Docket #0125 Date Filed: 6/15/2022

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In re: TELEXFREE, LLC, TELEXFREE, INC. and TELEXFREE FINANCIAL, INC., Reorganized Debtors.	Chapter 11 Cases 14-40987-EDK 14-40988-EDK 14-40989-EDK Substantively Consolidated
STEPHEN B. DARR AS HE IS THE TRUSTEE OF THE CHAPTER 11 ESTATES OF EACH OF THE DEBTORS, Plaintiff, v. CARLOS WANZELER, et al., Defendants.	Adversary Proceeding No. 16-04032

MOTION BY PLAINTIFF FOR ENTRY OF DEFAULT JUDGMENT (RENATO ALVES)

The Plaintiff Stephen Darr, Liquidating Trustee ("Trustee") of the substantively consolidated debtors TelexFree LLC, TelexFree Inc., and TelexFree Financial Inc. (collectively, "TelexFree" or the "Debtors") moves pursuant to Federal Rule of Civil Procedure 55(b)(2), as incorporated by Federal Rules of Bankruptcy Procedure ("FRBP") 7055, for entry of default judgment against Defendant Renato Alves in the principal amount of $1,704,652.60 plus interest from the date of entry of judgment at the federal judgment rate until satisfied. The Trustee submits the attached Affidavit in support of the motion. The Trustee further states as follows:

1. The Trustee was appointed Chapter 11 Trustee of TelexFree on or about June 6, 2014.

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2. The Trustee commenced this adversary proceeding by filing a Complaint on April 1, 2016.

3. The First Amended Liquidating Plan of Reorganization of Stephen B. Darr, Chapter 11 Trustee of TelexFree ("Plan") was confirmed on July 9, 2020. The Plan became effective on July 14, 2020. The Trustee was appointed Liquidating Trustee under the Plan.

4. Renato Alves was served with the Complaint on September 26, 2016 [docket no. 53].

5. On August 14, 2018, the Court entered default against Renato Alves for failure to answer or respond [docket no. 64]. The Trustee served the notice of default upon Renato Alves on August 21, 2018 [docket no. 67].

6. The Trustee now requests that judgment enter by default against Renato Alves on Count XI in the amount of $1,704,652.60. In further support of the motion, the Trustee has submitted the Affidavit of Stephen Darr attesting to the amount owed by Renato Alves, attached as Exhibit A hereto.

7. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), incorporated by FRBP 7041, the Trustee requests that the remaining counts of the Complaint be dismissed, only as to Renato Alves.

8. Renato Alves is not an infant or incompetent person or in the military service of the United States.

WHEREFORE, the Plaintiff respectfully requests that the Court:

1. Enter judgment by default, substantially in the form attached hereto as Exhibit B, as a final judgment in this adversary proceeding on Count XI against the Defendant Renato Alves;
2. Dismiss all counts of the Complaint other than Count XI solely as to Renato Alves;

and

3. Grant to the Plaintiff such other and further relief as this Court deems just and proper in the circumstances.

STEPHEN B. DARR,
CHAPTER 11 TRUSTEE
By counsel,

/s/ Andrew G. Lizotte
Andrew G. Lizotte (BBO #559609)
MURPHY & KING, Professional Corporation
28 State Street, Suite 3101
Boston, MA 02109
Tel: (617) 423-0400
Fax: (617) 556-8985
alizotte@murphyking.com

Dated: June 15, 2022
810311

CERTIFICATE OF SERVICE

I, Andrew G. Lizotte, hereby certify that on June 15, 2022, I sent a copy of the foregoing document electronically through the Court's ECF System upon the registered participants as identified on the Notice of Electronic Filing and by first class mail as follows:

Renato Alves
Avenida cassiano recardo
Sao jose dos Campos, 12246-870 Brazil

Renato Alves
Av Cassiano Ricardo, n 101 ap. 113B
Parque Residential Aquarius
12246-260 Sao Jose dos Campos/SP

/s/ Andrew G. Lizotte
Andrew G. Lizotte

Dated: June 15, 2022

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EXHIBIT A

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In re: TELEXFREE, LLC, TELEXFREE, INC. and TELEXFREE FINANCIAL, INC., Reorganized Debtors.	Chapter 11 Cases 14-40987-EDK 14-40988-EDK 14-40989-EDK Substantively Consolidated
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AFFIDAVIT OF STEPHEN B. DARR IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT AS TO RENATO ALVES

I, Stephen B. Darr, being duly sworn, depose and state that:

1. I am the Liquidating Trustee for the substantively consolidated debtors TelexFree LLC, TelexFree Inc., and TelexFree Financial Inc. (collectively, "TelexFree") under the First Amended Liquidating Plan of Reorganization that was confirmed on July 9, 2020 and became effective on July 14, 2020.

2. I am making this affidavit based upon my personal knowledge and the business records of TelexFree.

3. Renato Alves was a participant in the TelexFree program.

4. The TelexFree business records reflect that TelexFree issued $16,074,650.60 in manual credits to Defendant Renato Alves, that is, credits that were not generated from the participant's advertisement of TelexFree or from the recruitment of other TelexFree participants. The TelexFree business records do not provide any evidence that Renato Alves paid TelexFree for the issuance of such manual credits.

5. As a result of Renato Alves' participation in the TelexFree program, including the receipt of the manual credits, Renato Alves benefitted by not less than $1,704,652.60. Renato Alves is indebted to the TelexFree estates in such amount.

Attested to this 15th day of June, 2022.

/s/ Stephen B. Darr
Stephen B. Darr
Liquidating Trustee

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In re: TELEXFREE, LLC, TELEXFREE, INC. and TELEXFREE FINANCIAL, INC., Reorganized Debtors.	Chapter 11 Cases 14-40987-EDK 14-40988-EDK 14-40989-EDK Substantively Consolidated
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DEFAULT JUDGMENT

Upon consideration of the *Plaintiff's Motion for Entry of Default Judgment against Renato Alves* (the "Motion"), Renato Alves having failed to plead or otherwise defend in this action and default having been entered against Renato Alves, and due cause appearing to me therefore, and due notice of the Motion having been provided, it is hereby ORDERED and ADJUDGED as follows:

1. The Motion is granted.

2. The Plaintiff Trustee has demonstrated that Defendant Renato Alves owes Plaintiff the sum of $1,704,652.60, and that Defendant Renato Alves is not an infant or incompetent person or in the military service of the United States.

3. Final Judgment shall be and hereby is entered on this date in favor of Plaintiff Stephen Darr, the Liquidating Trustee of TelexFree, against the Defendant Renato Alves on Count XI in the amount of $1,704,652.60 plus interest from the date hereunder at the federal judgment rate until the Judgment has been satisfied.

Dated: _____, 2022

_____
Honorable Elizabeth D. Katz
United States Bankruptcy Judge