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7 *Proposed Counsel for the Debtors*  
 8 *and Debtors in Possession*

9  
 10 **UNITED STATES BANKRUPTCY COURT**  
**FOR THE DISTRICT OF NEVADA**

11 In re:

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

12 TELEXFREE, LLC,

**[PROPOSED]**

**Jointly Administered with:**

13  Affects this Debtor

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

15  Affects all Debtors

16  Affects TELEXFREE, INC.

17  Affects TELEXFREE FINANCIAL, INC

Date: OST REQUESTED  
 Time: OST REQUESTED

18  
 19 **EMERGENCY APPLICATION FOR ORDER AUTHORIZING THE**  
**EMPLOYMENT OF KURTZMAN CARSON CONSULTANTS LLC**  
 20 **AS CLAIMS AND NOTICING AGENT FOR DEBTORS**

21 The above-captioned debtors and debtors-in-possession (collectively, the “Debtors”)<sup>1</sup>  
 22 hereby submit this emergency application (the “Application”) for an order pursuant to 28 U.S.C.  
 23 § 156(c), Rule 2002 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”),  
 24 and the Guidelines (as defined herein), substantially in the form attached hereto as Exhibit “1,”  
 25 authorizing the retention and employment of Kurtzman Carson Consultants LLC (“KCC”) as the

26 <sup>1</sup> 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 official claims and noticing agent for the Debtors *nunc pro tunc* to the Petition Date (as defined  
2 herein).

3 This Application is made and based on the memorandum of points and authorities  
4 provided herein, the *Declaration of Evan J. Gershbein in Support of Emergency Application for*  
5 *Order Authorizing the Employment of Kurtzman Carson Consultants LLC as Claims and*  
6 *Noticing Agent for Debtors* (the “**Gershbein Declaration**”) filed contemporaneously herewith,  
7 the pleadings, papers, and other records on file with the clerk of the above-captioned Court,  
8 judicial notice of which is hereby requested, and the argument of counsel entertained by the  
9 Court at the time of the hearing of the Application.

10 **I.**  
11 **STATUS OF THE CASE**

12 1. On April 13, 2014 (the “**Petition Date**”), the Debtors commenced the above-  
13 captioned cases (the “**Chapter 11 Cases**”) by filing voluntary petitions for relief under chapter  
14 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “**Bankruptcy Code**”).

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

18 3. No request has been made for the appointment of a trustee or examiner and a  
19 creditors’ committee has not yet been appointed in these Chapter 11 Cases.

20 **II.**  
21 **JURISDICTION, VENUE, AND STATUTORY PREDICATES**

22 4. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and  
23 1334. Venue is proper in this district pursuant to 28 U.S.C. § 1408. This matter is core within  
24 the meaning of 28 U.S.C. § 157(b)(2).

25 5. The statutory predicates for the relief sought herein are 28 U.S.C. §156(c), and  
26 Bankruptcy Rules 2002 and 2014.

27 6. Pursuant to LR 9014.2, the Debtors consent to entry of final order(s) or  
28 judgment(s) by the bankruptcy judge if it is determined that the bankruptcy judge, absent consent  
of the parties, cannot enter final orders or judgments consistent with Article III of the United

1 States Constitution.

2 **III.**  
3 **BACKGROUND**

4 7. TelexFree, LLC, a Nevada limited liability company ("**TelexFree Nevada**"),  
5 TelexFree, Inc., a Massachusetts corporation ("**TelexFree Massachusetts**") and TelexFree  
6 Financial, Inc, a Florida corporation ("**TelexFree Florida**" and together with TelexFree  
7 Massachusetts and TelexFree Nevada, "**TelexFree**," the "**Debtors**" or the "**Company**") are a  
8 telecommunications business that uses multi-level marketing to assist in the distribution of voice  
9 over internet protocol ("**VoIP**") telephone services. TelexFree's retail VoIP product,  
10 99TelexFree, allows for unlimited international calling to approximately seventy countries for a  
11 flat monthly rate of \$49.90. Customers of the Debtors' VoIP product ("**Customers**") used  
12 approximately 11 million minutes of the 99TelexFree VoIP service in February 2014. Since  
13 99TelexFree was introduced in 2012, Customer usage increased on a monthly basis until March  
14 2014.

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

27 9. The Company believes the sales of the 99TelexFree product, the TelexFree "app,"  
28 and other new products will ultimately prove successful and profitable. The Company is

1 struggling, however, with several factors that required it to seek chapter 11 protection by filing  
2 these Chapter 11 Cases. First, the Company experienced exponential growth in revenue between  
3 2012 and 2013 (from de minimus amounts to over \$1 billion), which put tremendous pressure on  
4 the Company's financial, operational and management systems. Second, although the Company  
5 revised its Original Comp Plan in order to address certain questions that were raised regarding  
6 such plan, the Company believes that the Pre-Petition Comp Plans need to be further revised.  
7 Finally, the trailing liabilities arising from the Original Comp Plan are difficult to quantify and  
8 have resulted in substantial asserted liabilities against the Company, a number of which may not  
9 be valid.

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

16 11. A detailed factual background of the Debtors' businesses and operations, as well  
17 as the events precipitating the commencement of these Chapter 11 Cases, is more fully set forth  
18 in the *Omnibus Declaration of William H. Runge III in Support of the Debtors' Chapter 11*  
19 *Petitions and Requests for First Day Relief* [ECF No. 13], filed contemporaneously herewith and  
20 incorporated herein by reference.

#### 21 **IV.** 22 **RELIEF REQUESTED**

23 12. 28 U.S.C. § 156(c), which governs the staffing and expenses of a bankruptcy  
24 court, expressly authorizes the Court to use "facilities" or "services" other than the Clerk's  
25 Office for administration of bankruptcy cases. It states:

26 Any court may utilize facilities or services, either on or off the court's  
27 premises, which pertain to the provision of notices, dockets, calendars,  
28 and other administrative information to parties in cases filed under the  
provisions of title 11, United States Code, where the costs of such  
facilities or services are paid for out of the assets of the estate and are

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not charged to the United States. The utilization of such facilities or services shall be subject to such conditions and limitations as the pertinent circuit council may prescribe.

28 U.S.C. § 156(c). Complementing 28 U.S.C. § 156(c), Bankruptcy Rule 2002, which generally regulates the notices that must be provided to creditors and other parties-in-interest in a bankruptcy case, provides that the Court may direct that a person other than the Clerk of the Court give notice of the various matters described therein. *See* Fed. R. Bankr. P. 2002.

13. Pursuant to 28 U.S.C. § 156(c), Bankruptcy Rule 2002, and the Guidelines discussed below, this Court has previously approved the retention of claims and noticing agents in Chapter 11 cases with large numbers of creditors and parties-interest. *See e.g., In re Global Access Corp.*, Case No. 13-51562-MKN, ECF No. 310 (Bankr. D. Nev. March 21, 2014); *In re Ahern Rentals, Inc.*, Case No. 11-53860-BTB, ECF No. 31 (Bankr. D. Nev. December 23, 2011).

14. Thus, the Debtors’ retention and employment of KCC as claims and noticing agent is expressly authorized under 28 U.S.C. § 156(c) and Bankruptcy Rule 2002, and the Debtors believe that engaging KCC in such capacity will expedite the service of Bankruptcy Rule 2002 notices, streamline the claims administration process, and permit the Debtors to focus on operating their business and consummating a successful sale of their assets. Accordingly, on or about April 13, 2014, the Debtors and KCC entered into the KCC Agreement For Services (the “**Engagement Agreement**”), a true and correct copy of which is attached to the Gershbein Declaration as **Exhibit “1.”** *See* Gershbein Decl. ¶ 3.

15. The Debtors request the Court enter an order, pursuant to 28 U.S.C. 156(c), Bankruptcy Rule 2002, and the Guidelines, authorizing the retention and employment of KCC as Debtors’ claims and noticing agent in the Chapter 11 Cases. The Debtors respectfully submit that the fees and expenses that would be incurred by KCC under the Engagement Agreement would be administrative in nature and, therefore, should not be subject to standard fee application procedures of professionals.

...  
...

V.  
**SCOPE OF SERVICES**

16. The “Guidelines For A Claims Agent”<sup>2</sup> (the “**Guidelines**”) issued by the Bankruptcy Court in this District provide that the appointment of a claims, noticing, and balloting agent, pursuant to 28 U.S.C. §156(c), is required if there are 1,000<sup>3</sup> or more creditors in a case and may be required by the Court in other circumstances. Under the Guidelines, the claims and noticing agent shall:

a. Relieve the Clerk’s office of all noticing under any applicable Bankruptcy Rules and processing of claims.

b. At any time, upon request, satisfy the Court that the claims and noticing agent has the capability to efficiently and effectively notice, image proofs of claim, docket in the Court’s CM/ECF system and the claims agent’s computer system, and securely maintain the proofs of claim.

c. Prepare and serve required notices in the bankruptcy cases, including but not limited to: (i) notice of all creditors of the filing of the bankruptcy petition and of the setting of the first meeting of creditors, pursuant to Section 341(a), under the proper provision of the Bankruptcy Code; (ii) notice of the claims bar date; (iii) notices of objections to claim; (iv) notices of any hearings on a disclosure statement and confirmation of a plan of reorganization; (v) notice of judgments or orders pursuant to Administrative Order 2011-02; and (vi) notice any other matters as required by the order retaining the claims agent.

d. Furnish a last date for the filing of a proof of claim and a form for filing a proof of claim to each creditor notified of the filing.

e. Maintain an up-to-date copy of the debtor’s schedules that list the creditors and the amounts owed, and maintain an accurate and up-to-date-mailing list.

f. Provide creditors with their scheduled amount and classification, and

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<sup>2</sup> Available at: [www.nvb.uscourts.gov/downloads/cm-ecf/guidelines-claims-agent.pdf](http://www.nvb.uscourts.gov/downloads/cm-ecf/guidelines-claims-agent.pdf).

<sup>3</sup> The Debtors anticipate that they will be required to provide notice of the Chapter 11 Cases to several thousand persons and/or entities, each of which could conceivably file a proof of claim.

1 which debtor they are scheduled under.

2 g. File with the Clerk a certificate of service within 10 days, which includes a  
3 copy of the notice, a list of persons to whom it was mailed (in alphabetical order by last  
4 name or company name), and the date mailed.

5 h. Image the proofs of claim and all attachments in PDF format (not to  
6 exceed 4 MG in size per image), make the electronic docket entry into the Court's  
7 CM/ECF docketing system and the claims agent's docketing system of each proof of  
8 claim including the entry of the creditor's name and address, if necessary, and attach that  
9 image to the appropriate proof of claim docket entry to enable the electronic viewing of  
10 the documents by court personnel, counsel, and the public.

11 i. Cause to be forwarded all proofs of claim and transfers of claims from the  
12 Clerk to the claims agent through a messenger service or postage paid envelopes.

13 j. Once imaged, maintain any hard copies of proofs of claim originally  
14 received in paper format for the life of the case, or until otherwise ordered by the Court:  
15 (i) in correct claim number order; and (ii) in an environmentally secure area to protect the  
16 integrity of these original documents from theft and/or alteration.

17 k. Maintain an official claims register in CM/ECF and the claims agent's  
18 computer docketing system by docketing all proofs of claim on a claims register,  
19 including but not limited to, the following information: (i) the name and address of the  
20 claimant and the agent; (ii) the date received; (iii) the claim number assigned; and (iv) the  
21 amount and classification asserted by such claimant.

22 l. Have the option to send at the discretion of debtor or Clerk, an  
23 acknowledgment letter to the creditor when its claim is processed.

24 m. Maintain a telephone staff to handle inquiries related to procedures about  
25 filing proofs of claim.

26 n. Ensure electronic filing and processing of all assignments and transfers of  
27 claims pursuant to Bankruptcy Rule 3001(e) by: (i) electronically filing and docketing all  
28 transfers of claim in the Court's CM/ECF docketing system; (ii) providing notice of the

1 transfer as required by Bankruptcy Rule 3001(e) and electronically filing and docketing  
2 the notice of transfer; and (iii) after said electronic docketing, writing the document  
3 number in the lower right hand corner of the document, and delivering the original  
4 document to the Clerk's office by hand delivery or by mail for filing with other original  
5 non-proof of claim paper documents.

6 o. Make changes in the claims register pursuant to Court order.

7 p. Make all original documents available to the Clerk on an expedited  
8 immediate basis.

9 q. Not employ any past or present employees of the debtor for work on the  
10 particular case involving the debtor.

11 r. Provide notices, at the expense of the debtor's estate, to any entities, not  
12 limited to creditors, that the debtor or the Court deems necessary for an orderly  
13 administration of the bankruptcy cases.

14 s. At the close of the bankruptcy cases, case conversion, or when the claims  
15 agent is terminated for any reason: (i) file a notice of termination, using the approved  
16 local form available on the Court's website; (ii) allow for the Clerk's office to assume  
17 responsibility of the claims register using the claims register functionality in CM/ECF,  
18 including making formatting modifications to the claims register before turning over to  
19 the Clerk's office for uploading; (iii) send the Court the final version of the claims  
20 register in PDF format to be docketed in CM/ECF; and (iv) box and ship all original  
21 documents in proper format, as provided by the Clerk's office, to the office address of the  
22 Clerk of the Court.

23 t. Ensure that no notices or forms are sent on behalf of the debtor without  
24 prior approval of the Clerk.

25 u. Be responsible for regular contact with the debtor's counsel to ensure any  
26 changes in the claims that appear on the docket, i.e., withdrawals, transfers, etc., are  
27 transmitted to the claims agent for electronic recordation on the claims register and the  
28 case docket, as appropriate.

1 17. In addition to complying with the Guidelines set forth above, and subject to Court  
2 approval, KCC will perform some or all of the following services:

3 a. provide the Debtors with consulting services regarding noticing, claims  
4 management and reconciliation, plan solicitation, balloting, disbursements and any other  
5 services agreed upon by the parties or otherwise required by applicable law, government  
6 regulations or court rules or orders;

7 b. provide (i) computer software support and training in the use of the  
8 support software as needed, (ii) KCC's standard reports as well as consulting and  
9 programming support for the Debtors' requested reports, (iii) program modifications, (iv)  
10 database modifications, and/or (v) other features and services in accordance with the fees  
11 outlined in the pricing schedule provided to the Debtors; and

12 c. without limiting the generality of the foregoing, KCC may, upon request  
13 by the Debtors, (i) provide a communications plan including, but not limited to,  
14 preparation of communications materials, dissemination of information and a call center  
15 staffed by KCC and/or (ii) provide confidential on-line workspaces or virtual data rooms  
16 and publish documents to such workspaces or data rooms.

17 *See* Gershbein Decl. ¶ 4.

18 18. The scope of KCC's services may be expanded from time to time, provided that  
19 KCC and the Debtors mutually agree in writing to any such expansion and any corresponding  
20 increase in fees. *See id.* ¶ 5.

21 19. Subject to this Court's approval of the Application, KCC is willing to serve as the  
22 Debtors' claims and noticing agent and to perform the services described above. KCC will use  
23 reasonable efforts to coordinate with the Debtors' other retained professionals to avoid  
24 unnecessary duplication of services. *See id.* ¶ 6.

25 **VI.**  
26 **QUALIFICATIONS**

27 20. KCC is a bankruptcy administrator that specializes in providing comprehensive  
28 Chapter 11 administrative services including noticing, claims processing, balloting, and other

1 related services critical to the effective administration of chapter 11 cases. KCC has developed  
2 efficient and cost-effective methods to properly handle the voluminous mailings associated with  
3 the noticing, claims processing, and balloting portions of chapter 11 cases to ensure the orderly  
4 and fair treatment of creditors, equity security holders, and all parties-in-interest. Further, KCC  
5 will work with the Clerk's office to ensure that such methodology conforms with all of the  
6 Court's procedures, the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any orders  
7 entered by this Court. *See id.* ¶ 7.

8         21. KCC has substantial experience in matters of this size and complexity, and has  
9 acted as the official claims, noticing, and balloting agent in many large bankruptcy cases in this  
10 District and throughout the nation. *See, e.g., In re Global Access Corp.*, Case No. 13-51562-  
11 MKN (Bankr. D. Nev. 2014); *In re Ahern Rentals, Inc.*, Case No. 11-53860-BTB (Bankr. D.  
12 Nev. 2011); *In re Black Gaming, LLC*, Case No. 10-13301 (Bankr. D. Nev. 2010); *In re*  
13 *Consolidated Resorts, Inc.*, Case No. 09-22035 (Bankr. D. Nev. 2009); *Stations Casinos, Inc.*,  
14 09-52477-GWZ (Bankr. D. Nev. 2009); *In re Lake at Las Vegas Joint Venture, LLC*, Case No.  
15 08-17814-LBR (Bankr. D. Nev.); *In re NewPage Corporation, et al.*, Case No. 11-12804 (Bankr.  
16 D. Del. Sept. 7, 2011); *In re DSI Holdings, Inc., et al.*, Case No. 11-11941 (Bankr. D. Del.  
17 2011); *In re Nebraska Book Co., Inc., et al.*, Case No. 11-12005 (Bankr. D. Del. 2011); *In re*  
18 *Caribe Media, Inc., et al.*, Case No. 11-11387 (Bankr. D. Del. 2011); *In re Barnes Bay*  
19 *Development, Ltd., et al.*, Case No. 11-10792 (Bankr. D. Del. 2011); *In re New Stream Secured*  
20 *Capital, Inc., et al.*, Case No. 11-10753 (Bankr. D. Del. 2011); *In re Ultimate Acquisition*  
21 *Partners, LP*, Case No. 11-10245 (Bankr. D. Del. 2011); *In re Javo Beverage Co., Inc.*, Case No.  
22 11-10212 (Bankr. D. Del. 2011); *In re Appleseed's Intermediate Holdings LLC*, Case No. 11-  
23 10160 (Bankr. D. Del. 2011); *In re Marco Polo Seatrade B.V., et al.*, Case No. 11-13634 (Bankr.  
24 S.D.N.Y. 2011); *In re MSR Resort Golf Course LLC, et al.*, Case No. 11-10372 (Bankr. S.D.N.Y.  
25 2011); *In re Vertis Holdings, Inc.*, Case No. 10-16170 (Bankr. S.D.N.Y. 2010); *In re American*  
26 *Media, Inc.*, Case No. 10-16140 (Bankr. S.D.N.Y. 2010); *In re Loehmann's Holdings, Inc.*, Case  
27 No. 10-16077 (Bankr. S.D.N.Y. 2010); *In re Archdiocese of Milwaukee*, Case No. 11-20059  
28 (Bankr. E.D. Wisc. 2011); *In re Ecoly Int'l, Inc., et al. (a/k/a Sexy Hair Concepts, LLC)*, Case

1 No. 10-25922 (Bankr. C.D. Cal. 2010). *See* Gershbein Decl. ¶ 8.

2 22. The Debtors potentially have approximately 700,000 creditors and parties-in-  
3 interest and are seeking a number of expedited timelines, and therefore, the Debtors require a  
4 well-qualified and experienced noticing and claims agent. As demonstrated by KCC's  
5 experience in large chapter 11 cases, it is qualified and competent to serve as claims and noticing  
6 agent for the Debtors in these Chapter 11 Cases. *See id.* ¶ 9.

7 **VII.**  
8 **DISINTERESTEDNESS**

9 23. Although the Debtors do not propose to retain KCC under section 327 of the  
10 Bankruptcy Code, based upon the disclosures in the Engagement Agreement and the Gershbein  
11 Declaration, KCC: (a) is a "disinterested person" as that term is defined in section 101(14),  
12 except that KCC was employed by the Debtors prior to the Petition Date as allowed by section  
13 1107(b) of the Bankruptcy Code; and (b) does not hold or represent an interest materially  
14 adverse to these Debtors' bankruptcy estates and does not have any connection with the Debtors,  
15 their creditors, any other parties-in-interest in the Chapter 11 Cases, or with the Office of the  
16 United States Trustee or any person employed in the Office of the United States Trustee. *See id.*  
17 ¶ 10.

18 24. The following supplemental disclosures are made with respect to KCC's  
19 disinterestedness:

20 a. KCC is not and was not a creditor, an equity security holder, or an insider  
21 of any of the Debtors;

22 b. KCC is not and was not, within two years before the Petition Date, a  
23 director, officer, or employee of any of the Debtors; and

24 c. KCC has no interest materially adverse to the interests of the bankruptcy  
25 estates or of any class of creditors or equity security holders, either by reason of any  
26 direct or indirect relationship to, connection with, or interest in the Debtors or for any  
27 other reason.

28 *See id.* ¶ 11.



1 the services rendered and expenses incurred in connection with services provided by KCC to the  
2 Debtors.

3 **IX.**  
4 **CONCLUSION**

5 WHEREFORE, the Debtors respectfully request the Court enter an order, substantially in  
6 the form attached hereto as **Exhibit 1**, authorizing the Debtors to employ KCC as their claims  
7 and noticing agent to perform the claims and noticing services described above pursuant to 28  
8 U.S.C. § 156(c), Bankruptcy Rule 2002, and the Guidelines. The Debtors also request such other  
9 and further relief as is just and proper.

10 DATED this 14th day of April, 2014.

11 GORDON SILVER

12 By: 

13 GREGORY E. GARMAN, ESQ.  
14 THOMAS H. FELL, ESQ.  
15 TERESA M. PILATOWICZ, ESQ.  
16 3960 Howard Hughes Pkwy., 9th Floor  
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18 AND

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25 *Proposed Counsel for the Debtors*  
26 *and Debtors in Possession*  
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**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:  
TELEXFREE, LLC,  
 Affects this Debtor  
 Affects all Debtors  
 Affects TELEXFREE, INC.  
 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  
Date:  
Time:

**ORDER AUTHORIZING THE  
EMPLOYMENT OF KURTZMAN CARSON CONSULTANTS LLC  
AS CLAIMS AND NOTICING AGENT FOR DEBTORS**

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

1 employment of Kurtzman Carson Consultants, LLC (“KCC”) as claims and noticing agent for  
2 Debtors<sup>4</sup>; the Court having entertained the arguments of counsel; it appearing that KCC does not  
3 represent or hold any interest materially adverse to Debtors or to Debtors’ estates in the matters  
4 upon which it is to be engaged; it appearing that the relief requested is in the best interests of  
5 Debtors’ estates, creditors, equity holders, and all parties-in-interest; notice of this Application  
6 having been properly provided to parties-in-interest noted in the record and no further notice  
7 need be given; and after due deliberation and sufficient cause appearing therefor;

8 **IT IS HEREBY ORDERED:**

9 1. The Application is GRANTED as set forth herein.

10 2. Debtors are hereby authorized to retain KCC *nunc pro tunc* to the Petition Date as  
11 the claims and noticing agent in Debtors’ Chapter 11 Cases, pursuant to 28 U.S.C. § 156(c) and  
12 Bankruptcy Rule 2002, as provided in the Application, on the terms and conditions set forth in  
13 the Engagement Agreement, and consistent with the Guidelines governing claims agents issued  
14 by the Bankruptcy Court in this District.

15 3. Pursuant to the Guidelines, KCC shall relieve the clerk’s office of all noticing  
16 under any applicable Bankruptcy Rules and processing of claims.

17 4. Debtors shall compensate and reimburse KCC in accordance with the payment  
18 terms set forth in the Engagement Agreement for all services rendered and expenses incurred in  
19 connection with Debtors’ Chapter 11 Cases.

20 5. Pursuant to Section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses  
21 of KCC incurred pursuant to the Engagement Agreement shall be administrative expenses of  
22 Debtors’ estates.

23 6. Debtors and KCC are authorized to take all actions necessary to effectuate the  
24 relief granted pursuant to this order in accordance with the Application and the Engagement  
25 Agreement.

26 **IT IS SO ORDERED.**

27  
28 <sup>4</sup> All undefined, capitalized terms shall have the meaning ascribed to them in the Application.

1 PREPARED AND SUBMITTED:

2 GORDON SILVER

3

By: \_\_\_\_\_

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13 *Proposed Counsel for the Debtors*

*and Debtors in Possession*

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**LR 9021 CERTIFICATION**

In accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court’s ruling and that (check one):

- The court waived the requirement of approval under LR 9021(b)(1).
- No party appeared at the hearing or filed an objection to the motion.
- I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:
- I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objection to the form or content of the order.

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