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7 Counsel will comply with
 8 LR IA 10-2 within 14 days

9 *Proposed Counsel for the Debtors*
 10 *and Debtors in Possession*

11
 12 **UNITED STATES BANKRUPTCY COURT**
 13 **FOR THE DISTRICT OF NEVADA**

14 In re:

15 TELEXFREE, LLC,

16 Affects this Debtor

17 Affects all Debtors

18 Affects TELEXFREE, INC.

19 Affects TELEXFREE FINANCIAL, INC

Case No.: BK-S-14-12524-abl
 Chapter 11

[PROPOSED]

Jointly Administered with:

14-12525-abl TelexFree, Inc.

14-12526-abl TelexFree Financial, Inc

Date: OST REQUESTED

Time: OST REQUESTED

21 **EMERGENCY MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER**
 22 **DIRECTING JOINT ADMINISTRATION OF CHAPTER 11 CASES**

23 The above-captioned debtors and debtors-in-possession (collectively, the “**Debtors**”)¹
 24 hereby move the Court (the “**Motion**”) for entry of an order substantially in the form of the
 25 proposed order attached hereto as **Exhibit 1**: (i) authorizing and directing the joint administration

26 ¹ The Debtors in these Chapter 11 Cases, along with the last four (4) digits of each Debtor’s federal tax
 27 identification number, are: TelexFree, LLC (0853), TelexFree, Inc. (1309) and TelexFree Financial, Inc
 28 (7555). The Debtors’ business address is 225 Cedar Hill Street, Suite 200, Marlborough, Massachusetts
 01752.



1 of the Debtors' related chapter 11 cases (the "**Chapter 11 Cases**") for procedural purposes only
2 pursuant to Section 105(a) of Title 11 of the Bankruptcy Code (the "**Bankruptcy Code**"), Rules
3 1015(b) and 2002(n) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"),
4 and Rule 1015 of the Local Rules of Practice of the United States Bankruptcy Court for the
5 District of Nevada (the "**Local Rules**"), and (ii) providing any additional relief required in order
6 to effectuate the foregoing. In support of this Motion, the Debtors respectfully state as follows:

7 **Status of the Case and Jurisdiction**

8 1. On April 13, 2014 (the "**Petition Date**"), each of the Debtors filed a voluntary
9 petition for relief under chapter 11 of the Bankruptcy Code.

10 2. The Debtors have continued in possession of their properties and are operating
11 and managing their businesses as debtors-in-possession pursuant to sections 1107(a) and 1108 of
12 the Bankruptcy Code.

13 3. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and
14 1334. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is
15 core within the meaning of 28 U.S.C. § 157(b)(2).

16 4. The statutory predicates for the relief sought herein are section 105(a) of the
17 Bankruptcy Code, Bankruptcy Rules 1015(b) and 2002(n) and Local Rule 1015.

18 5. Pursuant to Local Rule 9014.2, the Debtors consent to entry of final order(s) or
19 judgment(s) by the bankruptcy judge if it is determined that the bankruptcy judge, absent consent
20 of the parties, cannot enter final orders or judgments consistent with Article III of the United
21 States Constitution.

22 **Background**

23 6. TelexFree, LLC, a Nevada limited liability company ("**TelexFree Nevada**"),
24 TelexFree, Inc., a Massachusetts corporation ("**TelexFree Massachusetts**") and TelexFree
25 Financial, Inc, a Florida corporation ("**TelexFree Florida**" and together with TelexFree
26 Massachusetts and TelexFree Nevada, "**TelexFree**," the "**Debtors**" or the "**Company**") are a
27 telecommunications business that uses multi-level marketing to assist in the distribution of voice
28 over internet protocol ("**VoIP**") telephone services. TelexFree's retail VoIP product,

1 99TelexFree, allows for unlimited international calling to approximately seventy countries for a
2 flat monthly rate of \$49.90. Customers of the Debtors' VoIP product ("Customers") used
3 approximately 11 million minutes of the 99TelexFree VoIP service in February 2014. Since
4 99TelexFree was introduced in 2012, Customer usage increased on a monthly basis until March
5 2014.

6 7. TelexFree is operated as a multi-level marketing company, and currently has over
7 700,000 associates or promoters (the "**Promoters**") worldwide. Prior to the filing of these
8 Chapter 11 Cases, TelexFree compensated Promoters for the sales of the VoIP product, the
9 placing of advertisements and the recruitment of other Promoters down line. Because questions
10 were raised about its compensation plan, the Company on March 9, 2014, discontinued its
11 original compensation plan (the "**Original Comp Plan**") and replaced the Original Comp Plan
12 with a revised compensation plan (the "**Revised Comp Plan**" and together with the Original
13 Comp Plan, the "**Pre-Petition Comp Plans**"). At the time of the roll-out of the Revised Comp
14 Plan, the Company decided to honor certain discretionary payments to Promoters under the
15 Original Comp Plan. These discretionary payments quickly became a substantial drain on the
16 Company's liquidity. The Company discontinued the Pre-Petition Comp Plans and ceased
17 making discretionary payments under the Original Comp Plan prior to the Petition Date.

18 8. The Company believes the sales of the 99TelexFree product, the TelexFree "app,"
19 and other new products will ultimately prove successful and profitable. The Company is
20 struggling, however, with several factors that required it to seek chapter 11 protection by filing
21 these Chapter 11 Cases. First, the Company experienced exponential growth in revenue between
22 2012 and 2013 (from de minimus amounts to over \$1 billion), which put tremendous pressure on
23 the Company's financial, operational and management systems. Second, although the Company
24 revised its Original Comp Plan in order to address certain questions that were raised regarding
25 such plan, the Company believes that the Pre-Petition Comp Plans need to be further revised.
26 Finally, the trailing liabilities arising from the Original Comp Plan are difficult to quantify and
27 have resulted in substantial asserted liabilities against the Company, a number of which may not
28 be valid.

1 9. As a result, the Company filed these Chapter 11 Cases to obtain the breathing
 2 room to address its operational and regulatory issues, revise the Pre-Petition Comp Plans, and
 3 quantify and address the claims against it. The Company believes that a restructuring of its debt,
 4 adoption of a post-petition revised compensation plan, unveiling of new products (including the
 5 TelexFree app), and return to growing its Customer base will allow the Company to realize its
 6 full potential and generate significant value for its constituents.

7 10. A detailed factual background of the Debtors' businesses and operations, as well
 8 as the events precipitating the commencement of these Chapter 11 Cases, is more fully set forth
 9 in the *Omnibus Declaration of William H. Runge III in Support of the Debtors' Chapter 11*
 10 *Petitions and Requests for First Day Relief* (the "**First Day Declaration**"), filed
 11 contemporaneously herewith and incorporated herein by reference.

12 **Relief Requested**

13 11. By this Motion, the Debtors seek entry of an order directing the joint
 14 administration of the Chapter 11 Cases and the consolidation thereof for procedural purposes
 15 only.

16 12. The Debtors also request that the caption of their Chapter 11 Cases be modified to
 17 reflect the joint administration of the Chapter 11 Cases substantially as follows:

| | |
|---|--|
| In re: | Case No.: BK-S-14-12524-abl Chapter 11 |
| TELEXFREE, LLC, | |
| <input type="checkbox"/> Affects this Debtor | [PROPOSED] Jointly Administered with: |
| <input type="checkbox"/> Affects all Debtors | 14-12525 TelexFree, Inc. |
| <input type="checkbox"/> Affects TELEXFREE, INC. | 14-12526 TelexFree Financial, Inc |
| <input type="checkbox"/> Affects TELEXFREE FINANCIAL, INC | |

25 13. In addition, the Debtors request that the Court authorize and direct that a notation
 26 substantially similar to the following notation be entered on the docket for each of the Debtors'
 27 Chapter 11 Cases to reflect the joint administration of these Chapter 11 Cases:
 28

1 An Order has been entered in this case directing the joint
2 administration of the Chapter 11 Cases listed below under Case
3 No. 14-12524-abl. The docket in Case No. 14-12524-abl should
4 be consulted for all matters affecting this case. The following
Chapter 11 Cases are jointly administered pursuant to such Order:
Case No. 14-12524-abl; Case No. 14-12525-abl; and Case No. 14-
12526-abl.

5 14. Finally, the Debtors request that the Court authorize that a combined service list
6 be used for the jointly administered Chapter 11 Cases and that combined notices be sent to
7 creditors of the Debtors' estates.

8 **Basis for Relief Requested**

9 15. Bankruptcy Rule 1015(b) provides that, if two or more petitions are pending in
10 the same court by or against a debtor and an affiliate, the court may order the joint administration
11 of the estates of a debtor and its affiliates. Fed. R. Bankr. P. 1015(b); LR 1015. Each entity has
12 the same ownership, such that all of the Debtors constitute "affiliates" of one another within the
13 meaning of 11 U.S.C. § 101(2).² Accordingly, the Court is authorized to grant the requested
14 relief.

15 16. The First Day Declaration, filed simultaneously herewith, establishes that joint
16 administration of these Chapter 11 Cases (a) is warranted because the Debtors' financial affairs
17 and business operations are closely related, and (b) will ease the administrative burden on the
18 Court and parties-in-interest in these Chapter 11 Cases. The Debtors anticipate that numerous
19 notices, applications, motions, pleadings, hearings, orders, and other documents in these Chapter
20 11 Cases will affect all of the Debtors. With three (3) affiliated Debtors, each with its own case
21 docket, the failure to administer these Chapter 11 Cases jointly would result in numerous
22 duplicative pleadings being filed and served upon parties identified in separate service lists.
23 Such duplication of substantially identical documents would be extremely wasteful and would
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26 ² Section 101(2) of the Bankruptcy Code defines "affiliate" to include, in relevant part, an "entity that
27 directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding
28 voting securities of the debtor" and a "corporation 20 percent or more of whose outstanding voting
securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an
entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the
outstanding voting securities of the debtor..." 11 U.S.C. § 101(2).

1 unnecessarily overburden the Debtors, the Clerk of the Court (the “Clerk”), creditors, and other
2 parties-in-interest in these Chapter 11 Cases.

3 17. Joint administration will permit the Clerk to use a single general docket for the
4 Debtors’ Chapter 11 Cases and to combine notices to creditors and other parties-in-interest of the
5 Debtors’ respective estates. Joint administration also will protect parties-in-interest by ensuring
6 that such parties-in-interest in each of the Debtors’ respective cases will be apprised of the
7 various matters before the Court in all of these Chapter 11 Cases.

8 18. The Debtors request that the official caption to be used by all parties in all
9 pleadings in the jointly-administered Chapter 11 Cases be in the form as set forth in this Motion.
10 The Debtors submit that use of this simplified caption, without reference to each Debtor’s
11 respective address and other detail specified by Section 342(c) of the Bankruptcy Code and
12 Bankruptcy Rule 2002(n), will eliminate cumbersome and confusing procedures and ensure a
13 uniformity of pleading identification. Such case-specific information is publicly available in the
14 petitions, and the Debtors therefore submit that the policies behind Section 342(c) of the
15 Bankruptcy Code and Bankruptcy Rule 2002(n) have been satisfied. Additionally, the proposed
16 caption complies with LR 1015(i).

17 19. The rights of the respective creditors of each of the Debtors will not be adversely
18 affected by joint administration of these Chapter 11 Cases because the relief sought is purely
19 procedural and is in no way intended to affect substantive rights. Each creditor and party-in-
20 interest will maintain claims or rights it has against the particular estate in which it allegedly has
21 a claim or right. Indeed, the rights of all creditors will be enhanced by the efficiencies and
22 reductions in costs resulting from joint administration. The Court also will be relieved of the
23 burden of entering duplicative orders and keeping duplicative files. Supervision of the
24 administrative aspects of these Chapter 11 Cases by the Office of the United States Trustee also
25 will be simplified.

26 20. The relief requested herein is commonly granted in this District. *See In re Jerry’s*
27 *Nugget, Inc.*, Case No. 12-19387-mkn, ECF No. 48 (Bankr. D. Nev. August 17, 2012); *In re 155*
28 *East Tropicana, LLC*, 11-22216-bam, ECF No. 56 (Bankr. D. Nev. August 8, 2011); *In re Black*

1 *Gaming, LLC*, Case No. 10-13301-bam, ECF No. 70 (Bankr. D. Nev. March 5, 2010); *In re*
2 *Zante, Inc.*, Case No. 09-50746-gwz, ECF No. 34 (Bankr. D. Nev. March 23, 2009).

3 **Notice**

4 21. Notice of this Motion has been given to the following parties or, in lieu thereof, to
5 their counsel, if known: (a) the Office of the United States Trustee for the District of Nevada; (b)
6 creditors holding the thirty (30) largest unsecured claims as set forth in the consolidated list filed
7 with the Debtors' petitions; (c) those parties requesting notice pursuant to Rule 2002; (d) the
8 Office of the United States Attorney General for the District of Nevada; (e) the Massachusetts
9 Securities Division; (f) the Internal Revenue Service; (g) the Nevada Department of
10 Employment, Training & Rehab, Employment Security Division; (h) the Nevada Department of
11 Taxation, Bankruptcy Section; and (i) the Securities and Exchange Commission. The Debtors
12 submit that, in light of the nature of the relief requested, no other or further notice need be given.

13 **No Prior Request**

14 22. No prior request for the relief sought in this Motion has been made to this or any
15 other court.

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Conclusion

WHEREFORE, the Debtors respectfully request that the Court enter an order substantially in the form of the proposed order attached hereto as **Exhibit 1** granting the relief requested herein and that it grant the Debtors such other and further relief as is just and proper.

DATED this 13 day of April, 2014.

GORDON SILVER

By:



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*Proposed Counsel for the Debtors
and Debtors in Possession*

Exhibit 1

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*Proposed Counsel for the Debtors
and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

| | |
|---|--|
| In re: | Case No.: BK-S-14-12524-abl Chapter 11 |
| TELEXFREE, LLC, | [PROPOSED] Jointly Administered with: |
| <input type="checkbox"/> Affects this Debtor | 14-12525 TelexFree, Inc. |
| <input checked="" type="checkbox"/> Affects all Debtors | 14-12526 TelexFree Financial, Inc |
| <input type="checkbox"/> Affects TELEXFREE, INC. | Date: |
| <input type="checkbox"/> Affects TELEXFREE FINANCIAL, INC | Time: |

**ORDER AUTHORIZING JOINT
ADMINISTRATION OF CHAPTER 11 CASES**

Upon the motion (the “**Motion**”) filed by the above-captioned debtors and debtors-in-possession (collectively, the “**Debtors**”) seeking entry of an order (i) authorizing and directing

1 the joint administration of the Debtors’ affiliated chapter 11 cases for procedural purposes only
2 pursuant to Section 342(c) of Title 11 of the Bankruptcy Code (the “**Bankruptcy Code**”), Rules
3 1015(b) and 2002(n) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”),
4 and Rule 1015 of the Local Rules of Bankruptcy Practice of the United States Bankruptcy Court
5 for the District of Nevada (the “**Local Rules**”), and (ii) providing any additional relief required
6 in order to effectuate the foregoing; the Court, having reviewed the Motion and having heard the
7 statements of counsel in support of the relief requested in the Motion at the hearing before the
8 Court (the “**Hearing**”), finds that the Court has jurisdiction over this matter pursuant to 28
9 U.S.C. §§ 157 and 1334, this is a core matter pursuant to 28 U.S.C. § 157(b)(2), venue is proper
10 in this district pursuant to 28 U.S.C. §§ 1408 and 1409, notice of the Motion and the Hearing
11 were sufficient under the circumstances and that no further notice need be given, and the legal
12 and factual bases set forth in the Motion and at the Hearing establish just cause for the relief
13 granted herein,

14 THEREFORE, IT IS HEREBY ORDERED THAT:

15 1. For the reasons set forth on the record, the Motion is GRANTED.

16 2. Pursuant to Bankruptcy Rule 1015(b) and Local Rule 1015, the above-captioned
17 Chapter 11 Cases are hereby consolidated for procedural purposes only and shall be jointly
18 administered by this Court.

19 3. Nothing contained in this Order shall be deemed or construed as directing or
20 otherwise effecting a substantive consolidation of the above-captioned cases, and this Order shall
21 be without prejudice to the rights of the Debtors to seek entry of an order substantively
22 consolidating their respective cases.

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1 4. The caption of the Debtors' jointly administered cases shall read as follows:

2 In re:

3 TELEXFREE, LLC,

4 Affects this Debtor

5 Affects all Debtors

6 Affects TELEXFREE, INC.

7 Affects TELEXFREE FINANCIAL, INC

Case No.: BK-S-14-12524-abl
Chapter 11

[PROPOSED]
Jointly Administered with:

14-12525 TelexFree, Inc.
14-12526 TelexFree Financial, Inc

9 5. A docket entry shall be made in each of the Debtors' Chapter 11 Cases
10 substantially as follows:

11 An Order has been entered in this case directing the joint
12 administration of the Chapter 11 Cases listed below under Case
13 No. 14-12524-abl. The docket in Case No. 14-12524-abl should
14 be consulted for all matters affecting this case. The following
15 Chapter 11 Cases are jointly administered pursuant to such Order:
Case No. 14-12524-abl; Case No. 14-12525-abl; and Case No. 14-
12526-abl.

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1 6. The Court shall retain jurisdiction to hear and determine all matters arising from
2 or relating to the interpretation or implementation of this Order.

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Submitted by:

GORDON SILVER

By: _____
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*Proposed Counsel for the Debtors
and Debtors in Possession*