity, I have reviewed the IRS's records related to this case, specifically the Automated Insolvency System (AIS) as well as the Integrated Data Retrieval

System (IDRS), for the accounts related to TelexFree, LLC. The IRS uses AIS to store and process information on bankruptcy court cases. AIS is the IRS's primary tool for bankruptcy case management, and includes a record of the case history. The IRS relies on IDRS to store and track tax account information. As transactions (such as assessments or payments) occur on a taxpayer's account for a particular tax period, the transactions are electronically recorded in IDRS. IDRS is the IRS's routine method of keeping taxpayers' accounts.

4. My review of the IRS's records, as well as my personal observations, form the basis for the statements below.

5. Between May 4, 2014, and May 10, 2014, the IRS was notified of TelexFree, LLC's bankruptcy petition.

6. I was assigned this case on February 9, 2016. Before my assignment, there were two other Bankruptcy Specialists assigned to this case (at different, not overlapping, times). I did not have any contact with the Trustee (Stephen Darr) and/or his KPMG representatives in the September 2016 timeframe. My review of the case history on AIS indicates that the last contact between IRS Insolvency and the Trustee and/or his KPMG representative before the September 2016 timeframe was on December 14, 2015. Contacts between the Trustee and/or his KPMG representatives and IRS Insolvency had ended nine months before the September 2016 timeframe.

7. Between May 4, 2014, and May 10, 2014, the IRS placed a bankruptcy/litigation hold code (TC Code 520) on TelexFree, LLC's IRS accounts, including its account for the 2013 income tax year. This hold code should have stopped any tax refunds from being generated by the computer-system. The bankruptcy/litigation hold code "freezes" the taxpayer's "Master File" and should prohibit any offsets, refunds, or credit elects for being processed by the

computer-system.

8. An examination code was placed on TelexFree, LLC's IRS account for the income tax year 2013 on or about December 9, 2016.

9. Despite the bankruptcy/litigation hold code that was put on TelexFree, LLC's IRS accounts, the IRS issued a tax refund check to the Trustee, on or about December 26, 2016, in the amount of $15,532,440.39, related to TelexFree, LLC's 2013 income tax year. This was a computer-generated refund (as opposed to a manual refund), which should have been prevented by the bankruptcy/litigation hold code mentioned above.

10. The Trustee had filed the 2013 income tax return (Form 1120) on behalf of TelexFree, LLC, requesting a prompt determination/refund under 11 U.S.C. § 505(b). When § 505(b) requests are sent to IRS, an original return goes to the address in the instruction booklet for the return for processing and two copies and a cover letter are sent to IRS Insolvency's Centralized Insolvency Operation (CIO). If the package sent to CIO looks acceptable, the package is forwarded to IRS Exam. In this case, the original return sent to the address in the instruction booklet was received on September 21, 2016, at the IRS Service Center in Ogden, Utah, and the Service Center processed the 2013 income tax return on December 26, 2016, posting a zero tax due as reported on the tax return. When the tax return posted, a refund was computer-generated and mailed out to the Trustee. The bankruptcy/litigation hold code was supposed to prevent a credit/refund from being systemically-generated by the computer.

11. My review of the IRS transcript for TelexFree, LLC's 2013 income tax account indicates the following sequence of events regarding TelexFree, LLC's payments towards its 2013 income taxes prior to TelexFree, LLC, filing its bankruptcy petition:

- TelexFree, LLC, had attempted to make an "initial installment payment" in the amount of $15,792, 982.00 on or about March 17, 2014; however, that installment payment was dishonored and the IRS assessed a "penalty for dishonored payment" in the amount of $315,859.64, on or about April 14, 2014.

- On or about March 31, 2014, TelexFree, LLC, successfully made a payment in the amount of $15,792, 982.00.

I declare under penalty of perjury, that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on November 8, 2018, in Boston, Massachusetts.

MICHAEL RODKEY
Bankruptcy Specialist,
Internal Revenue Service

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS

In Re:	)	Chapter 11
	)	
TELEXFREE, LLC,	)	Case No. 14-40987-MSH
TELEXFREE, INC., and	)	Case No. 14-40988-MSH
TELEXFREE FINANCIAL, INC.,	)	Case No. 14-40989-MSH
	)	
Debtors.	)	Jointly Administered
	)	
STEPHEN DARR, AS HE IS THE TRUSTEE OF THE CHAPTER 11 ESTATES OF EACH OF THE DEBTORS,	)	
	)	Adv. Proc. No. 18-04091
Plaintiff and Counterclaim Defendant,	)	Judge Melvin S. Hoffman
	)	
v.	)	
	)	
UNITED STATES OF AMERICA, DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE,	)	
	)	
Defendant and Counterclaim Plaintiff.	)	

Exhibit
B

DECLARATION OF IRS REVENUE AGENT

I, Christine DeRosa, pursuant to the provisions of 28 U.S.C. § 1746, declare and state:

1. I am a Revenue Agent with the Internal Revenue Service (IRS), Large Business & International Division. My primary duties are to examine tax returns and ensure taxpayers' compliance with the Internal Revenue Code. Through my work and training experiences at the IRS, I am familiar with IRS records and record-keeping practices.

2. I am the Revenue Agent assigned to this case and I examined the income tax returns that were submitted by the Trustee on behalf of TelexFree, LLC, for the 2013 and 2014 income tax years.

3. In my official capacity, I have reviewed the IRS's records related to this case,

specifically the Integrated Data Retrieval System (IDRS), for the accounts related to TelexFree, LLC. The IRS relies on IDRS to store and track tax account information. As transactions (such as assessments or payments) occur on a taxpayer's account for a particular tax period, the transactions are electronically recorded in IDRS. IDRS is the IRS's routine method of keeping taxpayers' accounts.

4. My review of the IRS's records, as well as my personal observations, form the basis for the statements below.

Examination of the 2013 Income Tax Return

5. My first contact with the Trustee (Stephen Darr) and/or his KPMG representative was on December 19, 2016, which was shortly after I was assigned the case to examine TelexFree, LLC's income tax return (Form 1120) for 2013.

6. The Trustee had filed the 2013 income tax return, which the IRS received on or about September 21, 2016, claiming a loss in the amount of $2,101,985,935.00, and seeking a refund in the amount of $15,858,111.00.

7. On December 9, 2016, the IRS selected 2013 income tax return for examination.

8. On February 8, 2017, I had a telephone conversation with the Trustee's KPMG representative. The KPMG representative informed me that the Trustee had received a tax refund check related to TelexFree, LLC's 2013 income tax year. I was surprised to learn that a tax refund check was sent to the Trustee because I was still examining TelexFree, LLC's 2013 income tax return. The KPMG representative informed me that, if the IRS wanted to recover the refund, the government would have to sue the Trustee in bankruptcy court.

9. According to TelexFree LLC's account transcript, the 2013 income tax return was received and processed by the IRS Service Center in Ogden, Utah, on December 26, 2016. Since

the 2013 income tax return was filed by the Trustee and claimed that TelexFree, LLC had no income, the Service Center had nothing to assess at that time and the account transcript reflects a zero dollar "assessment" by the Service Center. In my experience, the Service Center processes original tax returns and issues refunds for claimed overpayments often prior to examination of the tax return; however, there is a difference between "processing" a tax return (which just means the return is accepted at the Service Center as filed and may be selected later for examination) and "examining" a tax return.

10. On April 25, 2017, I issued four Notices of Proposed Adjustment (NOPAs) related to TelexFree, LLC's 2013 income tax return, which proposed the following adjustments: (a) disallowing the advertising credits expense claimed on the 2013 tax return in the amount of $2,151,645,140.00; (b) disallowing the commission expenses claimed on the 2013 tax return in the amount of $622,588,035.00; (c) disallowing the bad debt expense claimed on the 2013 tax return in the amount of $186,344,898.00; and (d) imposing a failure to file penalty in the amount of $75,126,857.00.

11. On October 31, 2017, the IRS issued a statutory notice of deficiency related to TelexFree, LLC's income tax liabilities for 2013 that determined a deficiency in tax in the amount of $300,507,248.00, and a late filing penalty in the amount of $75,126,857.00.

Examination of 2014 Income Tax Return

12. On July 6, 2017, the IRS received an income tax return (Form 1120) for TelexFree, LLC, for the tax year 2014, that was filed by the Trustee, claiming a loss of $2,288,625,710.00.

13. On November 7, 2017, I issued three Notices of Proposed Adjustment (NOPAs) to the Trustee related to TelexFree, LLC's 2014 income tax return, which proposed the following adjustments: (a) disallowing the claimed advertising credits expense claimed on the 2014 tax

return in the amount of $2,442,705,606.00; (b) imposing a failure to file penalty in the amount of $13,481,991; and (c) disallowing the claimed net operating loss carry over deduction in the amount of $2,578,363,363.00.

Amended Tax Returns for 2013 and 2014

14. The IRS received amended income tax returns for TelexFree, LLC, for the 2013 and 2014 income tax years that were filed by the Trustee via a cover letter dated March 7, 2018. These amended returns were accompanied by a request for prompt determination. On April 4, 2018, the IRS sent a letter to the Trustee denying his prompt determination request. I have drafted Notices of Proposed Adjustment (NOPAs) and claim disallowance letters related to the amended tax returns for 2013 and 2014, which are under review for legal sufficiency.

I declare under penalty of perjury, that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on November 9, 2018, in Boston, Massachusetts.

CHRISTINE DEROSA
Revenue Agent,
Internal Revenue Service

efile GRAPHIC print - DO NOT PROCESS	LATEST DATA - Production	DLN: 93304076335304

Form 7004 (Rev. December 2012)
Department of the Treasury
Internal Revenue Service

Application for Automatic Extenstion of Time To File Certain Business Income Tax, Information, and Other Returns

▶File a separate application for each return.
▶Information about Form 7004 and its separate instructions is at www.irs.gov/form7004.

OMB No. 1545-0233

Print or Type

Name

Identifying number
[redacted]0853

Number, street, and room or suite no. (If P.O. box, see instructions.)

City, town, state, and ZIP code (If a foreign address, enter city, province or state, and country (follow the country's practice for entering postal code)).
LAS VEGAS, NV 89147

Note. *File request for extension by the due date of the return for which the extension is granted. See instructions before completing this form.*

Part I Automatic 5-Month Extension

1a Enter the form code for the return that this application is for (see below) . . . . . .

Application Is For:	Form Code	Application Is For:	Form Code
Form 1065	09	Form 1041 (estate other than a bankruptcy estate)	04
Form 8804	31	Form 1041 (trust)	05

Part II Automatic 6-Month Extension

b Enter the form code for the return that this application is for (see below) 12

Application Is For:	Form Code	Application Is For:	Form Code
Form 706-GS(D)	01	Form 1120-ND (section 4951 taxes)	20
Form 706-GS(T)	02	Form 1120-PC	21
Form 1041 (bankruptcy estate only)	03	Form 1120-POL	22
Form 1041-N	06	Form 1120-REIT	23
Form 1041-QFT	07	Form 1120-RIC	24
Form 1042	08	Form 1120S	25
Form 1065-B	10	Form 1120-SF	26
Form 1066	11	Form 3520-A	27
Form 1120	12	Form 8612	28
Form 1120-C	34	Form 8613	29
Form 1120-F	15	Form 8725	30
Form 1120-FSC	16	Form 8831	32
Form 1120-H	17	Form 8876	33
Form 1120-L	18	Form 8924	35
Form 1120-ND	19	Form 8928	36

2 If the organization is a foreign corporation that does not have an office or place of business in the United States, check here . . . . . ▶ ☐

3 If the organization is a corporation and is the common parent of a group that intends to file a consolidated return, check here . . . . . ▶ ☐
If checked, attach a statement, listing the name, address, and Employer Identification Number (EIN) for each member covered by this application.

Part III All Filers Must Complete This Part

4 If the organization is a corporation or partnership that qualifies under Regulations section 1.6081-5, check here . . . . . ▶ ☐

5a The application is for calendar year 2013 , or other tax year beginning 01-01-2013 , and ending 12-31-2013

b **Short tax year.** If this tax year is less than 12 months, check the reason:

☐ Initial return ☐ Final return ☐ Change in accounting period ☐ Consolidated return to be filed
☐ Other (see instructions-attach explanation)

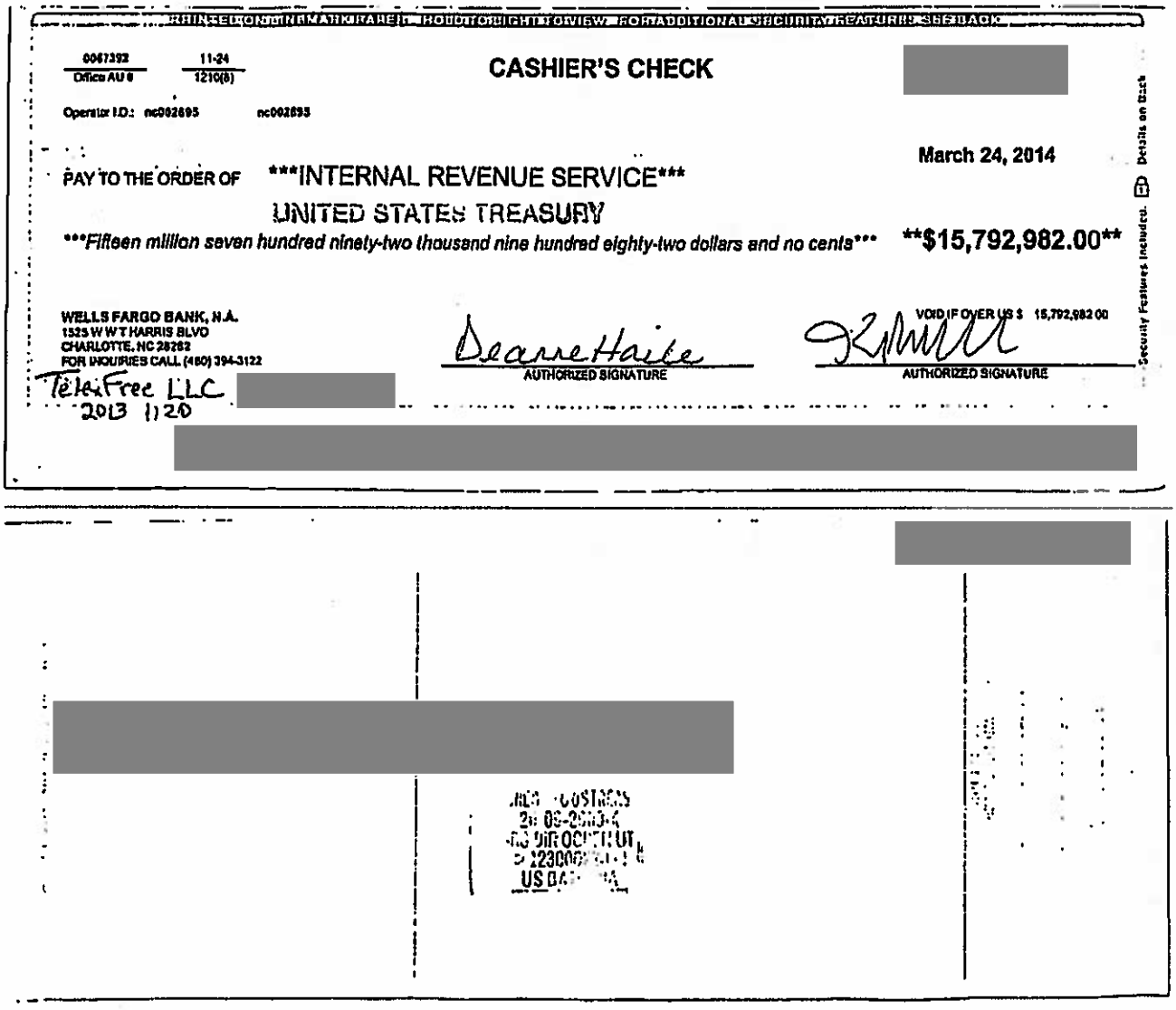
6 Tentative total tax 6 15,792,982

7	**Total** payments and credits (see instructions)	7	0
8	**Balance due.** Subtract line 7 from line 6 (see instructions)	8	15,792,982

For Privacy Act and Paperwork Reduction Act Notice, see separate Instructions. Cat. No. 13804A Form **7004** (Rev. 12-2012)

Additional Data

Software ID: 13000213
Software Version: 13.4.0.0
EIN: [redacted]0853
Name: TELEXFREE LLC



0067392 Office AU 8 | 11-24 1210(8)

CASHIER'S CHECK

[redacted]

Operator I.D.: nc002695 nc002695

March 24, 2014

PAY TO THE ORDER OF ***INTERNAL REVENUE SERVICE***

UNITED STATES TREASURY

Fifteen million seven hundred ninety-two thousand nine hundred eighty-two dollars and no cents **$15,792,982.00**

Details on Back. Security Features Included.

WELLS FARGO BANK, N.A.
1525 W W T HARRIS BLVD
CHARLOTTE, NC 28262
FOR INQUIRIES CALL (480) 394-3122

VOID IF OVER US $ 15,792,982.00

Deanne Haile
AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

TeleFree LLC
2013 1120

[redacted]

[redacted]

[redacted]

[redacted]

Limited Official Use

SELECT 10 NOV 09 2016

REQUEST FOR PROMPT REFUND

Form **1120** Department of the Treasury Internal Revenue Service

U.S. Corporation Income Tax Return

For calendar year 2013 or tax year beginning _____, ending _____

▶ Information about Form 1120 and its separate instructions is at *www.irs.gov/form1120.*

OMB No. 1545-0123

2013

A Check if: 1a Consolidated return (attach Form 851) ☐ b Life/nonlife consolidated return ☐ 2 Personal holding co. (attach Sch. PH) ☐ 3 Personal service corp. (see instructions) ☐ 4 Schedule M-3 attached ☒

TYPE OR PRINT

Name: TELEXFREE, LLC
C/O STEPHEN DARR, BANKRUPTCY TRUSTEE

Number, street, and room or suite no. If a P.O. box, see instructions.: 125 SUMMER STREET #1805

City or town, state, or province, country and ZIP code or foreign postal code: BOSTON, MA 02110

B Employer identification number: [redacted]0853

C Date incorporated: 07/19/2012

D Total assets (see instructions): $ 75,922,302.

E Check if: (1) ☐ Initial return (2) ☐ Final return (3) ☐ Name change (4) ☐ Address change

Income	1a	Gross receipts or sales	1a 865,893,525.	
	b	Returns and allowances	1b 2,092,676.	
	c	Balance. Subtract line 1b from line 1a		1c 863,800,849.
	2	Cost of goods sold (attach Form 1125-A)		2 2,263,477.
	3	Gross profit. Subtract line 2 from line 1c		3 861,537,372.
	4	Dividends (Schedule C, line 19)		4
	5	Interest		5 2,732.
	6	Gross rents		6
	7	Gross royalties		7
	8	Capital gain net income (attach Schedule D (Form 1120))		8
	9	Net gain or (loss) from Form 4797, Part II, line 17 (attach Form 4797)		9
	10	Other income (see instructions - attach statement)		10
	11	Total income. Add lines 3 through 10 ▶		11 861,540,104.
Deductions (See instructions for limitations on deductions.)	12	Compensation of officers (see instructions - attach Form 1125-E) ▶		12
	13	Salaries and wages (less employment credits)		13 3,507.
	14	Repairs and maintenance		14
	15	Bad debts		15 186,344,898.
	16	Rents		16 10,604.
	17	Taxes and licenses SEE STATEMENT 1.		17 26,356.
	18	Interest		18 14,127.
	19	Charitable contributions SEE STATEMENT 2.		19 NONE
	20	Depreciation from Form 4562 not claimed on Form 1125-A or elsewhere on return (attach Form 4562)		20 86,543.
	21	Depletion		21
	22	Advertising		22 16,569.
	23	Pension, profit-sharing, etc., plans		23
	24	Employee benefit programs		24
	25	Domestic production activities deduction (attach Form 8903)		25
	26	Other deductions (attach statement) SEE STATEMENT 3.		26 2,777,023,435.
	27	Total deductions. Add lines 12 through 26 ▶		27 2,963,526,039.
	28	Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11		28 -2,101,985,935.
	29a	Net operating loss deduction (see instructions)	29a	
	b	Special deductions (Schedule C, line 20)	29b	
	c	Add lines 29a and 29b		29c
Tax, Refundable Credits, and Payments	30	Taxable income. Subtract line 29c from line 28 (see instructions)		30 -2,101,985,935.
	31	Total tax (Schedule J, Part I, line 11)		31 NONE
	32	Total payments and refundable credits (Schedule J, Part II, line 21)		32 15,858,111.
	33	Estimated tax penalty (see instructions). Check if Form 2220 is attached ▶ ☐		33
	34	Amount owed. If line 32 is smaller than the total of lines 31 and 33, enter amount owed		34
	35	Overpayment. If line 32 is larger than the total of lines 31 and 33, enter amount overpaid		35 15,858,111.
	36	Enter amount from line 35 you want: Credited to 2014 estimated tax ▶ Refunded ▶		36 15,858,111.

Exhibit D

RECEIVED SEP 21 2016

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer: Stephen Darr Date: 9/9/16 ▶ Title: Trustee

May the IRS discuss this return with the preparer shown below (see instructions)? ☒ Yes ☐ No

Paid Preparer Use Only

Print/Type preparer's name: JOSEPH MIDDLETON	Preparer's signature: Joseph Middleton	Date: 9/9/16	Check ☐ if self-employed PTIN:
Firm's name ▶ KPMG LLP			Firm's EIN ▶
Firm's address ▶ 60 SOUTH STREET BOSTON, MA 02111			Phone no. 617-988-1000

For Paperwork Reduction Act Notice, see separate instructions.

Form **1120** (2013)

JSA 3C1110 4.000

TELEXFREE, LLC

[redacted]0853

Schedule C Dividends and Special Deductions (see instructions)

		(a) Dividends received	(b) %	(c) Special deductions (a) x (b)
1	Dividends from less-than-20%-owned domestic corporations (other than debt-financed stock)		70	
2	Dividends from 20%-or-more-owned domestic corporations (other than debt-financed stock)		80	
3	Dividends on debt-financed stock of domestic and foreign corporations		see instructions	
4	Dividends on certain preferred stock of less-than-20%-owned public utilities		42	
5	Dividends on certain preferred stock of 20%-or-more-owned public utilities		48	
6	Dividends from less-than-20%-owned foreign corporations and certain FSCs		70	
7	Dividends from 20%-or-more-owned foreign corporations and certain FSCs		80	
8	Dividends from wholly owned foreign subsidiaries		100	
9	Total. Add lines 1 through 8. See instructions for limitation			
10	Dividends from domestic corporations received by a small business investment company operating under the Small Business Investment Act of 1958		100	
11	Dividends from affiliated group members		100	
12	Dividends from certain FSCs		100	
13	Dividends from foreign corporations not included on lines 3, 6, 7, 8, 11, or 12			
14	Income from controlled foreign corporations under subpart F (attach Form(s) 5471)			
15	Foreign dividend gross-up			
16	IC-DISC and former DISC dividends not included on lines 1, 2, or 3			
17	Other dividends			
18	Deduction for dividends paid on certain preferred stock of public utilities			
19	**Total dividends.** Add lines 1 through 17. Enter here and on page 1, line 4 ▶			
20	**Total special deductions.** Add lines 9, 10, 11, 12, and 18. Enter here and on page 1, line 29b ▶			

Schedule J Tax Computation and Payment (see instructions)

Part I-Tax Computation

1	Check if the corporation is a member of a controlled group (attach Schedule O (Form 1120)) ▶ ☐			
2	Income tax. Check if a qualified personal service corporation (see instructions) ▶ ☐		2	
3	Alternative minimum tax (attach Form 4626)		3	NONE
4	Add lines 2 and 3		4	NONE
5a	Foreign tax credit (attach Form 1118)	5a		
b	Credit from Form 8834 (see instructions)	5b		
c	General business credit (attach Form 3800)	5c		
d	Credit for prior year minimum tax (attach Form 8827)	5d		
e	Bond credits from Form 8912	5e		
6	Total credits. Add lines 5a through 5e		6	
7	Subtract line 6 from line 4		7	NONE
8	Personal holding company tax (attach Schedule PH (Form 1120))		8	
9a	Recapture of investment credit (attach Form 4255)	9a		
b	Recapture of low-income housing credit (attach Form 8611)	9b		
c	Interest due under the look-back method - completed long-term contracts (attach Form 8697)	9c		
d	Interest due under the look-back method - income forecast method (attach Form 8866)	9d		
e	Alternative tax on qualifying shipping activities (attach Form 8902)	9e		
f	Other (see instructions - attach statement)	9f		
10	Total. Add lines 9a through 9f		10	
11	Total tax. Add lines 7, 8, and 10. Enter here and on page 1, line 31		11	NONE

Part II-Payments and Refundable Credits

12	2012 overpayment credited to 2013		12	
13	2013 estimated tax payments		13	
14	2013 refund applied for on Form 4466		14	( )
15	Combine lines 12, 13, and 14		15	
16	Tax deposited with Form 7004		16	15,858,111.
17	Withholding (see instructions)		17	
18	Total payments. Add lines 15, 16, and 17		18	15,858,111.
19	Refundable credits from:			
a	Form 2439	19a		
b	Form 4136	19b		
c	Form 8827, line 8c	19c		
d	Other (attach statement - see instructions)	19d		
20	Total credits. Add lines 19a through 19d		20	
21	Total payments and credits. Add lines 18 and 20. Enter here and on page 1, line 32		21	15,858,111.

Schedule K Other Information (see instructions)

		Yes	No
1	Check accounting method: a ☐ Cash b ☒ Accrual c ☐ Other (specify) ▶		
2	See the instructions and enter the:		
a	Business activity code no. ▶ 454390		
b	Business activity ▶ DIRECT SALES		
c	Product or service ▶ COMMUNICATIONS		
3	Is the corporation a subsidiary in an affiliated group or a parent-subsidiary controlled group?		X
	If "Yes," enter name and EIN of the parent corporation ▶		
4	At the end of the tax year:		
a	Did any foreign or domestic corporation, partnership (including any entity treated as a partnership), trust, or tax-exempt organization own directly 20% or more, or own, directly or indirectly, 50% or more of the total voting power of all classes of the corporation's stock entitled to vote? If "Yes," complete Part I of Schedule G (Form 1120) (attach Schedule G)		X
b	Did any individual or estate own directly 20% or more, or own, directly or indirectly, 50% or more of the total voting power of all classes of the corporation's stock entitled to vote? If "Yes," complete Part II of Schedule G (Form 1120) (attach Schedule G)		X

TELEXFREE, LLC [redacted]0853

Form 1120 (2013)

Schedule K Other Information *continued* (see instructions)

		Yes	No
5	At the end of the tax year, did the corporation:		
a	Own directly 20% or more, or own, directly or indirectly, 50% or more of the total voting power of all classes of stock entitled to vote of any foreign or domestic corporation not included on Form 851, Affiliations Schedule? For rules of constructive ownership, see instructions. If "Yes," complete (i) through (iv) below.		X

(i) Name of Corporation	(ii) Employer Identification Number (if any)	(iii) Country of Incorporation	(iv) Percentage Owned in Voting Stock
TELEXFREE FINANCIAL, INC	[redacted]7555	US	100.00

b	Own directly an interest of 20% or more, or own, directly or indirectly, an interest of 50% or more in any foreign or domestic partnership (including an entity treated as a partnership) or in the beneficial interest of a trust? For rules of constructive ownership, see instructions. If "Yes," complete (i) through (iv) below.		X

(i) Name of Entity	(ii) Employer Identification Number (if any)	(iii) Country of Organization	(iv) Maximum Percentage Owned in Profit, Loss, or Capital

6	During this tax year, did the corporation pay dividends (other than stock dividends and distributions in exchange for stock) in excess of the corporation's current and accumulated earnings and profits? (See sections 301 and 316.) If "Yes," file Form 5452, Corporate Report of Nondividend Distributions. If this is a consolidated return, answer here for the parent corporation and on Form 851 for each subsidiary.		X
7	At any time during the tax year, did one foreign person own, directly or indirectly, at least 25% of (a) the total voting power of all classes of the corporation's stock entitled to vote or (b) the total value of all classes of the corporation's stock? For rules of attribution, see section 318. If "Yes," enter: (i) Percentage owned ▶ 30.00 and (ii) Owner's country ▶ BR	X	
	(c) The corporation may have to file Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business. Enter the number of Forms 5472 attached ▶ 1		
8	Check this box if the corporation issued publicly offered debt instruments with original issue discount ▶ ☐ If checked, the corporation may have to file Form 8281, Information Return for Publicly Offered Original Issue Discount Instruments.		
9	Enter the amount of tax-exempt interest received or accrued during the tax year ▶ $		
10	Enter the number of shareholders at the end of the tax year (if 100 or fewer) ▶ 2		
11	If the corporation has an NOL for the tax year and is electing to forego the carryback period, check here ▶ ☐ If the corporation is filing a consolidated return, the statement required by Regulations section 1.1502-21(b)(3) must be attached or the election will not be valid.		
12	Enter the available NOL carryover from prior tax years (do not reduce it by any deduction on line 29a.) ▶ $		
13	Are the corporation's total receipts (page 1, line 1a, plus lines 4 through 10) for the tax year and its total assets at the end of the tax year less than $250,000? If "Yes," the corporation is not required to complete Schedules L, M-1, and M-2. Instead, enter the total amount of cash distributions and the book value of property distributions (other than cash) made during the tax year ▶ $		X
14	Is the corporation required to file Schedule UTP (Form 1120), Uncertain Tax Position Statement (see instructions)? If "Yes," complete and attach Schedule UTP.		X
15a	Did the corporation make any payments in 2013 that would require it to file Form(s) 1099?	X	
b	If "Yes," did or will the corporation file required Forms 1099?	X	
16	During this tax year, did the corporation have an 80% or more change in ownership, including a change due to redemption of its own stock?		X
17	During or subsequent to this tax year, but before the filing of this return, did the corporation dispose of more than 65% (by value) of its assets in a taxable, non-taxable, or tax deferred transaction?		
18	Did the corporation receive assets in a section 351 transfer in which any of the transferred assets had a fair market basis or fair market value of more than $1 million?		X

TELEXFREE, LLC [redacted] 0853

Form 1120 (2013)

Schedule L Balance Sheets per Books

Assets	Beginning of tax year (a)	Beginning of tax year (b)	End of tax year (c)	End of tax year (d)
1 Cash		1,207,048.		37,577,512.
2a Trade notes and accounts receivable				
b Less allowance for bad debts	( )		( )	
3 Inventories				
4 U.S. government obligations				
5 Tax-exempt securities (see instructions)				
6 Other current assets (attach statement)	STMT 4	12,849,344.		10,792,085.
7 Loans to shareholders				
8 Mortgage and real estate loans				
9 Other investments (attach statement)	STMT 4	NONE		27,368,370.
10a Buildings and other depreciable assets	NONE		86,542.	
b Less accumulated depreciation	(NONE)	NONE	(9,575.)	76,967.
11a Depletable assets				
b Less accumulated depletion	( )		( )	
12 Land (net of any amortization)				
13a Intangible assets (amortizable only)				
b Less accumulated amortization	( )		( )	
14 Other assets (attach statement)	STMT 4	3,475.		107,368.
15 Total assets		14,059,867.		75,922,302.
Liabilities and Shareholders' Equity				
16 Accounts payable				
17 Mortgages, notes, bonds payable in less than 1 year				
18 Other current liabilities (attach statement)	STMT 4	5,470,901.		36,836,348.
19 Loans from shareholders		50.		50.
20 Mortgages, notes, bonds payable in 1 year or more				
21 Other liabilities (attach statement)	STMT 5	9,829,080.		2,161,474,220.
22 Capital stock: a Preferred stock				
b Common stock				
23 Additional paid-in capital				
24 Retained earnings - Appropriated (attach statement)				
25 Retained earnings - Unappropriated		-1,240,164.		-2,122,388,316.
26 Adjustments to shareholders' equity (attach statement)				
27 Less cost of treasury stock		( )		( )
28 Total liabilities and shareholders' equity		14,059,867.		75,922,302.

Schedule M-1 Reconciliation of Income (Loss) per Books With Income per Return

Note: Schedule M-3 required instead of Schedule M-1 if total assets are $10 million or more - see instructions

1 Net income (loss) per books		7 Income recorded on books this year not included on this return (itemize): Tax-exempt interest $	
2 Federal income tax per books			
3 Excess of capital losses over capital gains			
4 Income subject to tax not recorded on books this year (itemize)		8 Deductions on this return not charged against book income this year (itemize):	
5 Expenses recorded on books this year not deducted on this return (itemize)		a Depreciation $	
a Depreciation $		b Charitable contributions $	
b Charitable contributions $			
c Travel and entertainment $			
6 Add lines 1 through 5		9 Add lines 7 and 8	
		10 Income (page 1, line 28) - line 6 less line 9	

Schedule M-2 Analysis of Unappropriated Retained Earnings per Books (Line 25, Schedule L)

1 Balance at beginning of year	-1,240,164.	5 Distributions: a Cash	
2 Net income (loss) per books	-2,121,148,152.	b Stock	
3 Other increases (itemize):		c Property	
		6 Other decreases (itemize):	
		7 Add lines 5 and 6	
4 Add lines 1, 2, and 3	-2,122,388,316.	8 Balance at end of year (line 4 less line 7)	-2,122,388,316.

JSA
3C1140 2.000

SCHEDULE G (Form 1120)
(Rev. December 2011)
Department of the Treasury
Internal Revenue Service

Information on Certain Persons Owning the Corporation's Voting Stock

▶ Attach to Form 1120.
▶ See instructions on page 2.

OMB No. 1545-0123

Name

TELEXFREE, LLC
C/O STEPHEN DARR, BANKRUPTCY TRUSTEE

Employer identification number (EIN)

[redacted]0853

Part I **Certain Entities Owning the Corporation's Voting Stock.** (Form 1120, Schedule K, Question 4a). Complete columns (i) through (v) below for any foreign or domestic corporation, partnership (including any entity treated as a partnership), trust, or tax-exempt organization that owns directly 20% or more, or owns, directly or indirectly, 50% or more of the total voting power of all classes of the corporation's stock entitled to vote (see instructions).

(i) Name of Entity	(ii) Employer Identification Number (if any)	(iii) Type of Entity	(iv) Country of Organization	(v) Percentage Owned in Voting Stock

Part II **Certain Individuals and Estates Owning the Corporation's Voting Stock.** (Form 1120, Schedule K, Question 4b). Complete columns (i) through (iv) below for any individual or estate that owns directly 20% or more, or owns, directly or indirectly, 50% or more of the total voting power of all classes of the corporation's stock entitled to vote (see instructions).

(i) Name of Individual or Estate	(ii) Identifying Number (if any)	(iii) Country of Citizenship (see instructions)	(iv) Percentage Owned in Voting Stock
CARLOS WANZELER	[redacted]	US	50.00
JAMES MERRILL		US	50.00

Form **4626**

Department of the Treasury
Internal Revenue Service

Alternative Minimum Tax - Corporations

▶ Attach to the corporation's tax return.
▶ Information about Form 4626 and its separate instructions is at *www.irs.gov/form4626.*

OMB No 1545-0175

2013

Name: TELEXFREE, LLC
C/O STEPHEN DARR, BANKRUPTCY TRUSTEE

Employer identification number: [redacted]0853

Note: *See the instructions to find out if the corporation is a small corporation exempt from the alternative minimum tax (AMT) under section 55(e).*

1	Taxable income or (loss) before net operating loss deduction		1	-2101985935.
2	**Adjustments and preferences:**			
a	Depreciation of post-1986 property		2a	
b	Amortization of certified pollution control facilities		2b	
c	Amortization of mining exploration and development costs		2c	
d	Amortization of circulation expenditures (personal holding companies only)		2d	
e	Adjusted gain or loss		2e	
f	Long-term contracts		2f	
g	Merchant marine capital construction funds		2g	
h	Section 833(b) deduction (Blue Cross, Blue Shield, and similar type organizations only)		2h	
i	Tax shelter farm activities (personal service corporations only)		2i	
j	Passive activities (closely held corporations and personal service corporations only)		2j	
k	Loss limitations		2k	
l	Depletion		2l	
m	Tax-exempt interest income from specified private activity bonds		2m	
n	Intangible drilling costs		2n	
o	Other adjustments and preferences SEE. STATEMENT. 6.		2o	NONE
3	Pre-adjustment alternative minimum taxable income (AMTI). Combine lines 1 through 2o		3	-2101985935.
4	**Adjusted current earnings (ACE) adjustment:**			
a	ACE from line 10 of the ACE worksheet in the instructions	4a -2101985935.		
b	Subtract line 3 from line 4a. If line 3 exceeds line 4a, enter the difference as a negative amount (see instructions)	4b		
c	Multiply line 4b by 75% (.75). Enter the result as a positive amount	4c		
d	Enter the excess, if any, of the corporation's total increases in AMTI from prior year ACE adjustments over its total reductions in AMTI from prior year ACE adjustments (see instructions). Note: *You must enter an amount on line 4d (even if line 4b is positive)*	4d		
e	ACE adjustment. • If line 4b is zero or more, enter the amount from line 4c • If line 4b is less than zero, enter the smaller of line 4c or line 4d as a negative amount		4e	
5	Combine lines 3 and 4e. If zero or less, stop here; the corporation does not owe any AMT		5	-2101985935.
6	Alternative tax net operating loss deduction (see instructions)		6	
7	**Alternative minimum taxable income.** Subtract line 6 from line 5. If the corporation held a residual interest in a REMIC, see instructions		7	-2101985935.
8	**Exemption phase-out** (if line 7 is $310,000 or more, skip lines 8a and 8b and enter -0- on line 8c):			
a	Subtract $150,000 from line 7 (if completing this line for a member of a controlled group, see instructions). If zero or less, enter -0-	8a NONE		
b	Multiply line 8a by 25% (.25)	8b NONE		
c	Exemption. Subtract line 8b from $40,000 (if completing this line for a member of a controlled group, see instructions). If zero or less, enter -0-		8c	40,000.
9	Subtract line 8c from line 7. If zero or less, enter -0-		9	NONE
10	Multiply line 9 by 20% (.20)		10	NONE
11	Alternative minimum tax foreign tax credit (AMTFTC) (see instructions)		11	
12	Tentative minimum tax. Subtract line 11 from line 10		12	NONE
13	Regular tax liability before applying all credits except the foreign tax credit		13	
14	**Alternative minimum tax.** Subtract line 13 from line 12. If zero or less, enter -0-. Enter here and on Form 1120, Schedule J, line 3, or the appropriate line of the corporation's income tax return		14	NONE

Adjusted Current Earnings (ACE) Worksheet

Keep for Your Records

▶ See ACE Worksheet Instructions.

1	Pre-adjustment AMTI. Enter the amount from line 3 of Form 4626				1	-2101985935.
2	ACE depreciation adjustment:					
a	AMT depreciation			2a	NONE	
b	ACE depreciation:					
	(1) Post-1993 property	2b(1)	NONE			
	(2) Post-1989, pre-1994 property	2b(2)				
	(3) Pre-1990 MACRS property	2b(3)				
	(4) Pre-1990 original ACRS property	2b(4)				
	(5) Property described in sections 168(f)(1) through (4)	2b(5)				
	(6) Other property	2b(6)				
	(7) Total ACE depreciation. Add lines 2b(1) through 2b(6)			2b(7)	NONE	
c	ACE depreciation adjustment. Subtract line 2b(7) from line 2a				2c	NONE
3	Inclusion in ACE of items included in earnings and profits (E&P):					
a	Tax-exempt interest income			3a		
b	Death benefits from life insurance contracts			3b		
c	All other distributions from life insurance contracts (including surrenders)			3c		
d	Inside buildup of undistributed income in life insurance contracts			3d		
e	Other items (see Regulations sections 1.56(g)-1(c)(6)(iii) through (ix) for a partial list)			3e		
f	Total increase to ACE from inclusion in ACE of items included in E&P. Add lines 3a through 3e				3f	
4	Disallowance of items not deductible from E&P:					
a	Certain dividends received			4a		
b	Dividends paid on certain preferred stock of public utilities that are deductible under section 247			4b		
c	Dividends paid to an ESOP that are deductible under section 404(k)			4c		
d	Nonpatronage dividends that are paid and deductible under section 1382(c)			4d		
e	Other items (see Regulations sections 1.56(g)-1(d)(3)(i) and (ii) for a partial list)			4e		
f	Total increase to ACE because of disallowance of items not deductible from E&P. Add lines 4a through 4e				4f	
5	Other adjustments based on rules for figuring E&P:					
a	Intangible drilling costs			5a		
b	Circulation expenditures			5b		
c	Organizational expenditures			5c		
d	LIFO inventory adjustments			5d		
e	Installment sales			5e		
f	Total other E&P adjustments. Combine lines 5a through 5e				5f	
6	Disallowance of loss on exchange of debt pools				6	
7	Acquisition expenses of life insurance companies for qualified foreign contracts				7	
8	Depletion				8	
9	Basis adjustments in determining gain or loss from sale or exchange of pre-1994 property				9	
10	Adjusted current earnings. Combine lines 1, 2c, 3f, 4f, and 5f through 9. Enter the result here and on line 4a of Form 4626				10	-2101985935.

SCHEDULE B (Form 1120)
(Rev December 2009)
Department of the Treasury
Internal Revenue Service

Additional Information for Schedule M-3 Filers

▶ Attach to Form 1120.
▶ See instructions on page 2.

OMB No. 1545-0123

Name: TELEXFREE, LLC
C/O STEPHEN DARR, BANKRUPTCY TRUSTEE

Employer identification number (EIN): [redacted]0853

		Yes	No
1	Do the amounts reported on Schedule M-3 (Form 1120), Part II, lines 9 or 10, column (d), reflect allocations to the corporation from a partnership of income, gain, loss, deduction, or credit that are disproportionate to this corporation's capital contribution to the partnership or its ratio for sharing other items of the partnership?		X
2	At any time during the tax year, did the corporation sell, exchange, or transfer any interest in an intangible asset to a related person as defined in section 267(b)?		X
3	At any time during the tax year, did the corporation acquire any interest in an intangible asset from a related person as defined in section 267(b)?		X
4a	During the tax year, did the corporation enter into a cost-sharing arrangement with any related foreign party on whose behalf the corporation did not file Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations?		X
b	At any time during the tax year, was the corporation a participant in a cost-sharing arrangement with any related foreign party on whose behalf the corporation did not file Form 5471?		X
5	At any time during the tax year, did the corporation make any change in accounting principle for financial accounting purposes? See instructions for the definition of change in accounting principle		X
6	At any time during the tax year, did the corporation make any change in a method of accounting for U.S. income tax purposes?		X
7	At any time during the tax year, did the corporation own any voluntary employees' beneficiary association (VEBA) trusts that were used to hold funds designated for employee benefits?		X
8	At any time during the tax year, did the corporation use an allocation method for indirect costs capitalized to self-constructed assets that varied from its financial method of accounting?		X
9	At any time during the tax year, did the corporation treat for tax purposes indirect costs, as defined in Regulations sections 1.263A-1(e)(3)(ii)(F), (G), and (H), as mixed-service costs, as defined in Regulations section 1.263A-1(e)(4)(ii)(C)?		X
10	Did the corporation, under section 118 or 362(c) and the related regulations, take a return filing position characterizing any amount as a contribution to the capital of the corporation during the tax year by any non-shareholders? Amounts so characterized may include, without limitation, incentives, inducements, money, and property.		X

SCHEDULE M-3 (Form 1120)
Department of the Treasury
Internal Revenue Service

Net Income (Loss) Reconciliation for Corporations With Total Assets of $10 Million or More

▶ Attach to Form 1120 or 1120-C. ▶ Information about Schedule M-3 (Form 1120) and its separate instructions is available at *www.irs.gov/form1120.*

OMB No. 1545-0123

2013

Name of corporation (common parent, if consolidated return)
TELEXFREE, LLC
C/O STEPHEN DARR, BANKRUPTCY TRUSTEE

Employer identification number
[redacted]0853

Check applicable box(es): (1) [X] Non-consolidated return (2) [ ] Consolidated return (Form 1120 only)
(3) [ ] Mixed 1120/L/PC group (4) [ ] Dormant subsidiaries schedule attached

Part I Financial Information and Net Income (Loss) Reconciliation (see instructions)

1 a Did the corporation file SEC Form 10-K for its income statement period ending with or within this tax year?
[ ] Yes. Skip lines 1b and 1c and complete lines 2a through 11 with respect to that SEC Form 10-K.
[X] No. Go to line 1b. See instructions if multiple non-tax-basis income statements are prepared.

b Did the corporation prepare a certified audited non-tax-basis income statement for that period?
[ ] Yes. Skip line 1c and complete lines 2a through 11 with respect to that income statement.
[X] No. Go to line 1c.

c Did the corporation prepare a non-tax-basis income statement for that period?
[X] Yes. Complete lines 2a through 11 with respect to that income statement.
[ ] No. Skip lines 2a through 3c and enter the corporation's net income (loss) per its books and records on line 4a.

2 a Enter the income statement period: Beginning 01/01/2013 Ending 12/31/2013

b Has the corporation's income statement been restated for the income statement period on line 2a?
[ ] Yes. (If "Yes," attach an explanation and the amount of each item restated.)
[X] No.

c Has the corporation's income statement been restated for any of the five income statement periods preceding the period on line 2a?
[X] Yes. (If "Yes," attach an explanation and the amount of each item restated.)
[ ] No.

3 a Is any of the corporation's voting common stock publicly traded?
[ ] Yes.
[X] No. If "No," go to line 4a.

b Enter the symbol of the corporation's primary U.S. publicly traded voting common stock . . . . .

c Enter the nine-digit CUSIP number of the corporation's primary publicly traded voting common stock . . . . .

4 a	Worldwide consolidated net income (loss) from income statement source identified in Part I, line 1	4a	-2,121,148,152.
b	Indicate accounting standard used for line 4a (see instructions): (1) [X] GAAP (2) [ ] IFRS (3) [ ] Statutory (4) [ ] Tax-basis (5) [ ] Other (specify) _____		
5 a	Net income from nonincludible foreign entities (attach statement)	5a	( )
b	Net loss from nonincludible foreign entities (attach statement and enter as a positive amount)	5b	
6 a	Net income from nonincludible U.S. entities (attach statement)	6a	( )
b	Net loss from nonincludible U.S. entities (attach statement and enter as a positive amount)	6b	
7 a	Net income (loss) of other includible foreign disregarded entities (attach statement)	7a	
b	Net income (loss) of other includible U.S. disregarded entities (attach statement)	7b	
c	Net income (loss) of other includible entities (attach statement)	7c	
8	Adjustment to eliminations of transactions between includible entities and nonincludible entities (attach statement)	8	
9	Adjustment to reconcile income statement period to tax year (attach statement)	9	
10 a	Intercompany dividend adjustments to reconcile to line 11 (attach statement)	10a	
b	Other statutory accounting adjustments to reconcile to line 11 (attach statement)	10b	
c	Other adjustments to reconcile to amount on line 11 (attach statement)	10c	
11	Net income (loss) per income statement of includible corporations. Combine lines 4 through 10	11	-2,121,148,152.

Note. Part I, line 11, must equal the amount on Part II, line 30, column (a), and Schedule M-2, line 2.

12 Enter the total amount (not just the corporation's share) of the assets and liabilities of all entities included or removed on the following lines.

		Total Assets	Total Liabilities
a	Included on Part I, line 4 ▶	75,922,302.	2,198,310,618.
b	Removed on Part I, line 5 ▶		
c	Removed on Part I, line 6 ▶		
d	Included on Part I, line 7 ▶		

Schedule M-3 (Form 1120) 2013

Name of corporation (common parent, if consolidated return)
TELEXFREE, LLC
C/O STEPHEN DARR, BANKRUPTCY TRUSTEE

Employer identification number
[redacted]0853

Check applicable box(es): (1) ☐ Consolidated group (2) ☐ Parent corp (3) ☐ Consolidated eliminations (4) ☐ Subsidiary corp (5) ☐ Mixed 1120/L/PC group

Check if a sub-consolidated: (6) ☐ 1120 group (7) ☐ 1120 eliminations

Name of subsidiary (if consolidated return)

Employer identification number

Part II Reconciliation of Net Income (Loss) per Income Statement of Includible Corporations With Taxable Income per Return (see instructions)

Income (Loss) Items (Attach statements for lines 1 through 11)	(a) Income (Loss) per Income Statement	(b) Temporary Difference	(c) Permanent Difference	(d) Income (Loss) per Tax Return
1 Income (loss) from equity method foreign corporations				
2 Gross foreign dividends not previously taxed				
3 Subpart F, QEF, and similar income inclusions				
4 Section 78 gross-up				
5 Gross foreign distributions previously taxed				
6 Income (loss) from equity method U.S. corporations				
7 U.S. dividends not eliminated in tax consolidation				
8 Minority interest for includible corporations				
9 Income (loss) from U.S. partnerships				
10 Income (loss) from foreign partnerships				
11 Income (loss) from other pass-through entities				
12 Items relating to reportable transactions (attach statement)				
13 Interest income (attach Form 8916-A)				
14 Total accrual to cash adjustment				
15 Hedging transactions				
16 Mark-to-market income (loss)				
17 Cost of goods sold (attach Form 8916-A)	( )			( )
18 Sale versus lease (for sellers and/or lessors)				
19 Section 481(a) adjustments				
20 Unearned/deferred revenue				
21 Income recognition from long-term contracts				
22 Original issue discount and other imputed interest				
23a Income statement gain/loss on sale, exchange, abandonment, worthlessness, or other disposition of assets other than inventory and pass-through entities				
b Gross capital gains from Schedule D, excluding amounts from pass-through entities				
c Gross capital losses from Schedule D, excluding amounts from pass-through entities, abandonment losses, and worthless stock losses				
d Net gain/loss reported on Form 4797, line 17, excluding amounts from pass-through entities, abandonment losses, and worthless stock losses				
e Abandonment losses				
f Worthless stock losses (attach statement)				
g Other gain/loss on disposition of assets other than inventory				
24 Capital loss limitation and carryforward used				
25 Other income (loss) items with differences (attach statement)				
26 Total income (loss) items. Combine lines 1 through 25				
27 Total expense/deduction items (from Part III, line 38)	-19,250,202.	-76,968.	19,239,185.	-87,985.
28 Other items with no differences	-2,101,897,950.	STMT 7		-2,101,897,950.
29a Mixed groups, see instructions. All others, combine lines 26 through 28	-2,121,148,152.	-76,968.	19,239,185.	-2,101,985,935.
b PC insurance subgroup reconciliation totals				
c Life insurance subgroup reconciliation totals				
30 Reconciliation totals. Combine lines 29a through 29c	-2,121,148,152.	-76,968.	19,239,185.	-2,101,985,935.

Note. Line 30, column (a), must equal the amount on Part I, line 11, and column (d) must equal Form 1120, page 1, line 28.

Schedule M-3 (Form 1120) 2013

Name of corporation (common parent, if consolidated return)
TELEXFREE, LLC
C/O STEPHEN DARR, BANKRUPTCY TRUSTEE

Employer identification number
[redacted]0853

Check applicable box(es): (1) ☐ Consolidated group (2) ☐ Parent corp (3) ☐ Consolidated eliminations (4) ☐ Subsidiary corp (5) ☐ Mixed 1120/L/PC group

Check if a sub-consolidated: (6) ☐ 1120 group (7) ☐ 1120 eliminations

Name of subsidiary (if consolidated return)

Employer identification number

Part III Reconciliation of Net Income (Loss) per Income Statement of Includible Corporations With Taxable Income per Return - Expense/Deduction Items (see instructions)

Expense/Deduction Items	(a) Expense per Income Statement	(b) Temporary Difference	(c) Permanent Difference	(d) Deduction per Tax Return
1 U.S. current income tax expense	18,994,860.		-18,994,860.	
2 U.S. deferred income tax expense				
3 State and local current income tax expense				
4 State and local deferred income tax expense				
5 Foreign current income tax expense (other than foreign withholding taxes)				
6 Foreign deferred income tax expense				
7 Foreign withholding taxes				
8 Interest expense (attach Form 8916-A)				
9 Stock option expense				
10 Other equity-based compensation				
11 Meals and entertainment	2,884.		-1,442.	1,442.
12 Fines and penalties	186,720.		-186,720.	
13 Judgments, damages, awards, and similar costs				
14 Parachute payments				
15 Compensation with section 162(m) limitation				
16 Pension and profit-sharing				
17 Other post-retirement benefits				
18 Deferred compensation				
19 Charitable contribution of cash and tangible property	7,500.		-7,500.	
20 Charitable contribution of intangible property				
21 Charitable contribution limitation/carryforward				
22 Domestic production activities deduction				
23 Current year acquisition or reorganization investment banking fees				
24 Current year acquisition or reorganization legal and accounting fees				
25 Current year acquisition/reorganization other costs				
26 Amortization/impairment of goodwill				
27 Amortization of acquisition, reorganization, and start-up costs				
28 Other amortization or impairment write-offs				
29 Reserved				
30 Depletion				
31 Depreciation	9,575.	76,968.		86,543.
32 Bad debt expense				
33 Corporate owned life insurance premiums				
34 Purchase versus lease (for purchasers and/or lessees)				
35 Research and development costs				
36 Section 118 exclusion (attach statement)				
37 Other expense/deduction items with differences (attach statement) STMT 8	48,663.		-48,663.	
38 Total expense/deduction items. Combine lines 1 through 37. Enter here and on Part II, line 27, reporting positive amounts as negative and negative amounts as positive	19,250,202.	76,968.	-19,239,185.	87,985.

Form **1125-A**
(Rev. December 2012)
Department of the Treasury
Internal Revenue Service

Cost of Goods Sold

▶ Attach to Form 1120, 1120-C, 1120-F, 1120S, 1065, or 1065-B.
▶ Information about Form 1125-A and its instructions is at *www.irs.gov/form1125a.*

OMB No. 1545-2225

Name: TELEXFREE, LLC
C/O STEPHEN DARR, BANKRUPTCY TRUSTEE

Employer identification number: [redacted]0853

1	Inventory at beginning of year	1	
2	Purchases	2	
3	Cost of labor	3	
4	Additional section 263A costs (attach schedule)	4	
5	Other costs (attach schedule) SEE. STATEMENT. 9.	5	2,263,477.
6	Total. Add lines 1 through 5	6	2,263,477.
7	Inventory at end of year	7	
8	Cost of goods sold. Subtract line 7 from line 6. Enter here and on Form 1120, page 1, line 2 or the appropriate line of your tax return (see instructions)	8	2,263,477.

9a Check all methods used for valuing closing inventory:
- (i) ☐ Cost
- (ii) ☐ Lower of cost or market
- (iii) ☐ Other (Specify method used and attach explanation.) ▶

b Check if there was a writedown of subnormal goods ▶ ☐

c Check if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970) ▶ ☐

d If the LIFO inventory method was used for this tax year, enter amount of closing inventory computed under LIFO 9d

e If property is produced or acquired for resale, do the rules of section 263A apply to the entity (see instructions)? ☐ Yes ☐ No

f Was there any change in determining quantities, cost, or valuations between opening and closing inventory? If "Yes," attach explanation ☐ Yes ☐ No

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

Purpose of Form

Use Form 1125-A to calculate and deduct cost of goods sold for certain entities.

Who Must File

Filers of Form 1120, 1120-C, 1120-F, 1120S, 1065, or 1065-B, must complete and attach Form 1125-A if the applicable entity reports a deduction for cost of goods sold.

Inventories

Generally, inventories are required at the beginning and end of each tax year if the production, purchase, or sale of merchandise is an income-producing factor. See Regulations section 1.471-1. If inventories are required, you generally must use an accrual method of accounting for sales and purchases of inventory items.

Exception for certain taxpayers. If you are a qualifying taxpayer or a qualifying small business taxpayer (defined below), you can adopt or change your accounting method to account for inventoriable items in the same manner as materials and supplies that are not incidental.

Under this accounting method, inventory costs for raw materials purchased for use in producing finished goods and merchandise purchased for resale are deductible in the year the finished goods or merchandise are sold (but not before the year you paid for the raw materials or merchandise, if you are also using the cash method).

If you account for inventoriable items in the same manner as materials and supplies that are not incidental, you can currently deduct expenditures for direct labor and all indirect costs that would otherwise be included in inventory costs. See the instructions for lines 2 and 7.

For additional guidance on this method of accounting, see Pub. 538, Accounting Periods and Methods. For guidance on adopting or changing to this method of accounting, see Form 3115, Application for Change in Accounting Method, and its instructions.

Qualifying taxpayer. A qualifying taxpayer is a taxpayer that, (a) for each prior tax year ending after December 16, 1998, has average annual gross receipts of $1 million or less for the 3 prior tax years and (b) its business is not a tax shelter (as defined in section 448(d)(3)). See Rev. Proc. 2001-10, 2001-2 I.R.B. 272.

Qualifying small business taxpayer. A qualifying small business taxpayer is a taxpayer that, (a) for each prior tax year ending on or after December 31, 2000, has average annual gross receipts of $10 million or less for the 3 prior tax years, (b) whose principal business activity is not an ineligible activity, and (c) whose business is not a tax shelter (as defined in section 448 (d)(3)). See Rev. Proc. 2002-28, 2002-18, I.R.B. 815.

Uniform capitalization rules. The uniform capitalization rules of section 263A generally require you to capitalize, or include in inventory, certain costs incurred in connection with the following.

- The production of real property and tangible personal property held in inventory or held for sale in the ordinary course of business.
- Real property or personal property (tangible and intangible) acquired for resale.
- The production of real property and tangible personal property by a corporation for use in its trade or business or in an activity engaged in for profit.

See the discussion on section 263A uniform capitalization rules in the instructions for your tax return before completing Form 1125-A. Also see Regulations sections 1.263A-1 through 1.263A-3. See Regulations section 1.263A-4 for rules for property produced in a farming business.

Form **4562**

Department of the Treasury
Internal Revenue Service (99)

Depreciation and Amortization
(Including Information on Listed Property)

▶ See separate instructions. ▶ Attach to your tax return.

OMB No. 1545-0172

2013

Attachment Sequence No. 179

Name(s) shown on return: TELEXFREE, LLC
C/O STEPHEN DARR, BANKRUPTCY TRUSTEE

Identifying number: [redacted]0853

Business or activity to which this form relates

GENERAL DEPRECIATION AND AMORTIZATION

Part I Election To Expense Certain Property Under Section 179

Note: *If you have any listed property, complete Part V before you complete Part I.*

1	Maximum amount (see instructions)	1	500,000.
2	Total cost of section 179 property placed in service (see instructions)	2	86,543.
3	Threshold cost of section 179 property before reduction in limitation (see instructions)	3	2,000,000.
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions	5	500,000.

6	(a) Description of property	(b) Cost (business use only)	(c) Elected cost
	SEE DETAIL		86,543.

7	Listed property. Enter the amount from line 29	7	
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	86,543.
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	86,543.
10	Carryover of disallowed deduction from line 13 of your 2012 Form 4562	10	
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5 (see instructions)	11	500,000.
12	Section 179 expense deduction. Add lines 9 and 10, but do not enter more than line 11	12	86,543.
13	Carryover of disallowed deduction to 2014. Add lines 9 and 10, less line 12 ▶	13	

Note: *Do not use Part II or Part III below for listed property. Instead, use Part V.*

Part II Special Depreciation Allowance and Other Depreciation (Do not include listed property.) (See instructions.)

14	Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year (see instructions)	14	
15	Property subject to section 168(f)(1) election	15	
16	Other depreciation (including ACRS)	16	

Part III MACRS Depreciation (Do not include listed property.) (See instructions.)

Section A

17	MACRS deductions for assets placed in service in tax years beginning before 2013	17	
18	If you are electing to group any assets placed in service during the tax year into one or more general asset accounts, check here ▶ ☐		

Section B - Assets Placed in Service During 2013 Tax Year Using the General Depreciation System

	(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only - see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19a	3-year property						
b	5-year property						
c	7-year property						
d	10-year property						
e	15-year property						
f	20-year property						
g	25-year property			25 yrs.		S/L	
h	Residential rental property			27.5 yrs.	MM	S/L	
				27.5 yrs.	MM	S/L	
i	Nonresidential real property			39 yrs.	MM	S/L	
					MM	S/L	

Section C - Assets Placed in Service During 2013 Tax Year Using the Alternative Depreciation System

20a	Class life					S/L	
b	12-year			12 yrs.		S/L	
c	40-year			40 yrs.	MM	S/L	

Part IV Summary (See instructions.)

21	Listed property. Enter amount from line 28	21	
22	Total. Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations - see instructions	22	86,543.
23	For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	23	

Part V **Listed Property** (Include automobiles, certain other vehicles, certain computers, and property used for entertainment, recreation, or amusement.)

Note: *For any vehicle for which you are using the standard mileage rate or deducting lease expense, complete only 24a, 24b, columns (a) through (c) of Section A, all of Section B, and Section C if applicable.*

Section A - Depreciation and Other Information (Caution: *See the instructions for limits for passenger automobiles.*)

24a Do you have evidence to support the business/investment use claimed? ☐ Yes ☐ No | 24b If "Yes," is the evidence written? ☐ Yes ☐ No

(a) Type of property (list vehicles first)	(b) Date placed in service	(c) Business/ investment use percentage	(d) Cost or other basis	(e) Basis for depreciation (business/investment use only)	(f) Recovery period	(g) Method/ Convention	(h) Depreciation deduction	(i) Elected section 179 cost
25 Special depreciation allowance for qualified listed property placed in service during the tax year and used more than 50% in a qualified business use (see instructions)						25		
26 Property used more than 50% in a qualified business use:								
		%						
		%						
		%						
27 Property used 50% or less in a qualified business use:								
		%				S/L -		
		%				S/L -		
		%				S/L -		
28 Add amounts in column (h), lines 25 through 27. Enter here and on line 21, page 1						28		
29 Add amounts in column (i), line 26. Enter here and on line 7, page 1							29	

Section B - Information on Use of Vehicles

Complete this section for vehicles used by a sole proprietor, partner, or other "more than 5% owner," or related person. If you provided vehicles to your employees, first answer the questions in Section C to see if you meet an exception to completing this section for those vehicles.

	(a) Vehicle 1		(b) Vehicle 2		(c) Vehicle 3		(d) Vehicle 4		(e) Vehicle 5		(f) Vehicle 6	
30 Total business/investment miles driven during the year (do not include commuting miles)												
31 Total commuting miles driven during the year												
32 Total other personal (noncommuting) miles driven												
33 Total miles driven during the year. Add lines 30 through 32												
34 Was the vehicle available for personal use during off-duty hours?	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
35 Was the vehicle used primarily by a more than 5% owner or related person?												
36 Is another vehicle available for personal use?												

Section C - Questions for Employers Who Provide Vehicles for Use by Their Employees

Answer these questions to determine if you meet an exception to completing Section B for vehicles used by employees who are not more than 5% owners or related persons (see instructions).

	Yes	No
37 Do you maintain a written policy statement that prohibits all personal use of vehicles, including commuting, by your employees?		
38 Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See the instructions for vehicles used by corporate officers, directors, or 1% or more owners		
39 Do you treat all use of vehicles by employees as personal use?		
40 Do you provide more than five vehicles to your employees, obtain information from your employees about the use of the vehicles, and retain the information received?		
41 Do you meet the requirements concerning qualified automobile demonstration use? (See instructions.)		

Note: *If your answer to 37, 38, 39, 40, or 41 is "Yes," do not complete Section B for the covered vehicles.*

Part VI **Amortization**

(a) Description of costs	(b) Date amortization begins	(c) Amortizable amount	(d) Code section	(e) Amortization period or percentage	(f) Amortization for this year
42 Amortization of costs that begins during your 2013 tax year (see instructions):					
43 Amortization of costs that began before your 2013 tax year				43	
44 **Total.** Add amounts in column (f). See the instructions for where to report				44	

2013 Depreciation

Description of Property

GENERAL DEPRECIATION AND AMORTIZATION

LINE 6 DETAIL Asset description	Date placed in service	Unadjusted cost or basis	Bus. %	179 exp. reduc. in basis	Basis Reduction	Basis for depreciation	Beginning Accumulated Depreciation	Ending Accumulated Depreciation	Method	Convention	Life	ACRS class	MA CRS class	Current-yr 179 expense	Current-year depreciation
SILLWORKS LTD KANATA		3,519.												3,519.	
NEWEGG.COM		6,182.												6,182.	
CDW		8,596.												8,596.	
ONTARIO LTD		1,175.												1,175.	
NEWEGG.COM		4,100.												4,100.	
CDW		5,625.												5,625.	
CDW		5,625.												5,625.	
DISK DRIVES		1,396.												1,396.	
NEWEGG.COM		4,106.												4,106.	
ONATARIO LTD		3,906.												3,906.	
CDW		25,102.												25,102.	
6 HP DL 160 G6 SERVERS		2,700.												2,700.	
PULSE SUPPLY		14,511.												14,511.	
Less: Retired Assets															
TOTALS		86,543.												86,543.	

*Assets Retired

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TELEXFREE, LLC [redacted]0853

FORM 1120, PAGE 1 DETAIL

LINE 17 - TAXES AND LICENSES

TELECOM TAX EXPENSE	23,404.
PAYROLL TAX EXPENSE	2,952.
TOTAL	26,356.

TELEXFREE, LLC [redacted]0853

FORM 1120, PAGE 1 DETAIL

LINE 19 - CONTRIBUTIONS DEDUCTION

1. TAXABLE INCOME (EXCLUDING CONTRIBUTIONS AND DOMESTIC PRODUCTION ACTIVITIES DEDUCTION)	-2,101,985,935.
2. LESS: NOL CARRYOVER	
3. PLUS: CAPITAL LOSS CARRYBACK	
4. TAXABLE INCOME WITHOUT REGARD TO CONTRIBUTIONS, SPECIAL DEDUCTIONS, DOMESTIC PRODUCTION ACTIVITIES DEDUCTION, NOL CARRYBACKS, AND CAPITAL LOSS CARRYBACKS	-2,101,985,935.
5. CONTRIBUTION DEDUCTION LIMITATION (TAXABLE INCOME X 10%)	NONE
6. AMOUNT OF DEDUCTIBLE CONTRIBUTIONS	7,500.
7. CONTRIBUTION DEDUCTION (LESSER OF LINE 5 OR LINE 6)	NONE

LINE 19 - 5 YEAR CONTRIBUTION CARRYOVER

YEAR ENDING	AMOUNT AVAILABLE	AMOUNT UTILIZED	CONVERTED TO NOL CARRYOVER	CARRYOVER TO NEXT YEAR
12/31/2013	7,500.	NONE		7,500.
TOTAL	7,500.	NONE		7,500.

TELEXFREE, LLC [redacted]0853

FORM 1120, PAGE 1 DETAIL

LINE 26 - SUMMARY OF TRAVEL, MEALS AND ENTERTAINMENT

GROSS MEALS AND ENTERTAINMENT	2,884.
LESS 50% LIMITATION TO SCH M-1	1,442.
NET MEALS & ENTERTAINMENT	1,442.
100% ALLOWABLE TRAVEL AND ENTERTAINMENT	135,569.
TOTAL	137,011.

LINE 26 - OTHER DEDUCTIONS

TRAVEL, MEALS AND ENTERTAINMENT	137,011.
BANK CHARGES	255,369.
COMMISIONS	622,588,034.
CREDIT CARD FEES	16.
EVENTS	109,455.
FILING AND REGISTERED AGENT FEES	1,579.
LEGAL AND PROFESSIONAL FEES	431,347.
MISCELLANEOUS	33,150.
OFFICE EXPENSES	13,408.
PAYROLL REIMBURSEMENT	58,006.
PAYROLL FEES	545.
POSTAGE	114.
PERSONNEL	18,750.
SALES AND PROMOTION EXPENSES	110,894.
SMALL TOOLS AND EQUIPMENT	728.
SUPPLIES	1,956.
MERCHANT FEES	1,038,788.
PRODUCT DEVELOPMENT	6,000.
SOFTWARE DEVELOPMENT	81,288.
CONTRACT LABOR	50,525.
INFORMATION TECHNOLOGY	440,682.
WEBSITE	650.
ADVERTISING CREDITS EXPENSE	2,151,645,140.
TOTAL	2,777,023,435.

TELEXFREE, LLC [redacted]0853

FORM 1120, PAGE 5 DETAIL

SCH L, LINE 6 - OTHER CURRENT ASSETS

	BEGINNING	ENDING
PROPERTY RESERVE	278,374.	4,468,411.
LOAN TO TELEXFREE, INC.	701,525.	NONE
LOAN TO TELEXELECTRIC, LLLP	NONE	2,022,329.
LOAN TO TELEXFREE FINANCIAL, INC	NONE	3,800,475.
LOAN TO TELEXMOBILE	NONE	500,870.
RECEIVABLE FROM YMPACTUS COMERCIAL	11,869,445.	NONE
TOTAL	12,849,344.	10,792,085.

SCH L, LINE 9 - OTHER INVESTMENTS

FIDELITY INVESTMENT	NONE	18,068,961.
MIDDLESEX SAVINGS	NONE	2,000,000.
WADDELL AND REED	NONE	7,299,409.
TOTAL	NONE	27,368,370.

SCH L, LINE 14 - OTHER ASSETS

SECURITY DEPOSITS	NONE	5,944.
SOFTWARE	NONE	97,949.
ORGANIZATIONAL COSTS	3,475.	3,475.
TOTAL	3,475.	107,368.

SCH L, LINE 18 - OTHER CURRENT LIABILITIES

ACCRUED FEDERAL INCOME TAX	4,624,801.	19,964,030.
ACCRUED STATE TAXES	843,429.	3,812,939.
TELECOM TAXES PAYABLE	NONE	23,404.
COMMISSIONS PAYABLE	NONE	7,642,550.
LOAN FROM TELEXFREE, INC.	NONE	5,390,753.
PAYABLE BRAZILIAN HELP, INC.	2,671.	2,672.
TOTAL	5,470,901.	36,836,348.

TELEXFREE, LLC [redacted]0853

FORM 1120, PAGE 5 DETAIL

SCH L, LINE 21 - OTHER LIABILITIES	BEGINNING	ENDING
ACCRUED ADVERTISING CREDITS	9,829,080.	2,161,474,220.
TOTAL	9,829,080.	2,161,474,220.

TELEXFREE, LLC [redacted]0853

FORM 4626 DETAIL

LINE 20 - OTHER ADJUSTMENTS - CONTRIBUTIONS DEDUCTION

1.	AMTI (EXCLUDING CONTRIBUTIONS AND DOMESTIC PRODUCTION ACTIVITIES DEDUCTION)	-2,101,985,935.
2.	LESS: NOL CARRYOVER	
3.	PLUS: CAPITAL LOSS CARRYBACK	
4.	AMTI WITHOUT REGARD TO CONTRIBUTIONS, SPECIAL DEDUCTIONS, DOMESTIC PRODUCTION ACTIVITIES DEDUCTION, NOL CARRYBACKS, AND CAPITAL LOSS CARRYBACKS	-2,101,985,935.
5.	CONTRIBUTION DEDUCTION LIMITATION (AMTI X 10%)	NONE
6.	AMOUNT OF DEDUCTIBLE CONTRIBUTIONS	7,500.
7.	CONTRIBUTION DEDUCTION (LESSER OF LINE 5 OR LINE 6)	NONE

5 YEAR CONTRIBUTIONS CARRYOVER

YEAR ENDING	AMOUNT AVAILABLE	AMOUNT UTILIZED	CARRYOVER TO NEXT YEAR
12/31/2013	7,500.	NONE	7,500.
TOTAL	7,500.	NONE	7,500.

LINE 20 - CONTRIBUTIONS ADJUSTMENT

REGULAR CONTRIBUTIONS	NONE
AMT CONTRIBUTIONS	NONE
CONTRIBUTION ADJUSTMENT	NONE

STATEMENT 6

TELEXFREE, LLC [redacted]0853

SCHEDULE M-3, PART II DETAIL

LINE 28 - OTHER ITEMS WITH NO DIFFERENCES

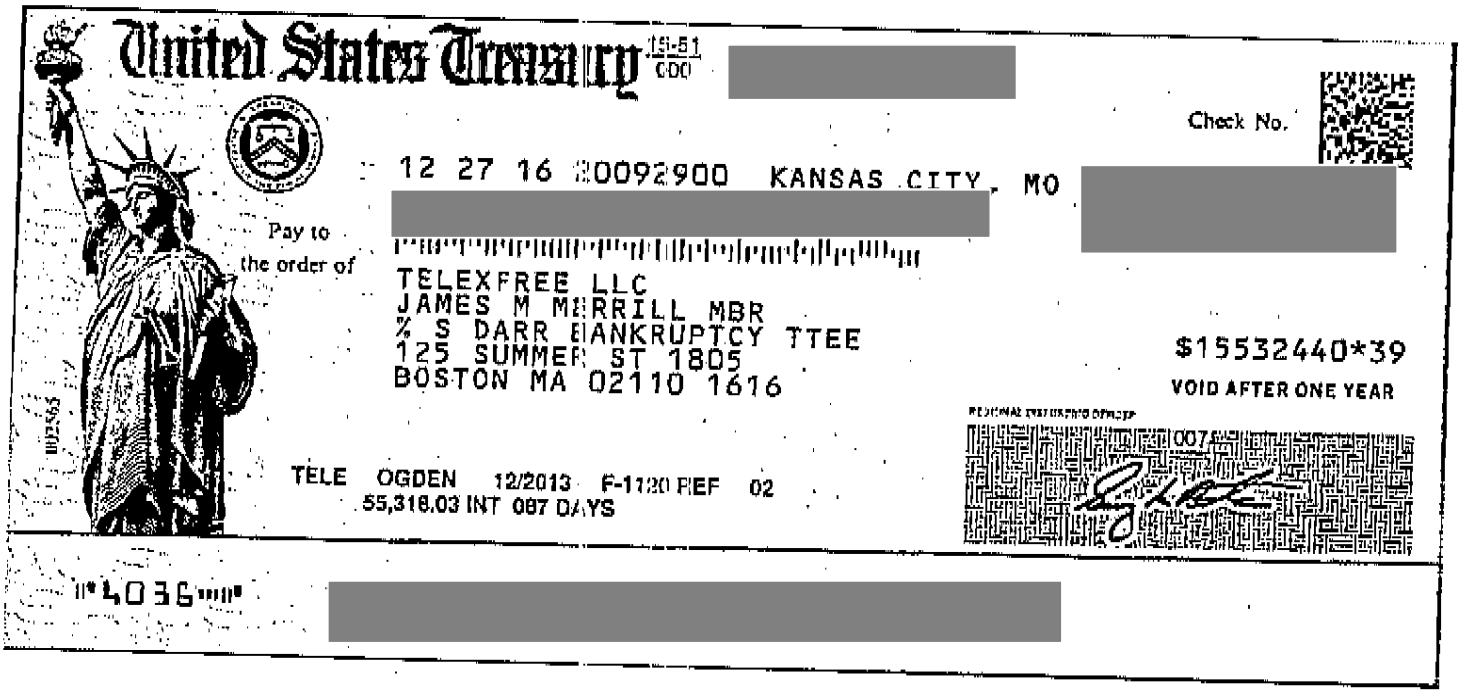
OTHER INCOME/EXPENSE ITEMS WITH NO DIFFERENCES	-2,101,897,950.
TOTAL	-2,101,897,950.

SCHEDULE M-3, PART III DETAIL

LINE 37 - OTHER EXPENSE/DEDUCTION ITEMS WITH DIFFERENCES

DESCRIPTION	EXPENSE PER INCOME STMT	TEMPORARY DIFFERENCE	PERMANENT DIFFERENCE	DEDUCTION PER TAX RETURN
LOSS ON INVESTMENT	48,663.		-48,663.	
TOTAL	48,663.		-48,663.	

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United States Treasury 15-51 000

[redacted]

Check No. [redacted]

12 27 16 20092900 KANSAS CITY, MO

Pay to the order of

[redacted]

TELEXFREE LLC
JAMES M MERRILL MBR
% S DARR BANKRUPTCY TTEE
125 SUMMER ST 1805
BOSTON MA 02110 1616

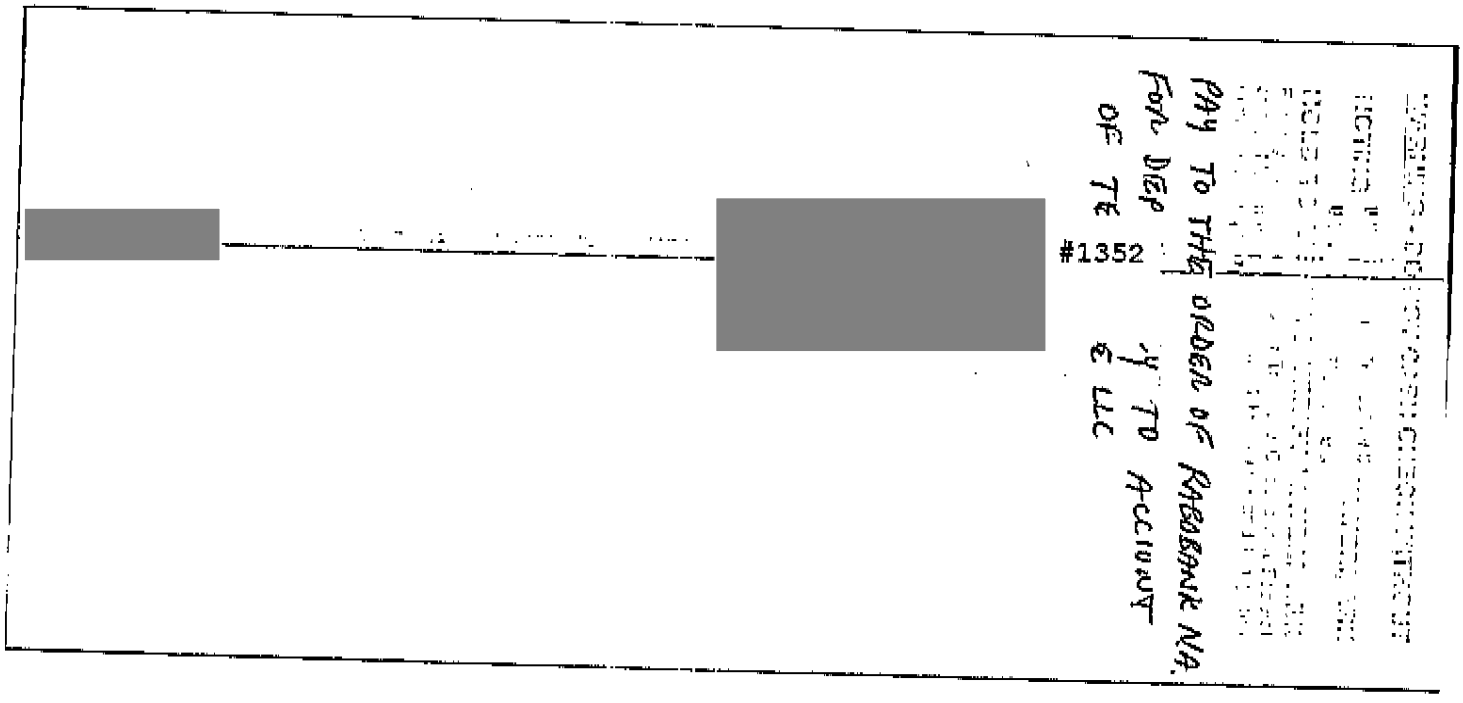
$15532440*39
VOID AFTER ONE YEAR

TELE OGDEN 12/2013 F-1120 REF 02
55,316.03 INT 087 DAYS

007

⑈4036⑈ [redacted]

Exhibit
E



[redacted] [redacted]

#1352

Pay To The Order Of Rabobank N.A.
For Dep't To Account Of TelexFree LLC

Electronic Endorsements	Type	RT	Date	ISN	Truncated
	Subsequent	[redacted]	20170106	[redacted]	N
	Subsequent		20170106		N
	BOFD		20170105		Y