

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS**

In re:

TELEXFREE, LLC,
TELEXFREE, INC. and
TELEXFREE FINANCIAL, INC.,

Debtors.

Chapter 11 Cases

14-40987-MSH
14-40988-MSH
14-40989-MSH

Jointly Administered

STEPHEN B. DARR AS TRUSTEE
OF THE ESTATES OF TELEXFREE, LLC,
TELEXFREE, INC. and TELEXFREE
FINANCIAL, INC.,

Plaintiffs,

Adversary Proceeding
No. 15-04055

v.

RITA DOS SANTOS, INDIVIDUALLY AND
AS PUTATIVE CLASS REPRESENTATIVE,
AND MARIA MURDOCH, ANGELA
BATISTA JIMENEZ, ELISANGELA
OLIVEIRA AND DIOGO DE ARAUGO, AS
PUTATIVE CLASS REPRESENTATIVES,

Defendants.

CROSS-MOTION BY TRUSTEE 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, Stephen B. Darr, the Chapter 11 Trustee (“Trustee”) of TelexFree LLC, TelexFree Inc., and TelexFree Financial Inc., hereby moves for summary judgement on Counts I and II of this action. There are no material facts in dispute and the Trustee is entitled to judgment as a matter of law.



In further support of this motion, the Trustee relies upon the following:

1. Trustee's Memorandum of Law in Support of Opposition by Trustee to PIEC Motion for Summary Judgment and Cross-Motion by Trustee for Summary Judgment;
2. Opposition by Trustee to PIEC Motion for Summary Judgment
3. Trustee's Statement of Undisputed Material Facts in Support of Cross-Motion for Summary Judgment,
4. Trustee's Response to Defendants' Statement of Undisputed Material Facts in Support of PIEC Motion for Summary Judgment; and
5. Affidavit of Stephen B. Darr in Opposition to the PIEC Motion for Summary Judgment and in Support of the Trustee's Cross Motion for Summary Judgment.

Wherefore, the Trustee requests that judgment enter as follows:

1. Declaring that the funds transferred in Triangular Transactions constitute property of the Debtors' estates;
2. Declaring that the Defendants' prosecution of the Unjust Enrichment Claims violates the automatic stay under 11 U.S.C. §362(a) and therefore is void *ab initio*;
3. Pursuant to 11 U.S.C. §105(a), permanently enjoining and restraining the Defendants, individually and as class representatives, and those acting in concert or participation with them or on their behalf or any other parties from further prosecuting the Unjust Enrichment Claims or any other action against the Net Winners;
4. Awarding damages to the Trustee in an amount reasonable to compensate the Debtors' estates for the costs and expenses of bringing this action, including awards of reasonable attorney fees; and

5. Granting the Trustee such other and further relief as the Court deems just and proper.

Respectfully submitted,

STEPHEN B. DARR, CHAPTER 11
TRUSTEE,
By his counsel:

Dated: September 2, 2016

/s/ Andrew G. Lizotte
Harold B. Murphy (BBO #362610)
Charles R. Bennett, Jr. (BBO #037380)
Andrew G. Lizotte (BBO #559609)
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