

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS

|                             |   |                           |
|-----------------------------|---|---------------------------|
| In re:                      | ) |                           |
|                             | ) |                           |
| TELEXFREE, LLC,             | ) |                           |
| TELEXFREE, INC., and        | ) | Bankruptcy Case: 14-40987 |
| TELEXFREE FINANCIAL, INC.,  | ) | Chapter 11                |
|                             | ) | Judge Melvin S. Hoffman   |
| Debtors.                    | ) |                           |
|                             | ) |                           |
|                             | ) |                           |
| STEPHEN DARR, AS TRUSTEE    | ) |                           |
| OF THE CHAPTER 11 ESTATES   | ) |                           |
| OF EACH OF THE DEBTORS,     | ) |                           |
|                             | ) | Adversary No.: 16-04028   |
| Plaintiff.                  | ) |                           |
|                             | ) |                           |
| v.                          | ) |                           |
|                             | ) |                           |
| HANNA-SHEA CONSULTING, LLC, | ) |                           |
|                             | ) |                           |
| Defendant.                  | ) |                           |

**ANSWER AND AFFIRMATIVE DEFENSES**

Defendant responds as follows to the Trustee's complaint:

**Parties and Jurisdiction**

1. The Trustee, who is the duly appointed Chapter 11 trustee of the Debtors, has a principal place of business in Boston, Massachusetts.

**Response:** Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation, and therefore denies it.



2. The Defendant is a limited liability company with a place of business at 2040 S. Alma Road, Suite 1-255, Chandler, AZ 85286.

**Response:** Denied. Defendant's principal business address is 14362 North Frank Lloyd Wright Blvd., Suite 1000, Scottsdale, AZ 85260.

3. This adversary proceeding is brought pursuant to §§ 547, 548, 550 and 551 of Title 11 of the United States Code for the avoidance and recovery of fraudulent conveyances and preferential transfers.

**Response:** Defendant responds to the allegations in this paragraph by stating that this paragraph does not contain allegations of fact, but rather contains conclusions of law to which no admission or denial is required. To the extent that a response may be required, Defendant denies these allegations.

4. This Court has jurisdiction over the adversary proceeding pursuant to 28 U.S.C. § 1334.

**Response:** Admitted.

5. This adversary proceeding is a core proceeding pursuant to 28 U.S.C. § 157(B)(2)(A)(F)(H) and (O).

**Response:** Defendant responds to the allegations in this paragraph by stating that this paragraph does not contain allegations of fact, but rather contains

conclusions of law to which no admission or denial is required. To the extent that a response may be required, Defendant denies these allegations.

6. Venue in this district is proper under 28 U.S.C. § 1409.

**Response:** Admitted.

### **Statement of Facts**

7. This case involves massive Ponzi and pyramid scheme operated by the Debtors, which involved more than a million participants (“Participants”) from multiple countries. The Debtors ostensibly operated a “multi-level marketing” company with its headquarters in Marlborough, Massachusetts. It presented itself as being in the business of selling telephone service plans that use “voice over internet protocol” (“VoIP”) technology. The sale of VoIP, however, constituted only a minor portion of their business; the Debtors’ actual business was the recruitment of Participants.

**Response:** Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation, and therefore denies it.

8. From April 2012 to April 2014, individuals throughout the world, including many Participants of the Brazilian and Dominican immigrant communities in the United States, purchased membership plans with a transaction value of approximately \$3,000,000,000. The memberships promised substantial returns —

200% per year or more — for becoming “promoters” of the business. The Debtors promised to pay Participants for placing ads on obscure classified ad sites on the internet and recruiting other Participants to do the same. The membership fees from Participants constituted approximately ninety-nine percent (99%) of monies taken in by the Debtors.

**Response:** Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation, and therefore denies it.

9. When in March of 2014, the Debtors changed their compensation plan so that Participants would be required to sell the VoIP service in order qualify for bonuses and commissions, the scheme collapsed resulting in the bankruptcy filings.

**Response:** Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation, and therefore denies it.

10. On April 13, 2014 (the “Petition Date”), the Debtors filed voluntary Chapter 11 petitions with the United States Bankruptcy Court for the District of Nevada.

**Response:** Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation, and therefore denies it.

11. By order dated May 6, 2014, the Nevada Bankruptcy Court approved a motion to change venue filed by the Securities and Exchange Commission. The cases were transferred to this Court on May 9, 2014.

**Response:** Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation, and therefore denies it.

12. On May 30, 2014, this Court approved the motion of Office of the United States Trustee to appoint a Chapter 11 trustee, and the Trustee was appointed on June 6, 2014.

**Response:** Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation, and therefore denies it.

13. November 25, 2015, the Court, on motion by the Trustee and after notice, entered an Order, as amended on December 21, 2015, that Debtors were engaged in a Ponzi and pyramid scheme and that this ruling was the law of the case in each of the jointly administered cases.

**Response:** Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation, and therefore denies it.

14. The Defendant, upon information and belief, provides executive placement services for companies purportedly engaged in direct sales.

**Response:** Admitted.

15. During the ninety (90) days preceding the Petition Date, the Debtors made the following payment to the Defendant (the “Transfers”):

- (i) payment dated March 24, 2014 in the amount of \$10,000.00;
- (ii) payment dated April 11, 2014 in the amount of \$10,000.00.

**Response:** Admitted.

### **COUNT ONE**

#### **Fraudulent Transfer – Constructive – 11 U.S.C. §§ 548, 550 and 551**

16. The Trustee realleges and repeats the allegations contained in the foregoing paragraphs and by reference incorporates them herein.

**Response:** Defendant incorporates its responses to the foregoing allegations by reference as if separately repeated here.

17. The aforementioned payment constitutes “transfers,” as that term is defined in 11 U.S.C. § 548, of an asset or interest in an asset to the Debtors.

**Response:** Defendant responds to the allegations in this paragraph by stating that this paragraph does not contain allegations of fact, but rather contains conclusions of law to which no admission or denial is required. To the extent that a response may be required, Defendant denies these allegations.

18. The Transfers were made within two years of the Petition Date.

**Response:** Admitted.

19. The Transfers were made while the Debtors were insolvent.

**Response:** Defendant lacks knowledge or information sufficient to form a belief as to the truth of this allegation, and therefore denies it.

20. The Transfers were made for less than reasonably equivalent value.

**Response:** Denied.

21. The Transfers constitute fraudulent transfers avoidable by the Trustee pursuant to § 548(a)(1)(B) of the Bankruptcy Code and recoverable from the Defendant pursuant to §§ 550 and 551 of the Bankruptcy Code.

**Response:** Denied.

22. As a result of the foregoing, the Trustee is entitled to a judgment against the Defendant: (a) avoiding and preserving the Transfers, (b) directing that the Transfers be set aside, and (c) recovering the Transfers in the amount of \$20,000.00 from the Defendant for the benefit of the Estates.

**Response:** Denied.

**COUNT TWO**

**Fraudulent Transfer – Actual Intent – 11 U.S.C. §§ 548, 550 and 551**

23. The Trustee realleges and repeats the allegations contained in the foregoing paragraphs and by reference incorporates them herein.

**Response:** Defendant incorporates its responses to the foregoing allegations by reference as if separately repeated here.

24. The Transfers were made within two years of the Petition Date.

**Response:** Admitted.

25. The Transfers were made with the actual intent to hinder, delay or defraud some or all of the Debtors' then existing and/or future creditors.

**Response:** Denied.

26. The Transfers constitute fraudulent transfers avoidable by the Trustee pursuant to 11 U.S.C. § 548(a)(1)(A) and recoverable from the Defendant pursuant to §§550 and 551 of the Bankruptcy Code.

**Response:** Denied.

27. As a result of the foregoing, the Trustee is entitled to a judgment against the Defendant: (a) avoiding and preserving the Transfers, (b) directing that the Transfers be set aside, and (c) recovering the amount of \$20,000.00 from the Defendant for the benefit of the Estates.



**Response:** Denied.

**COUNT THREE**

**Preferences – 11 U.S.C. §§ 547, 550 and 551**

28. The Trustee realleges and repeats the allegations contained in the foregoing paragraphs and by reference incorporates them herein.

**Response:** Defendants incorporate their responses to the foregoing allegations by reference as if separately repeated here.

29. Within ninety (90) days of the Petition Date, the Debtors paid the Transfers to the Defendant.

**Response:** Admitted.

30. The Transfers were made:

(a) to or for the benefit of the Defendant, who claims to be a creditor at the time of the Transfers;

(b) for or on account of an antecedent debt owed by the Debtors before such Transfers were made;

(c) while the Debtors were insolvent;

(d) within 90 days of the Petition Date; and

(e) enabling the Defendant to receive more than the Defendant would receive if the cases were under Chapter 7, the Transfers were not made, and the

Defendant received payment of such debt to the extent provided by the provisions of Title 11 of the United States Code.

**Response:** Denied.

31. The Transfers constitute preferential transfers avoidable by the Trustee pursuant to 11 U.S.C. § 547 and recoverable from the Defendant pursuant to §§550 and 551 of the Bankruptcy Code.

**Response:** Denied.

32. As a result of the foregoing, the Trustee is entitled to a judgement against the Defendant: (a) avoiding and preserving the preferential transfers, (b) directing that the preferential transfers be set aside, and (c) recovering the amount of \$20,000.00 from the Defendant for the benefit of the Estates.

**Response:** Denied.

### **AFFIRMATIVE DEFENSES**

Defendant asserts the following affirmative defenses in response to the Trustee's claims:

A. The Trustee's Complaint fails to state a claim on which relief can be granted.

B. The Trustee's claims fail because the Defendant provided reasonably equivalent value for all transfers at issue, and the transfers were made in the ordinary course of business.

C. The Trustee's claims fail because the Defendant is a good faith transferee for value without knowledge of the alleged voidability of the transfers at issue.

**WHEREFORE**, Defendant seeks judgment in its favor and against the plaintiff, costs of this action, and all other just and proper relief.

Respectfully submitted,

*/s/ F. Anthony Paganelli*

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F. Anthony Paganelli (IN 18425-53)  
Admitted *Pro Hac Vice*  
Counsel for Defendant

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing document was filed on July 27, 2016, using the Court's ECF system, which will provide notice of filing upon the following counsel of record:

Andrew G. Lizotte (alizotte@murphyking.com)  
Murphy & King, P.C.  
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Boston, MA 02108

*/s/ F. Anthony Paganelli*

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F. Anthony Paganelli (IN 18425-53)