

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
CENTRAL DIVISION

In re:	) Chapter 11
	)
	) Case No. 14-40987
TELEXFREE LLC., <u>et al.</u> , <sup>1</sup>	)
	) Jointly Administered
Debtors.	)
	)
	)
STEPHEN B. DARR AS TRUSTEE OF	)
THE ESTATES OF TELEXFREE, LLC,	)
TELEXFREE, INC. and TELEXFREE	)
FINANCIAL, INC.,	)
	) Adversary Proceeding No. 15-04055
Plaintiffs,	)
	)
v.	)
	)
RITA DOS SANTOS, INDIVIDUALLY	)
AND AS PUTATIVE CLASS	)
REPRESENTATIVE,	)
AND	)
MARIA MURDOCH, ANGELA BATISTA	)
JIMINEZ, ELISANGELA OLIVEIRA	)
AND DIOGO DE ARAUGO, AS	)
PUTATIVE CLASS REPRESENTATIVES,	)
	)
Defendants.	)

**PIEC'S MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, as incorporated by Rule 7056 of the Federal Rules of Bankruptcy Procedure, and Rule 56.1 of the Local Rules of the United States District Court for the District of Massachusetts, as incorporated by Rule 7056-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the District of Massachusetts, the Plaintiffs' Interim Executive Committee (the "PIEC"), appointed by the

<sup>1</sup> The debtors (the "Debtors") in these cases (collectively, the "Chapter 11 Cases") are TelexFree, LLC, TelexFree, Inc., and TelexFree Financial,



United States District Court in this District as the representative of the victims of the Debtors' Ponzi scheme by orders entered in the multi-district litigation proceedings captioned *In re TelexFree Securities Litigation*, MDL No. 14-02566 (D. Mass.), hereby moves (the "Motion") for summary judgment in its favor and against Stephen Darr, as Chapter 11 Trustee, in this action. In support of the Motion, the PIEC relies on the *Statement of Undisputed Facts and attached Exhibits* and *Memorandum in Support of PIEC's Motion for Summary Judgment*, filed contemporaneously herewith.

The Trustee's complaint, which purports to seek injunctive relief against the PIEC for violating the automatic stay by initiating actions in the federal district court, is really an attempt by the Trustee to secure unto himself prosecution of direct claims owned by the numerous victims against certain promoter-participants. The Trustee justifies his attempt by characterizing such claims as fraudulent transfer claims over which the Trustee alone has authority to prosecute.

The Trustee lacks standing to prosecute such claims because the monies at issue were paid by victims directly to non-debtor promoter-participants, were paid as a result of a fraudulent scheme, were never in the Debtors' possession at any time, were never commingled with other assets of the Debtors, and were never actually transferred by the Debtors to said promoters.

There are no material facts in dispute and the PIEC is entitled to judgment as a matter of law dismissing the complaint.

*[Remainder of page intentionally left blank]*

**WHEREFORE**, the PIEC respectfully requests that this Court grant the Motion dismissing the Adversary Proceeding in its entirety and with prejudice.

Dated: August 5, 2016  
Boston, Massachusetts

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*For the Plaintiffs' Interim Executive Committee*

**CERTIFICATE OF SERVICE**

The undersigned certifies that on August 5, 2016, the foregoing document was filed electronically, and therefore was sent by email to those receiving CM/ECF notices from the Court's electronic filing system. I further certify that I have caused to be sent by first class mail a copy to the following parties on this 5th day of August, 2016.

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/s/ Carol S. Ennis  
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