Docket #0658 Date Filed: 5/15/2024

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, TRUSTEE OF THE ESTATES OF TELEXFREE, LLC, TELEXFREE, INC. and TELEXFREE FINANCIAL, INC., Plaintiff, v. FRANZ BALAN, A REPRESENTATIVE OF A CLASS OF DEFENDANT NET WINNERS, Defendants.	Adversary Proceeding No. 16-4006
STEPHEN B. DARR AS TRUSTEE OF THE ESTATES OF TELEXFREE, LLC, TELEXFREE, INC. and TELEXFREE FINANCIAL, INC., Plaintiff, v. MARCO PUZZARINI AND SANDRO PAULO FREITAS, REPRESENTATIVES OF A CLASS OF DEFENDANT NET WINNERS, Defendants.	Adversary Proceeding No. 16-4007

JOINT PRETRIAL MEMORANDUM

Stephen B. Darr, the Liquidating Trustee ("Trustee") under the confirmed plan of reorganization of TelexFree LLC, TelexFree Inc., and TelexFree Financial Inc. (collectively, "TelexFree" or the "Debtor"), and Franz Balan, Marco Puzzarini, and Sandro Paulo, as

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representatives ("Class Representatives") of the Defendants Classes, respectfully submit their joint pretrial statement.

Attempts to Resolve the Dispute by Mediation

The parties have been engaging in good faith settlement negotiations and are continuing to do so.

Stipulated Facts

1. TelexFree purported to be a multi-level marketing company selling voice over internet protocol ("VOIP") subscriptions, which could be used to make international telephone calls over the internet. In reality, TelexFree perpetrated a Ponzi and pyramid scheme.

2. On October 7, 2015, the Trustee filed a *Motion by Chapter 11 Trustee for Entry of Order Finding that Debtors Engaged in Ponzi and Pyramid Scheme and Related Relief* (the "Ponzi Motion") [docket entry 623].

3. On November 22, 2015, the Court, after notice and hearing, entered an Order, as amended on December 21, 2015, approving the Ponzi Motion and finding that:

> Each of the Debtors in these jointly administered cases operated a Ponzi and pyramid scheme. This ruling is the law of the case in each of these jointly administered cases. [Docket entries no. 654, 668].

4. The Ponzi Motion also sought a determination that claims of participants in the TelexFree operation ("Participants") be calculated and allowed based upon a Net Equity determination, that is, the difference between amounts that a Participant invested into the scheme and amounts that the Participant received. On January 26, 2016, the Bankruptcy Court entered a supplemental order respecting the Ponzi Motion [docket entry no. 687]. The supplemental order provided that:

> The claims amounts of Participants shall be determined on a Net Equity basis, which shall be defined as follows: the amount invested by the Participant into the Debtors' scheme, including amounts paid pursuant to Triangular Transactions, less amounts received by the Participants from the Debtors' scheme, including amounts received pursuant to Triangular Transactions
> ("Net Equity").

5. Members, or Participants, earned credits by several methods, including selling VOIP plans, publishing internet advertisements for TelexFree, and recruiting other Participants into the plan.

6. Credits could be redeemed for cash, used to purchase additional memberships for that Participant or another Participant, or transferred to other Participants.

7. Each time that a Participant purchased a VOIP plan or a membership plan, a user account was created ("User Account"). It was common for an individual Participant to have numerous User Accounts ("User Account Cluster").

8. The TelexFree database did not have a mechanism to link User Accounts attributable to a single Participant into a User Account Cluster.

9. In order to establish each Participant's Net Equity, the Trustee established a process for aggregating User Accounts for each Participant.

10. Each time that a User Account was opened, a unique representative identification number or "Rep ID" was assigned. The Rep IDs were issued in ascending numerical order. Consequently, the lowest Rep ID number within a User Account Cluster ("Lowest Rep ID") would represent the first User Account opened in such cluster.

11. A Participant could open a User Account in one of two ways. The first method involved the Participant making a payment directly to TelexFree to purchase a User Account. A Participant could also redeem credits for cash directly from TelexFree. The foregoing transactions are referred to collectively as "Direct Transactions."

12. Alternatively, a Participant could acquire a membership plan through what is referred to as a "Triangular Transaction."

13. In a Triangular Transaction, a recruiting Participant would redeem their accumulated credits in satisfaction of the purchase price of a membership plan for the recruited Participant. TelexFree would then issue the membership plan to the recruited Participant. The recruited Participant did not pay cash to TelexFree in a Triangular Transaction.

14. Participants engaged in a third type of transaction, referred to as "Credit Transfers," which did not involve the purchase or sale of a TelexFree membership plan.

15. In a Credit Transfer, one Participant would transfer some of their accumulated credits to another Participant. TelexFree charged a Participant three (3) credits in order to implement the Credit Transfer on the TelexFree books and records.

16. The Trustee used the transactional data for the User Account Clusters to compute the alleged Net Winnings or Net Losses for a Participant.

17. TelexFree utilized a database referred to as SIG to track Participant activity. The Participants' activity recorded by SIG included the acquisition and use of credits, Credit Transfers, the acquisition of membership plans through Direct Transactions and Triangular Transactions, and the identification of counterparties to each Triangular Transaction and Credit Transfer.

18. Dr. Cameron Freer and Borelian Corporation ("Borelian"), on behalf of the Trustee, prepared a Report opining as to the appropriate methodology for the aggregation of User Account Clusters.

19. On July 21, 2023, the Class Defendants filed a *Motion to Exclude Testimony of Dr. Cameron E. Freer as Inadmissible under Daubert* ("Daubert Motion") [docket no. 442 in A.P. 16-4006].

20. The Court held an evidentiary hearing on the Daubert Motion on October 10, 2023, October 11, 2023, and October 30, 2023.

21. On October 30, 2023, the Court entered an order denying the Daubert Motion, finding that "Dr. Freer's testimony meets the standard of Fed. R. Evid. 702" [docket no. 497 in A.P. 16-4006].

22. Dr. Freer's testimony concerns a methodology for aggregating User Account Clusters from which Net Winners can be calculated.

Facts to be Litigated

Whether the Lowest Rep ID is an appropriate mechanism to establish the identity of a Participant who is the owner of a User Account Cluster.

Whether the SIG data used by Borelian has sufficient integrity and reliability.[1]

Whether the assumptions made by the Trustee in computing the alleged amount of the Net Winnings, including any assumptions concerning the inclusion or exclusion of transfers of credits between Participants in the computation of Net Winnings and any assumptions made with

[1] The Trustee objects to Defendants' attempt to re-litigate the issue of SIG reliability as follows. Both experts testified extensively on SIG reliability issues (Freer Methodology – Step 1). The Court accepted Dr. Freer's report into evidence over the Defendants' FRE 702 objection. Because the Court has already determined that Dr. Freer's opinion testimony is based on "sufficient facts or data" (FRE 702(b)), SIG data reliability has necessarily been resolved in the Trustee's favor, and is now law of the case.

respect to the treatment of Triangular Transactions in the computation of alleged Net Winnings, are reasonable.

Whether Net Winner Defendants may be presumed to have received payment from a recruited Participant, while serving as a recruiting Participant in a Triangular Transaction, in an amount equal to the price of the membership plan purchased by the recruited Participant.

If the Credit Transfers are determined to constitute a component of Net Winnings, whether the Participant transferring credits may be presumed to have received payment from the transferee Participant in an amount equal to the credits purchased, on the basis of $1 being equal to 1 credit.

Issues of Law to be Determined

Whether Credit Transfers are properly considered to be a component of Net Winnings for each Net Winner Defendant.

Brief Summary of the Plaintiff's Case

I. Use of Lowest Rep ID

The use of the Lowest Rep ID by the Trustee to determine the ownership of a User Account Cluster is reasonable and supported by the data. Jean Sorondo of Huron compiled the information from the User Account Clusters established by Borelian into an Excel spreadsheet, demonstrating that the name associated with the Lowest Rep ID in a User Account Cluster had a high correlations with the most frequently appearing name in that cluster. When each User Account Cluster was sorted from Lowest Rep ID to the highest Rep ID, in approximately eighty percent (80%) of cases, the name in a User Account Cluster associated with the Lowest Rep ID was an identical match to the most frequently appearing name in that User Account Cluster. The percentage match between the name for the Lowest Rep ID and the most frequently

appearing name in a cluster increased to approximately eighty-nine percent (89%), when the names were compared by taking all characters in the first name before a blank space appeared at the end, and all characters in the last name before a space appeared at the beginning.

The majority of the remaining eleven percent (11%) of User Account Clusters, while not identical, in most instances reflected a close match between the Lowest Rep ID name and the most frequently appearing name.

The Trustee concluded based upon this information that the use of the Lowest Rep ID to identify the owner of a User Account Cluster was reasonable.

II. Treatment of Triangular Transactions

The Trustee's presumption that cash was paid by a recruited Participant to a recruiting Participant in a Triangular Transaction in determining Net Winnings was reasonable.

As earlier discussed, the credits were a form of currency in the TelexFree Ponzi scheme. The credits could be, and were often, redeemed with TelexFree for par (one dollar for one credit). It would therefore logically follow that if a recruiting participant were to use 1,000 credits to open a User Account for a recruited participant, that the recruiting participant would expect to receive $1,000. As acknowledged in the *Supplemental Rebuttal Expert Report of Joshua W. Dennis*, the proposed expert for the Defendant Class Representatives:

> 174. It defies economic logic that one Participant would simply give Credits to another Participant without financial consideration in return (particularly in these large sums) given that Credits could be converted into cash through Direct Receipts or, much more frequently, Triangular Transactions.

The Trustee expects to introduce testimony of Participants of having made payments to recruiting Participants in a Triangular Transaction equal to the cost of the membership plan purchased. The Trustee further expects to introduce evidence from proofs of claim filed

whereby Participants attested under oath that they paid the membership invoices to a recruiting Participant when the claimant engaged in Triangular Transactions.

While there may have been circumstances where recruiting participants in a Triangular Transaction redeemed their credits for less than par, or as a gift, which the Trustee has accounted for, there is sufficient evidence to establish a pervasive course of conduct whereby the recruited Participant paid cash to the recruiting Participant in an amount equal to the membership plan purchased, and that the recruiting Participant redeemed credits in a like amount to satisfy the membership invoice.

Based upon the Trustee's submissions, it is reasonable to conclude that the Trustee has met his burden of establishing his *prime facie* case that cash was exchanged when membership plans were purchased through a Triangular Transaction in an amount equal to the credits redeemed in such transaction.

To the extent that Net Winners failed to document their Triangular Transactions, the Class Representatives seek to hold the Trustee responsible for the lack of recordkeeping to establish their Net Losses or Net Winnings:

> Moreover, individual Participants likely do not have comprehensive receipts or records to prove just how much money they put into or received from the Telexfree system. Many transactions were done using cash, and Participants usually did not keep detailed records.
> Summary Judgment Motion, at p. 23

The class defendants should not be able to escape liability to the Trustee based upon a failure to maintain adequate books and records. See *Kawasaki Kisen Kaisha, Ltd. v. Plano Molding Company*, 782 F.3d 353, 362 (7th Cir. 2015), and cases cited therein. This is particularly so in the present case, where the order certifying the Defendant Classes instructed class counsel

to provide notice to all Class Defendants of the need to preserve evidence with respect to their activity with TelexFree.

Finally, because the monies paid through Triangular Transactions were included in the computation of the claims of Net Losers, fairness dictates that the estate should have a countervailing claim against Net Winners for amounts received through Triangular Transactions. Otherwise, the estate's pool of allowed claims would have been artificially inflated, and the Net Losers would be deprived of the right to participate in recoveries from the Net Winners. Because the First Circuit Court of Appeals has determined that monies paid pursuant to a Triangular Transaction constitutes property of the estate, if the Trustee is unable to pursue such claims, the victims will be left without recourse.

III. Exclusion of Credit Transfers

The Trustee's exclusion of payments by and between Participants in Credit Transfer in determining Net Winnings was reasonable.

The Net Equity formula does not contemplate the inclusion of monies paid or received in Credit Transfers. Such inclusion would be legally unsupportable, inconsistent with the computation of the claims of Net Losers, and would impair the rights of individual Participants to pursue their direct claims against other Participants.

The Trustee has always distinguished Credit Transfers from Triangular Transactions, and with good reason. As referenced above, the Trustee commenced the Dos Santos Litigation to resolve the competing rights of the bankruptcy estate and the PIEC to pursue claims arising from monies paid in Triangular Transactions. The First Circuit Court of Appeals concluded that TelexFree had a property interest in the funds paid pursuant to Triangular Transactions, and that the Trustee was the proper party to pursue such claims. *Darr v. Dos Santos (In re TelexFree,*

LLC), 941 F.3d 576 (1st Cir. 2019). The Credit Transfers are different in substance from the Triangular Transactions. In a Credit Transfer, no invoice was issued by TelexFree. No membership plan was provided by TelexFree and no membership fee was due to TelexFree. The transaction was strictly a purchase, sale, and transfer or credits between two private participants, in which TelexFree had no economic stake, other than a nominal $3 administrative charge. TelexFree had no right to receive, and no obligation to pay, funds in a Credit Transfer.

The Net Equity formula approved by the Court distinguishes between Triangular Transactions and Credit Transfers because they are different in-kind. The Net Equity formula expressly references and includes monies paid or received pursuant to Triangular Transactions but no such reference is made to Credit Transfers. The maxim *expressio unius est exclusio alterius* mandates that when parties identify specific items in a document, any items not so listed are appropriately excluded. *Lohnes v. Level 3 Communs., Inc.*, 272 F.3d 49, 61 (1st Cir. 2001).

The exclusion of amounts paid or received in Credit Transfers, was followed by the Trustee in computing the Net Losses of individual participants in the claims resolution process. The continued implementation of this formula in the computation of Net Winnings would be consistent with, and complementary to, the process already employed in the claims resolution process.

Inclusion of the Credit Transfers in computing Net Winners and Net Losers would also be inconsistent with established Ponzi scheme case law and the individual rights of participants to pursue their own direct, as opposed to derivative, claims.

IV. Expert Testimony

The Trustee does not need the services of an expert witness to establish a basis for determining ownership of a User Account Cluster, nor to calculate Net Winnings. Lay witness testimony is sufficient for these purposes.

The Trustee determined to use the Lowest Rep ID to identify ownership of a User Account Cluster based upon the summary of the User Account data prepared by Jean Sorondo of Huron. Mr. Sorondo, by inputting data into Excel spreadsheets, was able to establish a high correlation between the name associated with the Lowest Rep ID and the most prevalent name in a User Account Cluster. The Trustee used this information to form opinions based upon his perception to assist in determining a fact in issue, without recourse to scientific, technical or specialized knowledge.

The Trustee determined how to compute Net Equity in accordance with the order of the Court, based upon a review of the TelexFree data and his understanding of the TelexFree Ponzi scheme. The efforts of Huron in this regard were limited to: (i) determining the fields of data in the TelexFree database that were needed to compute monies paid and received in Direct Transactions and monies presumed to be paid and received in Triangular Transactions; and (ii) performing the mathematical calculation of Net Equity based upon the amounts in the aforementioned data fields. The Trustee consulted with counsel in concluding that, as a matter of law, Credit Transfers should be excluded from the computation of Net Equity.

The Class Representatives' assertion that an expert is required to testify as to the inclusion of Triangular Transactions in the computation of Net Equity and the exclusion of Credit Transfers in the computation of Net Equity is wrong.

The Trustee has administered the case, including the resolution of claims, distribution of funds, and computation of Net Winnings, based upon the presumption that a recruited participant paid cash to a recruiting participant, on a dollar for dollar basis, when purchasing a membership plan through a Triangular Transaction. This presumption was based upon the Trustee's initial interviews with employees of, and Participants in, TelexFree and upon discussions with the Department of Homeland Security.

In February and March 2023, the Trustee conducted depositions of numerous Participants to inquire further as to the mechanics of the Triangular Transactions. In numerous instances, the Participants confirmed that it was customary for a recruited Participant to pay cash to a recruiting participant when acquiring a membership plan through a Triangular Transaction in an amount equal to the cost of such membership plan.

Brief Summary of the Defendants' Case

A. Data Unreliability

The Trustee does not intend to call ***any*** fact witnesses who can testify as to the reliability of the SIG data used to compute alleged Net Winnings or authenticate the date. The only witness whose testimony the Trustee intends to use on this issue is John Soares, an agent in the Department of Homeland Security, who seized the data ***after*** TelexFree ceased operations. Mr. Soares has no personal knowledge as to the reliability of the SIG data, and thus he lacks competence to testify on this issue. To the extent he has any relevant knowledge about the inner workings of the SIG database, it is second-hand information gleaned through interviews and thus hearsay. The Trustee's other witnesses similarly lack personal knowledge as to the reliability or completeness of the SIG data. Accordingly, whether there were intrinsic flaws in the data or there was any after-the-fact tampering or alteration of the data prior to the involvement of the

federal government cannot be established by any fact witness whom the Trustee intends to call. For these reasons, the Trustee fails in his predicate of using the SIG data for the truth of the matter.

B. The Flawed Net Equity Calculations

In calculating "Net Equity," the Trustee is required to consider: (a) "the amount invested" by a Participant in TelexFree (b) "less amounts received" by a Participant (c) "from the TelexFree scheme." It is clear in this case, as in all other Ponzi scheme cases in general, that the sole barometer of "amounts" invested or received is actual cash. Any reliance on the fictional and fraudulent credits to establish Net Equity "would be carrying the fiction to a fantastic conclusion." *S.E.C. v. Credit Bancorp, Ltd.*, No. 99 CIV. 11395 RWS, 2000 WL 1752979, at *40 (S.D.N.Y. Nov. 29, 2000), *aff'd*, 290 F.3d 80 (2d Cir. 2002), quoting *Cunningham v. Brown*, 265 U.S. 1, 13 (1924); *Teletronics, Ltd. v. Kemp*, 649 F.2d 1237, 1241 (7th Cir.1981). Additionally, the Trustee must consider all cash that changed hands as part of the scheme, not some of the transactions, while ignoring others.

The Trustee fails to meet his burden. First, the Trustee presents no evidence or testimony reflecting how much cash each Participant invested nor how much cash each Participant received. The Trustee's two primary witnesses (Jean-Louis Sorondo and Stephen Darr) ***both lack personal knowledge*** to testify as lay witnesses to the net amounts of cash that any Participant received. Neither of them ever observed a single cash transaction, nor has any personal knowledge of the practices or cash collections of even one of the 80,000, alleged Net Winners. Given that the Trustee has no experts to offer who can analyze the SIG data, any second-hand analysis of non-experts conducted for the purposes of litigation is inadmissible. The testimony of Mr. Sorondo and Mr. Darr in particular are based on "understandings" that they obtained via

unattributed hearsay as part of this litigation or in anticipation of it. Mr. Sorondo's entire testimony arises not from some ground level knowledge of TelexFree but rather from his enlistment as an expert in this litigation to fill a gap in Dr. Freer's analysis related to Net Equity and Participant identity. S*ee MSP Recovery Claims, Series LLC v. Plymouth Rock Assurance Corp., Inc.*, No. 18-CV-11702-ADB, 2023 WL 2633907, at *2 (D. Mass. Mar. 24, 2023), citing *Downey v. Bob's Disc. Furniture Holdings, Inc.*, 633 F.3d 1, 6 (1st Cir. 2011). All of Mr. Sorondo's knowledge in this case derives from tests, analysis, and conclusions all "at the request of Counsel." Sorondo Aff. ¶ 3. All of Mr. Sorondo's knowledge was acquired from the Trustee's involvement in litigation, not apart from it. Sorondo Aff. ¶ 2. Mr. Darr similarly relies on hearsay, referring to undocumented "discussions" with Homeland Security and an affidavit from a federal agent as key sources of his knowledge of the TelexFree scheme.

The best the Trustee can do is show that some Participants exchanged cash directly with TelexFree, but the Trustee concedes that these transactions account for only 12% of the overall Net Equity alleged.[2] In reality, the Trustee avoids relying on cash transactions because total liability based on direct transactions is minimal. Thus, the Trustee is forced to speculate as to what amounts of cash changed hands in unrecorded fashion to provide the eye-popping liability numbers in this case. While the SIG data may inferentially suggest that a Participant may have used a specific amount of credits to pay invoices in so-called Triangular Transactions, there is unrebutted testimony that often the amount of credits translated into less cash or even no cash. Franz Balan, for example, will testify about collection problems and the reality that promotors were increasingly competing for a relatively smaller pool of new recruits who lacked the funds to pay the face amount of membership plans. These realities caused promotors in practice to receive

[2] Motion for Entry of Order that Debtors Engaged in Ponzi Scheme at 10.

much smaller amounts than suggested by the SIG data. Indeed, Benjamin Argueta, who allegedly received more than $4 million, will testify without rebuttal that he derived no appreciable profits participating in TelexFree.

Second, the Trustee fails to account for all cash transactions relating to the TelexFree scheme. Specifically, the Trustee is seeking approval of the Court to ignore instances where a Participant gave cash to another Participant not as a Triangular Transaction but to purchase credits for purposes such as setting up additional User Accounts or performing subsequent Triangular Transactions. In both instances, a Participant is investing actual cash into the TelexFree scheme. Yet, the Trustee treats these situations inconsistently by including one type of inter-participant transfer (Triangular Transactions) in Net Equity but ignoring the other (Credit Transfers). It makes no economic or logical sense that Participants would demand precise amounts of cash in one form of transaction but give away credits for free in another. The exclusion of Credit Transfers is hugely impactful, artificially inflating the alleged Net Equity of Class Defendants by approximately $600 million. Once again, the unrebutted testimony of Participants is that they did not obtain credits for free. Franz Balan, in particular, will testify that Participants could not earn credits fast enough to have sufficient reserves to pay invoices to engage in Triangular Transactions. Thus, to "monetize" credits to recruit a large number of Participants, promoters had to "buy" credits. These cash purchases had the overall effect of dramatically lowering Net Equity. The Trustee's effort to ignore credit purchases is thus an example of overreach intended to grossly inflate liability.

In sum, neither Mr. Sorondo nor Mr. Darr possess any "personal knowledge acquired before any litigation had begun." *Gomez v. Rivera Rodriguez*, 344 F.3d 103, 112–13 (1st Cir. 2003) (citing Fed. R. Civ. P. 26(a)(2)(B)). Rather, they base their "understandings" solely on

hearsay, speculation, and the instructions provided by counsel as to which types of transactions to include and which transactions to ignore.

Name, Address, and Number of Each Witness

Plaintiff:

Witness	**Contact Information**
John S. Soares	Senior Special Agent | National Program Manager Homeland Security Investigations c/o Lincoln S. Jalelian Assistant Chief Counsel / Embedded Attorney Homeland Security Investigations, New England U.S. Department of Homeland Security Thomas P. O'Neill, Jr. Federal Building 10 Causeway Street Boston, MA 02222
Manuel Fernando Lemus	President UFCW LOCAL 1445 30 Stergis Way Dedham, MA 02026 617-201-9033
Jean-Louis Sorondo	Financial Advisory Sr. Director Huron Consulting Group Inc. c/o Murphy & King PC 28 State Street, Suite 3101 Boston, MA 02109 617-423-0400
Stephen Darr	Trustee of the Estates of Telexfree c/o Murphy & King PC 28 State Street, Suite 3101 Boston, MA 02109 617-423-0400
Benjamin Argueta	c/o Wendy Mead, Esq. Wendy M. Mead, PC 11 Pleasant Street, Ste 130 Worcester, MA 01609 508-751-0200

Witness	**Contact Information**
Ana Rosario Ramos Cordon	c/o Wendy Mead, Esq. Wendy M. Mead, PC 11 Pleasant Street, Ste 130 Worcester, MA 01609 508-751-0200
Amilcar Lopez Garcia	94 Broadway St. Somerville, MA 02145 617-777-6781
Bruno Graziani	80 Lilac Circle Marlborough, MA 01915 978-235-2365

Defendant:

Witness	**Contact Information**
Frantz Balan	Class Representative c/o Ilyas J. Rona, Esq. Milligan Rona Duran & King LLC 28 State Street, Suite 802 Boston, Massachusetts 02109 (617) 395-9570
Joshua Dennis	Expert Witness c/o Ilyas J. Rona, Esq. Milligan Rona Duran & King LLC 28 State Street, Suite 802 Boston, Massachusetts 02109 (617) 395-9570
Rosmery Torrico	30 Nobscot Road, Unit 20 Sudbury, MA 01776
Benjamin Argueta	c/o Wendy Mead, Esq. Wendy M. Mead, PC 11 Pleasant Street, Ste 130 Worcester, MA 01609 508-751-0200
Sandro Paul Freitas	Class Representative c/o Ilyas J. Rona, Esq. Milligan Rona Duran & King LLC 28 State Street, Suite 802 Boston, Massachusetts 02109 (617) 395-9570

Witness	**Contact Information**
Marco Puzzarini	Class Representative c/o Ilyas J. Rona, Esq. Milligan Rona Duran & King LLC 28 State Street, Suite 802 Boston, Massachusetts 02109 (617) 395-9570
Flavio Boffetti	*Address unknown*

Witnesses to be Presented by Deposition

Plaintiff:

i. Ingrid Laplanche: February 15, 2023
ii. Ivan Alvarenga: February 15, 2023
iii. Rudeidamia Calcano: February 15, 2023
iv. Arismendy Alexandry Disla: February 21, 2023
v. Martiza Elizabeth Garcia: February 21, 2023
vi. Selvi Vanessa Lewis Reynaga: February 22, 2023
vii. Andre Trajano De Costa Silveira: February 23, 2023
viii. Suellen Schmidt: February 24, 2023
ix. Bruno Graziani: March 16, 2023 (if unavailable to testify)

Defendant:

i. Rosmery Torrico, January 19, 2023
ii. Benjamin Argueta, March 16, 2023
iii. Ella Maria Reid, February 22, 2023
iv. Arismendy Alexandry Disla, February 21, 2023
v. Selvi Vanessa Lewis Reynaga, February 23, 2023
vi. Amilcar Frederico Lopez Garcia, March 16, 2023
vii. Jean Louis Sorondo, December 7, 2023
viii. Stephen Darr, December 20, 2023

List of Exhibits

Plaintiff:

Previously admitted exhibits which will be offered if the need arises:

Ex. No.	**Description**
P-001	April 29, 2022 Expert Report of Dr. Cameron E. Freer, including exhibits
P-001.1	USB drive containing Freer Report Exhibit 6, aggregation_output.csv, and Freer Report Exhibit 7, aggregation_summary.csv
P-001.2	Excerpts from Freer Exhibit 6, aggregation_output.csv
P-002	May 22, 2023 Reply Report of Dr. Cameron E. Freer, including exhibits
P-003	CV of Dr. Cameron Freer
P-004	USB drive containing Account Table (*representante*)
P-005	Field Description Table (*10ksample.xlsx*), the "reference" tab
P-006	USB drive containing Summary Table (*rep_id_summary*)
P-007	Borelian Aggregation Methodology code execution instructions
P-008	A. Ferrante and J. Boyd. A transparent and transportable methodology for evaluating Data Linkage software. *Journal of Biomedical Informatics* 45, no. 1: 165-172, 2012.
P-009	Charpentier, Bertrand. Multi-scale clustering in graphs using modularity. Master's thesis, KTH, 2019
P-010	Christen, P. (2011). A survey of indexing techniques for scalable record linkage and deduplication. IEEE Transactions on Knowledge and Data Engineering, 24(9), 1537-1555
P-011	D. Cai, N. Ackerman, and C. Freer. Priors on exchangeable directed graphs, Electronic Journal of Statistics, 10, no. 2, 3490–3515, 2016.
P-012	Enamorado, T., Fifield, B., and Imai, K. (2019). Using a probabilistic model to assist merging of large-scale administrative records. *American Political Science Review*, 113(2), 353-371
P-013	F. Saad, N. Ackerman, C. Freer, and V. Mansinghka. A family of exact goodness-of-fit tests for high-dimensional discrete distributions, Proceedings of the 22nd International Conference on Artificial Intelligence and Statistics, PMLR 89, 1640–1649, 2019.
P-014	Fellegi, I. P. and Sunter, A. B. (1969). A theory for record linkage. Journal of the American Statistical Association, 64(328), 1183-1210.
P-015	N. Ackerman, C. Freer, and D. Roy. On the computability of conditional probability, Journal of the ACM 66, no. 3, 23:1–23:40, 2019.
P-016	Olivier Binette and Rebecca C. Steorts, (Almost) All of Entity Resolution, arXiv:2008.04443,2022

Ex. No.	**Description**
P-017	P. Christen, *Data Matching*, Data-Centric Systems and Applications, Springer-Verlag, 2012.
P-018	P. Christen. Data linkage: The big picture. *Harvard Data Science Review*, 1(2), 2019.
P-019	R. Linacre, *Splink and the Open Source Dividend*, March 9, 2023. Retrieved from https://www.robinlinacre.com/open_source_dividend/
P-020	R. Linacre, *The Intuition Behind the Use of Expectation Maximisation to Train Record Linkage Models*, October 14, 2022. Retrieved from https://www.robinlinacre.com/em_intuition/
P-021	Tom Jackson, Caris Greyson, Ian Rickard and Andromachi Tseloni. Data First: Criminal Courts Linked Data. An exploratory analysis of returning defendants and the potential of linked criminal courts data from 2011 to 2019 in England and Wales. Ministry of Justice Analytical Series, UK Ministry of Justice, 2022.
P-022	William E. Winkler and Yves Thibaudeau. *An application of the Fellegi-Sunter model of record linkage to the 1990 US decennial census.* US Bureau of the Census, 1991
P-023	Winkler, W. E. Using the EM Algorithm for Weight Computation in the Fellegi-Sunter Model of Record Linkage, American Statistical Association, *Proceedings of the Section on Survey Research Methods,* 667-671 (1988)
P-024	Y. Zhu, Y. Matsuyama, Y. Ohashi, and S. Setoguchi. When to conduct probabilistic linkage vs. deterministic linkage? A simulation study. Journal of Biomedical Informatics 56 (2015): (80-86).
P-025	"Portuguese name" (https://en.wikipedia.org/wiki/Portuguese_name)
P-026	“RFC 2822” (https://datatracker.ietf.org/doc/html/rfc2822)
P-027	DL1 INC. (001098948) on https://corp.sec.state.ma.us/CorpWeb/CorpSearch/CorpSummary.aspx?sysvalue=WhUPoood4i5N_.888WGoiFsKd7tj6NldVysifMSuXQA-
P-028	DLX FINANCIAL LLC (201036310329) on https://bizfileonline.sos.ca.gov/search/business
P-029	Qualtrics, Sample size calculator, April 12, 2023. Retrieved from https://www.qualtrics.com/blog/calculating-sample-size/
P-030	SHAL GROUP LLC (201134810007) on https://bizfileonline.sos.ca.gov/search/business
P-031	Supplemental Order Respecting Motion by Chapter 11 Trustee for Entry of Order Finding That Debtors Engaged in Ponzi and Pyramid Scheme and Related Relief [A.P. No. 14-40987, Doc. 687], January 26, 2016.
P-032	An Interactive Introduction to the Fellegi-Sunter Model for Data Linkage/Deduplication. Retrieved from https://www.robinlinacre.com/intro_to_probabilistic_linkage/

Ex. No.	Description
P-033	Freer Presentation, DM-001 - DM-064
P-034	O. Benjelloun, H. Garcia-Molina, D. Menestrina, Q. Su, S. E. Whang, J. Widom, *Swoosh, a Generic Approach To Entity Resolution,* The VLDB Journal, 2009.

Exhibits the Plaintiff expects to offer:

Ex. No.	Description
P-035	Affidavit of John S. Soares
P-036	Table joining of Freer customer ID field in the aggregation-summary table to the matching rep ID field in the source data table containing a list of 81,681 net winners, the non-public version of Exhibit A to the Sorondo Affidavit
P-037	A list comparing the most frequent names in each cluster to the lowest rep ID, Exhibit B to the Sorondo Affidavit
P-038	Summary of queries to the "back office" to reflect changes in credits as U.S. currency on a one-to-one basis, Exhibit C to the Sorondo Affidavit
P-039	TelexFree Demo Video
P-040	Borelian Clustered Account Details and Net Equity for Benjamin Argueta
P-041	Transaction Net Equity Summary for Benjamin Argueta
P-042	Third Party Transaction Partners for Benjamin Argueta
P-043	Net Equity Transaction Details for Benjamin Argueta
P-044	Credit Transaction Summary for Benjamin Argueta
P-045	Credit Transfer Partners for Benjamin Argueta
P-046	Credit Transfer Transaction Details for Benjamin Argueta
P-047	Argueta Exemplar Triangle Invoices, Exhibit 1 marked at the deposition of Benjamin Argueta on March 16, 2023
P-048	Argueta Tax Returns, Exhibit 2 marked at the deposition of Benjamin Argueta on March 16, 2023
P-049	Benjamin Argueta Banking Records: BARGUETA00001-0175, BARGUETA00180-0372
P-050	Borelian Clustered Account Details and Net Equity for Ana R Ramos
P-051	Transaction Net Equity Summary for Ana R Ramos
P-052	Third Party Transaction Partners for Ana R Ramos
P-053	Net Equity Transaction Details for Ana R Ramos
P-054	Credit Transaction Summary for Ana R Ramos
P-055	Credit Transfer Partners for Ana R Ramos
P-056	Credit Transfer Transaction Details for Ana R Ramos
P-057	Ramos Bank Statements, Exhibit 1 marked at the deposition of Ana Rosario Ramos Cordon on March 16, 2023

Ex. No.	**Description**
P-058	Credit Card Authorization Forms, Exhibit 2 marked at the deposition of Ana Rosario Ramos Cordon on March 16, 2023
P-059	Ana R Ramos 2012-2015 Tax Returns: ARAMOS00004-0029
P-060	Borelian Clustered Account Details and Net Equity for Amilcar Lopez
P-061	Transaction Net Equity Summary for Amilcar Lopez
P-062	Third Party Transaction Partners for Amilcar Lopez
P-063	Net Equity Transaction Details for Amilcar Lopez
P-064	Credit Transaction Summary for Amilcar Lopez
P-065	Credit Transfer Partners for Amilcar Lopez
P-066	Credit Transfer Transaction Details for Amilcar Lopez
P-067	Deposits, Exhibit 1 marked at the deposition of Amilcar Lopez Garcia on March 16, 2023
P-068	Triangle Transaction Graphic, Exhibit 2 marked at the deposition of Amilcar Lopez Garcia on March 16, 2023
P-069	Amilcar Lopez 2012-2015 Tax Returns: ALOPEZ00002-0021
P-070	Telex Information: ALOPEZ00022-0038
P-071	Borelian Clustered Account Details and Net Equity for Bruno Graziani
P-072	Transaction Net Equity Summary for Bruno Graziani
P-073	Third Party Transaction Partners for Bruno Graziani
P-074	Net Equity Transaction Details for Bruno Graziani
P-075	Credit Transaction Summary for Bruno Graziani
P-076	Credit Transfer Partners for Bruno Graziani
P-077	Credit Transfer Transaction Details for Bruno Graziani
P-078	Graziani Exemplar Invoices, Exhibit 1 marked at the deposition of Bruno Graziani on March 16, 2023
P-079	Bruno Graziani 2011-2015 Tax Returns: BGRAZIANI00004-0093
P-080	Profit and Loss Telexfree LLC (January-December 2012)
P-081	Profit and Loss Telexfree LLC (January-December 2013)
P-082	Triangle Transaction Graphics, Exhibit 1 marked at the deposition of Ivan Alvarenga on February 15, 2023
P-083	Selected Portions of the Supplemental Rebuttal Expert Report of Joshua W. Dennis
P-084	2013-10-15 Check - Helio Barbosa (exhibit provided to Defendants on May 15, 2024; Plaintiff presumes exhibit is subject to objection)

Defendant:

Ex. No.	**Exhibit Description**
D-001	Rebuttal Expert Report Joshua W. Dennis, and all exhibits to the report (July 31, 2020)
D-002	Supplemental Rebuttal Expert Report Joshua W. Dennis, and all exhibits to the report (April 14, 2023)
D-003	Affidavit of Frantz Balan dated July 30, 2020
D-004	Affidavit of Lusette Balan dated July 29, 2020
D-005	Affidavit of Ilyas J. Rona dated (ECF No. 443)
D-006	Stipulation Respecting the Amended Fee Arrangement for Defendants dated January 4, 2022
D-007	Email string Cameron Freer and Andrew Lizotte dated November 2-3, 2021 - BC002512-18
D-008	SIG account data for Rosmery Torrico
D-009	EPOC data for Rosmery Torrico
D-010	SIG account data for Ella Maria Reid
D-011	EPOC data for Ella Maria Reid
D-012	SIG account data for Benjamin Argueta
D-013	SIG account data Amilcar Lopez
D-014	Lopesa Services Advertisement appearing in La Planeta (4/12/2012)
D-015	"claim_statement" Table
D-016	Exhibit 1 to Freer Deposition - Curriculum Vitae of Cameron Freer
D-017	Exhibit 3 to Freer Deposition - E-mail Chain, Sorondo to Freer, 7/10/21
D-018	Exhibit 4 to Freer Deposition - E-mail Chain, Sorondo to·Freer, 7/18/21
D-019	Exhibit 5 to Freer Deposition - E-mail Chain, Sorondo to·Freer, 7/13/21
D-020	Exhibit 6 to Freer Deposition - E-mail Chain, Freer to·Sorondo, 7/13/21
D-021	Exhibit 7· to Freer Deposition - E-mail Chain, Sorondo to Freer, 7/14/21
D-022	Exhibit 8 to Freer Deposition - E-Mail Chain, Lizotte to Freer, 11/3/21
D-023	Exhibit 9 to Freer Deposition - E-mail Chain, Lizotte to Freer, 11/3/21
D-024	Transcript of Video Evidentiary Hearings: Determining the Admissibility and Presumptive Effect of the Aggregation Methodology in Determining Net Winners before The Honorable Melvin S. Hoffman, J.U.S.B.C. (Volume 1 - 11/23/2020)
D-025	Transcript of Video Evidentiary Hearings: Determining the Admissibility and Presumptive Effect of the Aggregation Methodology in Determining Net Winners before The Honorable Melvin S. Hoffman, J.U.S.B.C. (Volume 2- 11/24/2020)
D-026	Memorandum of Decision on Class Defendants'Motion to Exclude Expert Witness Testimony of Timothy Martin
D-027	Curriculum Vitae of Joshua W. Dennis
D-028	List of Documents Considered by Joshua W. Dennis
D-029	User Accounts and Participants by Entity and Type

Ex. No.	**Exhibit Description**
D-030	Summary of TelexFree Net Equity by Tier and Transaction Type
D-031	Summary of TelexFree User Accounts and Participants by Tier
D-032	Summary of TelexFree Top Net Losers Matched to Net Winners
D-033	Top 100 TelexFree Net Losers
D-034	Top 100 TelexFree Net Winners
D-035	Top Net Loser and Matched Net Winner User Account Detail
D-036	Frantz Balan & Lusette Balan User Account Detail
D-037	Alphabet User Account Detail
D-038	Billybob Arbonne User Account Detail
D-039	Lopes & Carreiro User Account Detail
D-040	Zaglia & Ragolia User Account Detail
D-041	Rejane & Paulo Marinho User Account Detail
D-042	Maria Neves User Account Detail
D-043	Sann Devaconcelos User Account Detail
D-044	Oscar Sosa User Account Detail
D-045	Claimed Account Aggregations
D-046	Example Credit Transfer Detail
D-047	Brandon Zagarella affidavit dated 10/25/2020
D-048	TelexFree Bankruptcy Petition
D-049	Exhibit A-1 to Notice of Proposed Resolution of Claim Amount of Claim Filed with Portal: Name of Creditor: Edivaldo Alves Reis Claim Number: 66876-000
D-050	SIG account data for Edivaldo Reis
D-051	EPOC data for Edivaldo Reis
D-052	Peter Christen, Data Matching (2012)
D-053	SIG account data for Dani Goes
D-054	American Greed TV Episode: “Billion Dollar Fraud Goes Viral” (excerpts)
D-055-D-085	Additional Dennis Exhibits
D-086	Dennis VOIP Chart.pdf
D-087	433_Balan New Scheduling Order 2.28.23.pdf
D-088	PROPAY0001079-80.pdf
D-089	Rosmery Torrico, 01-19-2023 full.pdf
D-090	TelexFREE Training - How To Register [LOIXSSyExTk].mp4
D-091	How To Sign Up A Customer In Telex ENGLISH [sMX0Ju-Trxg].mp4
D-092	TelexFREE Training - How To Log Into Your Customer Back Office [Ftw3k2KpA_s].mp4
D-093	SIG account data for Cluster ID 521747
D-094	SIG account data for Cluster ID 104205
D-095	SIG account data for Cluster ID 178992

Ex. No.	**Exhibit Description**
D-096	SIG account data for Cluster ID 256429
D-097	SIG account data for Cluster ID 4005896
D-098	SIG account data for Graca Luisa
D-099	SIG account data for Cluster ID 6270770
D-100	SIG account data for Cluster ID 4545010

Confirmation that Parties Have Exchanged Exhibits

The parties confirm that they have exchanged proposed exhibits.

Intent to Present by Certification Records of Regularly Conducted Business Activity

At the present time, the Trustee does not intend to present any such documents.

Respectfully submitted,

STEPHEN B. DARR, LIQUIDATING TRUSTEE,
By his counsel:

Dated: May 15, 2024

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CERTIFICATE OF SERVICE

I, Andrew G. Lizotte, hereby certify that on May 15, 2024, I caused a copy of foregoing *Joint Pretrial Memorandum* to be served electronically through the Court's ECF System upon the registered participants as identified on the Notice of Electronic Filing.

Dated: May 15, 2024

/s/ Andrew G. Lizotte
Andrew G. Lizotte