Docket #0678 Date Filed: 3/6/2025

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

ORDER AND JUDGMENT APPROVING ON A FINAL BASIS
SETTLEMENT AGREEMENT BETWEEN TRUSTEE AND DEFENDANT CLASSES

A motion ("Motion") having been filed by Stephen B. Darr, the liquidating trustee ("Trustee") of the substantively consolidated debtors TelexFree LLC, TelexFree, Inc., and

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TelexFree Financial, Inc. (collectively, "TelexFree" or "Debtors"), and the Defendant Class Representatives, Frantz Balan, Marco Puzzarini, and Sandro Paulo Freitas (the "Class Representatives" and, together with the Trustee, the "Parties"), pursuant to Federal Rule of Civil Procedure ("FRCP") 23, and Federal Rules of Bankruptcy Procedure ("FRBP") 105 and 9019 for: (i) preliminary approval of Settlement Agreement; (ii) approval of the form and manner of notice to be provided to Net Winner Defendants and Allowed Claim holders; and (iii) the scheduling of a final hearing on the fairness of the settlement ("Final Hearing"); and the Court having entered, on November 8, 2024, the *Order Granting Joint Motion for Preliminary Approval of Settlement Agreement between Trustee and Defendant Classes, for Approval of Form and Manner of Notices, and Scheduling Final Fairness Hearing on Settlement* ("Preliminary Order"), and the Court having scheduled the Final Hearing for March 6, 2025; and upon the Court's consideration of the Motion, the Settlement Agreement, and the pleadings and records on file; and all parties-in-interest having been provided an opportunity to be heard; and for good cause appearing, the Court makes the following findings of fact and conclusions of law:

Introduction

1. To the extent not otherwise defined herein, all capitalized terms shall have the same meaning as used in the Settlement Agreement or the Motion, as applicable.

2. The Court has jurisdiction over the subject matter of these adversary proceedings, including all Class Defendants.

3. The Trustee has served the Net Winner Notice and Net Loser Notice (collectively, the "Notices") attached to the Preliminary Order in accordance with the terms of the Preliminary Order.

4. Notice was sufficient and proper under the circumstances. All parties-in-interest

have had an opportunity to be heard with respect to the Settlement Agreement, and all objections thereto have been overruled or withdrawn.

Findings in Support of Settlement Agreement

5. The payments made to Participants, as reflected in the Presumed Net Winnings, were made within two years of the Petition Date.

6. An amount equal to a Participant's Maximum Liability, as calculated pursuant to the Settlement Agreement, constitutes transfers of assets of the Debtors that are avoidable by the Trustee under the Bankruptcy Code, subject to the right of a Participant to rebut the presumptions set forth in paragraphs 11, 12, and 13 below.

7. The Debtors were insolvent at all relevant times.

8. The Trustee has established his *prima facie* case that, in determining the monetary value of a Participant's Presumed Net Winnings, a Credit is equal to a US Dollar, and the burden shall be on the Participant to offer evidence to rebut the Trustee's *prima facie* case.

9. The three class action proofs of claim filed by the Defendant Classes on March 15, 2017 with the Bankruptcy Court are deemed withdrawn with prejudice.

10. Except for the rights expressly reserved in the Settlement Agreement, all other defenses to a Participant's liability to the Trustee for a Participant's Presumed Net Winnings are waived.

11. The Trustee has established his *prima facie* case that ownership of a User Account Cluster is ascribed to the person identified by the Lowest Rep ID, subject to the right of a Participant to challenge the ownership of the User Account Cluster based upon the Lowest Rep ID.

12. The Trustee has established his *prima facie* case that the User Account Clusters in Exhibits 6 and 7 to the Freer Report correctly aggregate User Accounts by Participant, subject to the right of a Participant to challenge the ownership of individual User Accounts within a User Account Cluster.

13. The Trustee has established his *prima facie* case that the Presumed Net Winnings for each User Account Cluster are accurate, and that the Net Credit Transfers as calculated by Huron Consulting Group from SIG[1] using the User Account Clusters in the Freer Report are accurate, subject to the right of a Participant to challenge Cash payment amounts identified as being received by that Class Defendant in a Triangular Transaction or Credit Transfer.

14. Nothing herein shall be deemed as an admission by any Participant of an intent to engage in a fraudulent act.

15. Neither the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement is or may be deemed to be an admission by any Party.

16. No Participant who is part of the Defendant Classes shall have liability to the Trustee greater than their respective Maximum Liability.

17. The above prima facie findings can be overcome with credible testimonial or documentary evidence, as determined by the finder of fact.

18. Participants may not assert any defenses to the Maximum Liability other than those articulated in the Settlement Agreement.

19. With respect to any Participant that has a Maximum Liability of $24,999 or less

[1] SIG represents the program used by TelexFree to track Participant activity.

pursuant to Section IV(II)(e)(1) of the Settlement Agreement, such claims are settled by the Trustee as part of the Settlement Agreement and are not abandoned by the Trustee.

Satisfaction of Provisions of FRCP 23 and FRCP 9019

20. The Class Representatives and Class Counsel have adequately represented the Defendant Classes, thereby satisfying the provisions of FRCP 23(e)(2)(A), made applicable by FRBP 7023.

21. The Settlement Agreement was negotiated at arm's length, thereby satisfying the provisions of FRCP 23(e)(2)(B).

22. The relief provided in the Settlement Agreement is adequate, taking into account the costs, risks, and delay of trial and potential appeal, thereby satisfying the provisions of FRCP 23(e)(2)(C)(i).

23. The Settlement Agreement is effective in resolving claims against members of the Defendant Classes, thereby satisfying the provisions of FRCP 23(e)(2)(C)(ii).

24. The terms of any proposed award of attorneys' fees are contained in the Settlement Agreement. The Settlement Agreement provides for a final resolution to any claims of the Class Defendants' professionals to payment of fees and expenses from the TelexFree estates, thereby satisfying the provisions of FRCP 23(e)(2)(C)(iii).

25. The Settlement Agreement was filed with the Motion and is the governing document for the settlement, thereby satisfying the provisions of FRCP 23(e)(2)(C)(iv).

26. The Settlement Agreement treats members of the Defendant Classes equitably relative to each other, thereby satisfying the provisions of FRCP 23(e)(2)(D).

27. The Settlement Agreement satisfies the standards for approval of a compromise as provided for in FRBP 9019.

28. The Settlement Agreement is hereby APPROVED on a final basis.

Electronic Notice

29. TelexFree has conducted its business via the internet and communicated with Class Defendants through electronic mail, and this digital means of providing notice by electronic mail is the best practicable under the circumstances.

30. All notices required for the Settlement Agreement shall be made, at the election of the Trustee, by electronic mail. If such notice is not returned as undeliverable, the Participant shall be presumed to have received notice. If such notice is returned as undeliverable, the Participant shall be presumed to have not received notice. This presumption shall not apply to any Participant who changed their electronic mail address on or after January 1, 2024. If a notice to a Net Winner as required herein is returned as undeliverable and the Net Winner has a Maximum Liability of $25,000 or more, the Trustee shall deliver the Net Winner Notice by first class mail to the extent such information is available. Nothing herein shall prohibit the Trustee from seeking approval of alternate notice in the event of an undeliverable electronic notice.

31. The Trustee shall provide notice in accordance with paragraph 28 herein of: the activation of the Electronic Portal, the means for accessing the Electronic Portal, and the deadline for Net Winners to access the Electronic Portal and comply with the terms of the Settlement Agreement.

32. The Electronic Portal shall include among other things: (a) a courtesy link to the Complaints, as Amended; (b) the amount of Maximum Liability attributed to the Participant pursuant to the Settlement Agreement; (c) the Settlement Amount; (d) a manner by which settlement can be confirmed, in writing, for any Participant who, in accordance with the

Settlement Agreement, pays the Settlement Amount attributed to the Participant, or a Participant can confirm that no Settlement Amount is due; and (e) instructions for use of the Electronic Portal.

33. The proposed notice is designed to effectively reach Class Defendants.

34. The Court hereby retains jurisdiction for purposes of implementing the Settlement Agreement and reserves the power to enter additional orders to effectuate the fair and orderly administration and consummation of the Settlement Agreement as may from time to time be appropriate for the resolution of any and all questions or disputes arising thereunder.

Dated: March 6, 2025

Hon. Elizabeth D. Katz
Chief United States Bankruptcy Judge