

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In re:

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

Debtors.

STEPHEN DARR, AS HE IS THE TRUSTEE
OF THE CHAPTER 11 ESTATES OF EACH
OF THE DEBTORS,

Plaintiff,

v.

INFINIUM WIRELESS,

Defendant.

Chapter 11 Cases

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

Jointly Administered

Adversary Proceeding
No. 16-4033

**STIPULATION OF SETTLEMENT BETWEEN CHAPTER 11 TRUSTEE
AND INFINIUM WIRELESS, LLC**

This stipulation (the "Stipulation") is entered into on this 21st day of November, 2016, by and between Stephen Darr, the duly appointed Chapter 11 Trustee (the "Trustee") of TelexFree, LLC, TelexFree, Inc. and TelexFree Financial, Inc. ("TelexFree" or the "Debtors"), Infinium Wireless, LLC ("Infinium"), the Defendant herein, and Todd Betlejewski, the principal of Infinium. The Trustee, on behalf of the Debtors' estates, Infinium, and Betlejewski (sometimes collectively referred to as the "Parties") stipulate and agree as follows:



1440987161122000000000009

RECITALS

A. 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.

B. 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.

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

D. The Debtors ostensibly operated a “multi-level marketing” company with its headquarters in Marlborough, Massachusetts. It represented 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 (“Participants”). The Debtors operated a massive Ponzi and pyramid scheme which involved more than a million Participants from multiple countries.

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

F. In the fall of 2013, the Debtors retained Infinium purportedly to build a mobile telephone application.

G. The mobile telephone application being built by Infinium was intended to be a joint venture between Infinium and Telex Mobile, LLC. The owners of Telex Mobile, LLC were

Carlos Wanzeler and James Merrill, the Debtors' principals. The Debtors had no interest or rights in the product being developed by Infinium for which it was paying.

H. During the two years preceding the Petition Date, the Debtors made payments to Infinium totaling approximately \$630,000 for the buildout of the mobile platform.

I. During the ninety days preceding the Petition Date, the Debtors made payments to Infinium totaling approximately \$140,000 for the buildout of the mobile platform.

J. On or about April 4, 2016, the Trustee commenced this action against Infinium seeking avoidance of the foregoing payments as fraudulent and preferential transfers pursuant to 11 U.S.C. §§547, 548, 550, 551.

K. Infinium has denied any liability and has claimed that it is unable to pay any judgment.

L. The Parties have since had discussions and exchanged information regarding the merits of the Trustee's claims and any defenses. As a result of these discussions, and in order to avoid the costs, delays and uncertainty of litigation, the Parties have entered into this Stipulation.

NOW THEREFORE, the Parties hereby stipulate and agree, subject to the approval of the Court, as follows:

1. Infinium shall pay the sum of \$7,500 ("Settlement Amount") to the Trustee upon entry of the order approving the Stipulation. Betlejewski hereby guarantees Infinium's payment of the Settlement Amount. If Infinium shall breach its payment obligation hereunder, the Trustee may enforce the terms of this Stipulation against Infinium and/or Betlejewski and may recover attorneys' fees from Infinium and Betlejewski associated with compelling compliance with the terms of the Stipulation.

2. Infinium shall waive, release, and discharge any and all claims it may have

against the Trustee, the Debtors or the Debtors' estates.

3. The Trustee shall release any claims he may have against Infinium and Betlejewski, other than Infinium's and Betlejewski's obligations under the terms of this Stipulation.

4. Infinium and Betlejewski shall cooperate with the Trustee's prosecution of any other causes of action upon request, including serving as a witness, provided that the Trustee shall reimburse Betlejewski for any travel expenses associated with such requested services.

5. Upon Court approval of this Stipulation and payment by Infinium of the Settlement Amount, this adversary proceeding shall be dismissed.

6. If any of the financial information provided by Infinium or Betlejewski to the Trustee is later demonstrated to be materially misleading, the Trustee shall not be bound by the release granted in paragraph 3 herein and may pursue additional recovery against Infinium and any mediate transferees.

7. While the Trustee shall retain no causes of action against Infinium and Betlejewski, nothing contained in the Stipulation shall impair, release, or discharge claims that have been or could be asserted, whether or not such claims have to date been asserted, by the plaintiffs in the multi-district litigation pending in the United States District Court for the District of Massachusetts, *captioned* In re TelexFree Securities Litigation, MDL No. 4:14-md-2566-TSH. For the avoidance of doubt, the Trustee agrees he shall not attempt to assert any claims or causes of action against Infinium and Betlejewski in this multi-district litigation or otherwise. Nothing in this release grants the plaintiffs in the multi-district litigation any claims or causes of action that they would otherwise not have absent the Stipulation.

8. This Stipulation shall be binding upon and inure to the benefit of the Parties, and

their respective administrators, representatives, successors and assigns.

9. This Stipulation constitutes the complete and exclusive agreement of the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings, oral or written, between the Parties with respect to such subject matter.

10. This Stipulation shall be governed by and construed in accordance with the Bankruptcy Code (11 U.S.C. § 101 *et seq.*) and the substantive law of the Commonwealth of Massachusetts, and shall have the force and effect of an instrument executed and delivered under seal under the law of the Commonwealth of Massachusetts.

11. This Stipulation may be executed in counterparts, each of which shall be deemed to be an original, and all such counterparts together shall constitute one and the same instrument. This Stipulation may be executed by facsimile or portable document format (“pdf”).

12. Each party represents and warrants that it has had an opportunity to fully review the provisions of this Stipulation with attorneys of its own choice as a result of which the Parties hereto acknowledge and agree (a) that any rule of law that provides that ambiguities are to be construed against the drafting party shall not be employed in the interpretation of this Stipulation and (b) that each party signing this Stipulation is entering into this Stipulation knowingly, voluntarily and of its own free will.

13. The Court shall retain jurisdiction to resolve any dispute arising under or in connection with this Stipulation.

14. This Stipulation shall have no force or effect unless it is approved by the Court.

STEPHEN DARR AS HE IS THE
TRUSTEE OF THE CHAPTER 11
ESTATES OF EACH OF THE DEBTORS
By his attorneys,


Charles R. Bennett, Jr. (BBO #037380)
Andrew G. Lizotte (BBO #559609)
Murphy & King, Professional Corporation
One Beacon Street
Boston, MA 02108
(617) 423-0400
ALizotte@murphyking.com

Infinium Wireless,
By counsel:

Timothy J. Durken, Esq.
JAGER SMITH P.C.
One Financial Center
Boston, Massachusetts 02111
617 951 0500

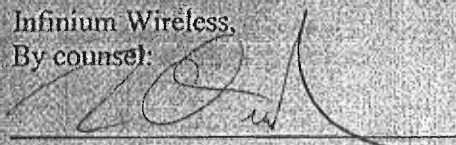
Todd Betlejewski

715182

STEPHEN DARR AS HE IS THE
TRUSTEE OF THE CHAPTER 11
ESTATES OF EACH OF THE DEBTORS
By his attorneys,

Charles R. Bennett, Jr. (BBO #037380)
Andrew G. Lizotte (BBO #559609)
Murphy & King, Professional Corporation
One Beacon Street
Boston, MA 02108
(617) 423-0400
ALizotte@murphyking.com

Infinium Wireless,
By counsel:



Timothy J. Durken, Esq.
JAGER SMITH P.C.
One Financial Center
Boston, Massachusetts 02111
617 951 0500



Todd Betlejewski

715182