

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

**FIRST INTERIM APPLICATION FOR COMPENSATION AND  
REIMBURSEMENT OF EXPENSES OF STONETURN GROUP, LLP AS  
EXPERT CONSULTANTS FOR BOTH DOMESTIC AND  
INTERNATIONAL DEFENDANT CLASSES**

Pursuant to (i) the “Class Certification Order and Approval of Class Counsel” entered October 6, 2016 (*see* Exhibit A.1), (ii) the “Class Certification Order and Approval of Class Counsel” entered August 3, 2017 (*see* Exhibit A.2), (iii) the engagement letter by and between the consulting firm StoneTurn Group, LLP (“StoneTurn”) and the law firm of Milligan Rona Duran & King LLC (“MRDK”) (*see* Exhibit B), and (iv) Massachusetts Bankruptcy Local Rule 2016-1, StoneTurn respectfully requests that this Court authorize and order Stephen B. Darr, as Chapter 11 Trustee, (“Trustee”) to release funds requisite to compensate StoneTurn for its reasonable consulting fees incurred from August 23, 2016 to September 15, 2017 in connection with assisting MRDK with its defense in *Darr v. Argueta*, Adv. Pro. 16-4006 and *Darr v. Alecci*, Adv. Pro. 16-04007.



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## **INTRODUCTION**

1. In this Interim Application – StoneTurn requests consulting fees in the amount of **\$114,272.50**. (See Exhibit F, Grand Totals.)

2. The StoneTurn’s fees have been divided into three temporal categories: (1) \$8,265.00 in fees related to preliminary research, discussions, document review in connection with this case (see Exhibit C); (2) \$28,420.00 in fees related to the acquisition, formatting, preparation, loading and sampling of the SIG database, as well as the Trustee’s summary tables thereof (see Exhibit D); and (3) \$77,587.50 in fees incurred related to subsequent testing and analysis of the Trustee’s calculations and assumptions with respect to the determination of net equity. (See Exhibit E.)

3. MRDK was appointed class counsel for net winners residing in the United States (“U.S.”) on October 6, 2016 (see Exhibit A.1) and class counsel for net winners residing outside the U.S. August 3, 2017 (see Exhibit A.2). StoneTurn’s work on this matter and its consulting services for MRDK commenced on August 23, 2016, and was of officially retained by MRDK on January 5, 2017 (see Exhibit B). While StoneTurn’s consulting work on this matter is ongoing, this Interim Fee Application covers from the date StoneTurn commenced work (i.e., August 23, 2016) through the September 15, 2017.

## **BACKGROUND**

4. The Trustee alleges that the Debtors operated a massive Ponzi scheme, defrauding hundreds of thousands of people of billions of dollars. Germane to this Application, the Trustee alleged that roughly 15,000 individuals or entities residing in the U.S. were “Net Winners” who illegally profited from the fraud. These 15,000 Net Winners

comprise a class of defendants ("U.S. Net Winner Class"). Additionally, the Trustee alleged that roughly 80,000 individuals or entities residing outside the U.S. were "Net Winners" who illegally profited from the fraud. These 80,000 Net Winners comprise a class of defendants ("Non-U.S. Net Winner Class", and together with the U.S. Net Winner Class, the "Net Winner Class").

5. MRDK, as class counsel, retained StoneTurn as the Net Winner Class's expert and worked closely with StoneTurn to obtain the necessary data, as well as prepare the scope of StoneTurn's opinions. StoneTurn Group is in the process of, and continues to, analyze the data and prepare its opinions concerning the "Sistemas de Informações Gerenciais" ("SIG") data and the Trustee's assumptions and analysis of the SIG data with respect to the determination of net equity.

#### **BRIEF SUMMARY OF SERVICES**

6. As set forth below, StoneTurn has expended considerable time and resources providing consulting services to assist MRDK in its pursuit of defense strategies to protect the Net Winner Class, and to ensure a resolution that is just, fair, and efficient to class members.

7. In connection with the consulting services provided to MRDK, StoneTurn performed the following activities:

- a. With regards to first time period of August 23, 2016 through December 15, 2016 relating to preliminary research, discussions and document review:

- i. Held preliminary discussions with MRDK, as well as the Trustee, regarding the nature, process and scope of the engagement.
  - ii. Performed independent research regarding the history of TelexFree, including participation, structure and payment schemes.
  - iii. Reviewed relevant documentation, including legal filings, presentations and other work product prepared by the parties.
  - iv. Met with MRDK and Huron Consulting Group regarding the net equity calculations performed by the Trustee, as well as the structure and magnitude of underlying TelexFree data utilized.
- b. With regards to second time December 16, 2016 of April 24, 2017, relating to formatting, preparation, loading and sampling of databases:
  - i. Worked directly with StoneTurn's IT services providers to determine and implement necessary infrastructure requirements for hosting the SIG server within StoneTurn's environment. The SIG server comprised approximately 1.6TB of data and included over 4 billion records.
  - ii. Loaded, configured, and launched the SIG server in a StoneTurn virtual environment in order to conduct a further analyses.
  - iii. Developed and executed a method of random sampling on the SIG server in order to perform an exploratory analysis of the

tables on which Huron Consulting Group based its Net Equity calculations. This exploratory analysis was necessary to ensure a robust understanding of database architecture, as well as the assumptions underlying the calculations performed by Huron Consulting Group on behalf of the Trustee.

- iv. Participated in discussions with MRDK to address StoneTurn's initial data review, as well as plan subsequent testing and analysis of the Net Equity calculation as applied to the SIG databased in full.
- c. With regards to third time period of May 30, 2016, through September 15, 2017, relating to testing and analysis of net equity calculations:
  - i. Performed an exploratory data analysis on the full population of SIG server data, including the preparation of interactive time series and scatter plot data visualizations for MRDK's review.
  - ii. Reviewed and assessed the net equity calculations performed by Huron Consulting Group on behalf of the Trustee, as well as the underlying assumptions as set forth in relevant legal filings and presentations.
  - iii. Prepared net equity reports for the top 100 net winners and net losers, as well as detailed reports for all U.S. participants in both TelexFree/Ympactus combined and TelexFree standalone.

- iv. Utilized net equity reports for subsequent analysis and manual review of top 100 net winners and net losers for purposes of identifying potential issues with account-level aggregation, as well as the creation of graphical visualization demonstrating patterns in net equity over time.
- v. Created an analysis allowing for the dynamical exploration of selected case study participants, as well as both a programmatic and manual identification of additional potential account aggregations not identified by the Trustee.
- vi. Compiled a memo outlining StoneTurn's preliminary findings, including potential issues surrounding Huron's methodology for account aggregation, as well as assumptions related to the consideration of credit transfers within the determination of a participant's net equity.
- vii. On September 15, 2017, participated in a live meeting with the Trustee, counsel for the Trustee, Huron and MRDK to present preliminary findings and analyses.

8. StoneTurn states that the compensation sought herein belong solely to the StoneTurn, and such fees will not be divided, shared or pooled, directly or indirectly, with any other person or firm.

9. StoneTurn has not received or been promised any other payments for the services covered in this Application, and has not received any prior interim payments from the Defense Fund establish in this matter.

10. Pursuant to Bankruptcy Rule 2016 and MLBR 2016-1, StoneTurn submits the following information in support of the request for compensation and reimbursement of expenses:

- a. A copy of the Court's order authorizing StoneTurn as consultant to class counsel and approving funds of \$87,500.00 from the Estate with respect to the U.S. Net Winner Class (Exhibit A.1);
- b. A copy of the Court's order authorizing StoneTurn as consultant to class counsel and approving funds of \$60,000.00 from the Estate with respect to the Non-U.S. Net Winner Class (Exhibit A.2);
- c. A copy of the engagement letter by and between the consulting firm StoneTurn and the law firm of MRDK (Exhibit B);
- d. A brief narrative summary of the services rendered by StoneTurn in connection with its consulting work for MRDK (¶ 7, supra);
- e. A chart breaking down StoneTurn's 320.5 total hours expended (i) showing the full name and initials of each consultant who worked on the case; and (ii) detailing the number of hours expended by each consultant for each of three time periods:
  - i. August 23, 2016 to December 15, 2016 (Exhibit C);

- ii. December 16, 2016 to April 24, 2017 (Exhibit D); and
- iii. April 25, 2017 to September 15, 2017 (Exhibit E);
- f. A table showing the grand totals per time keeper and for StoneTurn (Exhibit F);
- g. Contemporaneous time records describing the specific services performed each day by each person with the time broken down into units of tenths of one hour devoted to such services (Exhibit G);
- h. A brief biography of each person included in the fee application, stating his or her background and experience (Exhibit H).

11. StoneTurn's work in this matter through September 15, 2017 has been directly or indirectly beneficial to both the U.S. Net Winner Class and Non-U.S. Net Winner Class, and it is not possible to reasonably disaggregate such efforts in a non-speculative manner. Given this fact, StoneTurn is seeking compensation against (but will not exceed without prior approval) the total authorized funding amount of \$147,500 on a proportional basis, comprising \$87,500 (or 59.3%) for the U.S. Net Winner Class and \$60,000 (or 40.7%) for the Non-U.S. Net Winner Class. The Trustee has indicated that he has no objection to this approach. As such, of the \$114,272.50 in total requested fees through September 15, 2017, \$67,763.59 (or 59.3%) would be applied against approved funding for the U.S. Net Winner Class and \$46,508.91 (or 40.7%) would be applied against approved funding for the Non-U.S. Net Winner Class. No retainer, partial payment, or interim allowances have yet been



requested by or paid to StoneTurn, and this is StoneTurn's first interim application for compensation in this matter.

12. WHEREFORE, StoneTurn respectfully requests that this Court enter an order regarding compensation of \$114,272.50 in reasonable and necessary consulting fees.

Respectfully Submitted,

STONETURN GROUP LLP

Dated: November 10, 2017

/s/ Joshua Dennis  
Joshua Dennis  
StoneTurn Group LLP  
75 State Street, Suite 902  
Boston, Massachusetts 02109  
(617) 570-3789  
jdennis@stoneturn.com

## Exhibit A.1

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS

In re:

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

Debtors.

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

Plaintiff,

v.

BENJAMIN ARGUETA, ALEXANDRO  
ROCHA, JOSE NETO, JULIO C. PAZ,  
EUZEBIO SUDRE NETO, HUGO  
ALVARADO, ANA R. RAMOS, LINDA  
SUZANNE HACKETT, RUDDY ABREAU,  
MARCO ALMEIDA, RODRIGO  
MONTEMOR, LAUREANO ARELLANO,  
AARON ATAIDE, ROSANE CRUZ, OMAR  
QUINONEZ, CARLOS C. DEJESUS,  
BILKISH SUNESARA, ANDRES BOLIVAR  
ESTEVEZ, JOSE LOPEZ, ANA ROSA  
LOPEZ, FRANTZ BALAN, MARCELO  
DASILVA, GLADYS ALVARADO, MARIA  
TERESA MILAGRES NEVES, MARCOS  
LANA, LUIZ ANTONIO DA SILVA, BRUNO  
GRAZIANI, EDUARDO N. SILVA, MICHEL  
CHRISTIANO SANTOLIN DE ARRUDA,  
FRANCISDALVA SIQUEIRA, ALEXANDER  
N. AURIO, AMILCAR LOPEZ, RENATO  
SACRAMENTO, JULIO SILVA, DAVIDSON  
R. TEIXEIRA, JOSE CARLOS MACIEL,  
JESUS OSUNA, CHAI HOCK NG, EDILENE  
STORCK NAVARRO, SORAYA FERREIRA,  
EDSON F. SOUZA, VAMING SERVICES,  
JORGE ANTONIO MEJIA SEQUEIRA,  
RODRIGO CASTRO, DAVID REIS,

Chapter 11 Cases

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

Jointly Administered

Adversary Proceeding  
No. 16-04006

ANA SANTOS, WESLEY DIAS, TIMEX  
RESEARCH CONSULTING, INC., CELSO  
ROBERTO SILVA FILHO, TEAM GLOBAL  
ADVERTISING LLC, LWC MARKETING,  
INC., BARTOLO CASTLLO, GASPAR  
JESUS, LUISA E. LOPEZ, MARCIO SOUZA  
NERY, DEBORA C. BRASIL, JOELITO  
SOUZA CALDAS JUNIOR, UNITED GROUP  
USA, JEAN 2004, ENTERPRISE CORP.,  
RUDMAR GENTIL, NEW GENERATION  
MED SUPPLY, INC., DANEUNG XIONG,  
CARLOS ALFARO, LUSETTE BALAN,  
TECHNOVIA, INC., FAITH SLOAN,  
MARIZA S. MORINELLI, NUBIA R.  
GLOULART, ROBERTO NUNEZ, GILSON  
NASSAR, BINGJIAN PAN, YUE CHEN,  
RODRIGO R. BREDAS, PAULO GIULIANO  
DIOGENES DE BESSA ROSADO, JOSE  
MIGUEL FILHO, LAN LAN JI,  
VENERANDO CONTRERAS, JAP  
INTERNATIONAL NETWORK, LLC,  
WALACE AUGUSTO DA SILVA, EZAU  
SOARES FERREIRA, EDDIT ALBERTO  
DUVERGE, GLOBAL MARKETING  
STRATEGIES, CAROL VANTERPOOL,  
DEVENDRA SHAH, PAT JACKSON,  
SILVERIO REYES, FABIANA ACACIA DA  
CRUZ DOS SANTOS, GERALD AGNEW,  
DWAYNE JONES, JOSEPH PIETROPAOLO,  
JAMILSON MARCO CONCEICAO, SONYA  
CROSBY, RANDY CROSBY, WESLEY  
NASCIMENTO ALVESBY, ANTONIO  
OLIVEIRA, RONEIL BARRETO,  
MILAGROS ADAMES, LM DAVAR, INC.,  
PARROT BAY HOMES, INC., EDGAR  
BORELLI, RICHARDO FABIN, DANIEL  
CHAVEZ, FAUSTINO TORRES, HELIO  
BARBOSA, GELALIN-3377, LLC AND A  
DEFENDANT CLASS OF NET WINNERS,  
Defendant(s).

**CLASS CERTIFICATION ORDER  
AND APPROVAL OF CLASS COUNSEL**

After notice and hearing, and for good cause shown, the Motion for Certification of a Defendant Class consisting of Net Winners<sup>1</sup> [docket entry 2] filed by Stephen B. Darr (the “Trustee”) is granted under Rule 23(a) and 23(b)(1) of the Federal Rules of Civil Procedure, as incorporated by Rule 7023 of the Federal Rules of Bankruptcy Procedure. The Court makes the following findings:

**I. BACKGROUND**

1. This litigation was commenced by the Trustee seeking to recover money paid to various Participants who received more in payments (both in direct transactions and Triangular Transactions) than the Participants paid directly or through Triangular Transactions to the Debtors, e.g., Net Winners. The Trustee has brought this action seeking a certification of a class of defendants consisting of all Net Winners residing in the United States of America. The Trustee asserts that the domestic Net Winner class consists of approximately 15,000 individuals or entities and the aggregate Net Winner payments exceed one hundred million dollars (\$100,000,000.00).

2. The Trustee asserts that he may recover the payments to Net Winners as Fraudulent Transfers pursuant to Section 548 of the Bankruptcy Code and the payments made within ninety (90) days of the commencement of these proceedings as preferences pursuant to Section 547 of the Bankruptcy Code. The Court has previously ruled that (1) the Debtors engaged in a Ponzi scheme, (2) claims are to be determined on a net equity basis and only Participants who paid more to the Debtors, either directly or through Triangular Transactions, than they received from the Debtors, either directly or through Triangular Transactions, will have an Allowed Claim (“Net Losers”) [docket entries 654, 687 in case no. 14-40987].

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<sup>1</sup> Terms not otherwise defined herein shall have the meaning set forth in the *Memorandum in Support of Plaintiff's Motion for Class Certification*, docket entry 3.

## II. DISCUSSION

3. The Federal Rules of Civil Procedure allow for a Defendant Class. Rule 23(a) states that “[o]ne or more members of a class may sue *or be sued* . . . .” Fed. R. Civ. P. 23(a) (It is apparent from the words of Rule 23(a) “sue or be sued as representative parties” that [suits] against a Defendant Class are permitted. *See Tilley v. TJX Companies, Inc.*, 345 F.3d 34, 37 (1st Cir. 2003) (Rule 23 treats plaintiff and defendant classes the same). Defendant Class actions have been certified when, as here, there is a need for a “procedural device that allows one who has a common grievance against a multitude of persons to resolve . . . the dispute by using only a few members of the class.”) *Broadhollow Funding Corp. v. Fitzmaurice (In re Broadhollow Funding Corp.)*, 66 B.R. 1005, 1007 (Bankr. E.D.N.Y. 1986).

4. A Defendant Class may be certified if it meets four prerequisites: (1) numerosity; (2) commonality; (3) typicality; and (4) fair and adequate representation. Fed. R. Civ. P. 23(a). In addition to meeting the four prerequisites of Rule 23(a), certification of the proposed class requires satisfaction of one of the class requirements set forth in Rule 23(b).

### A. Rule 23(a) Analysis

#### Numerosity

5. It is undisputed that the proposed class meets the numerosity requirements, as it consists of approximately 15,000 Net Winner Defendants, who are dispersed throughout the United States. [Darr Decl. ¶ 31] The sheer number of the members of the proposed class and geographic diversity satisfy the numerosity requirement. *Kerrigan v. Phila. Bd. of Edu.*, 284 F.R.D. 740 (E.D.P. 2008); and *In re Carbon Black Antitrust Litig.*, 03-10191-DPW, 2005 WL 102966 (D. Mass. Jan. 18, 2005).

#### Commonality

6. The “commonality” factor examines whether there are “questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). Here, the common questions include, among others, (i) what transfers should be included in the determination of a Net Winner; (ii) whether Net Winners should be determined by an aggregation of Related User Accounts; (iii) whether the Net Winner Payments are avoidable as fraudulent transfers because the Debtors had the actual intent to hinder, delay, or defraud creditors; (iv) whether the Net Winner Payments are avoidable as fraudulent transfers because the transfers were made for less than fair consideration while the Debtors were insolvent, undercapitalized, or unable to pay debts as they became due; (v) whether the Net Preference Payments may be recovered as preferential transfers; (vi) whether the Court’s finding that the Debtors engaged in a Ponzi and pyramid scheme may be applied, along with any applicable presumptions, in determining the Trustee’s claims. (Darr Decl. ¶33). “It is not required that all factual or legal questions raised in the lawsuit be common so long as a single issue is common to all class members.” *Weinman v. Fid. Capital Appreciation Fund (In re Integra Realty Res., Inc.)*, 170 B.R. 264, 270 (Bankr. D. Colo. 1995); *see also In re Cardinal Indus.*, 105 B.R. 834, 844 (Bankr. S.D. Ohio 1989) (“There need only exist one significant issue or fact common to all members of the putative class.”) (citing *Newburg on Class Actions* § 3.10).

7. The proposed class members in this action share a common set of facts. The Trustee alleges that all class members had or controlled usernames and accounts with TelexFree through which the Trustee can trace all of the transactions, whether the transaction is direct or a Triangular Transaction. Further, class members are alleged to have received more money from TelexFree than they paid into TelexFree (their “Net Winnings”) during the course of their alleged participation in TelexFree’s scheme. There are also common questions of law, that is:

whether the payments from TelexFree to class members are fraudulent transfers that must be disgorged and repaid and whether the payments from TelexFree must be disgorged and repaid as preferential transfers.

8. Moreover, individual circumstances do not impact the commonality requirement. As a fraudulent transfer case, the Trustee's case focuses on whether there was a fraudulent transfer to all the Net Winners that must be repaid, without regard to the individual circumstances of participation in the scheme. Accordingly, the Court finds that the core common issues of law and fact that exist herein satisfy the commonality requirement.<sup>2</sup>

#### Typicality

9. The third prerequisite shifts the focus from the characteristics of the class members to the characteristics of the named class representatives. *See In re Broadhollow*, 66 B.R. at 1009. The typicality requirement addresses whether the "the claims or defenses of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). Frantz Balan, a named Defendant, has been proposed to serve as Class Representatives.

10. The typicality requirement does not mandate that the defenses of the representative parties and the class be completely identical or perfectly coextensive *In re Integra Realty Resources, Inc.*, 175 B.R. 264 (Bankr. D. Colo. 1995, *aff'd* 354 F.3d 1246 (10th Cir. 2004)). Rather, it is sufficient if the defenses are substantially similar and "there is a nexus

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<sup>2</sup> The Supreme Court's decision in *Wal-Mart*, its most recent look at the commonality requirement, has no bearing on this case. The plaintiffs failed the commonality test in *Wal-Mart*, mainly because of the unique nature of their claims. They sought to represent a class of 1.5 million female employees alleging that Wal-Mart had discriminated against them in employment by delegating pay and promotion decisions to local managers. The Court focused on the absence of a single, common policy that the plaintiffs were challenging; the whole point of their claims was that they were challenging many local policies and practices. There is no such issue here: the Trustee alleges a single Ponzi or pyramid scheme, with essentially identical transactions that carry essentially identical legal consequences for the Net Winners under bankruptcy law.



between class representatives/claims or defenses and common questions of fact or law which unite the class.” *In re Integra Realty Resources Inc.*, 179 B.R. at 270. Here, the Trustee alleges that the proposed Class Representative and class members participated in the same event and course of conduct that has given rise to the Defendant Class; that is, they are all accused of participating in and receiving more from TelexFree than they paid to TelexFree. Because the Class Representative is alleged to have participated in the same TelexFree scheme, he inevitably shares the same defenses against liability for repayment of the alleged fraudulent transfers made to the class, which does not depend on the personal circumstances of particular affiliates. *See Weinman*, 354 F. 3d at 1265. The Court finds that the typicality requirement is satisfied.

Fairly and Adequately Represent the Class

11. The last prerequisite for certification is that the proposed class representatives and their counsel be able to fairly and adequately represent the interests of the Defendant Class. Fed. R. Civ. P. 23(a)(4). In determining whether a named representative in a class action is “a fair and adequate representative,” some courts have applied a two-pronged test: (1) the representative must be able to conduct the litigation; and (2) the representative’s interests must not be antagonistic to those of the class members. *See Weinman*, 179 B.R. at 270-71; *see also Baehr v. Creig Northrop Team, P.C.*, WDQ-13-0933, 2014 WL 346635, at \*9 (D. Md. Jan. 29, 2014) (noting representation is adequate if the named representatives’ interests are not opposed to those of the other class members, and the attorneys are “qualified, experienced and able to conduct the litigation”) (citing *Mitchell-Tracey v. United Gen. Title Ins. Co.*, 237 F.R.D. 551, 558 (D. Md. 2006)); *Harris v. Rainey*, 299 F.R.D. 486, 490-91 (W.D. Va. 2014).

12. Here, the proposed Class Representative’s interests are not antagonistic to but aligned with, the interests of the unnamed class members because they share the common

objective to defend against having to return funds received from TelexFree as demanded by the Trustee. Thus, there is no conflict which would defeat adequacy of representation. *See Harris*, 299 F.R.D. at 491 (recognizing that “[a] conflict must be fundamental to defeat adequacy of representation; a conflict is not fundamental when all class members ‘share common objectives and the same factual and legal oppositions and have the same interest in establishing the liability of defendants.’”) (quoting *Ward v Dixie Nat. Life Ins. Co.*, 595 F.3d 164, 180 (4th Cir. 2010) and *Gunnells v. Healthplans Servs., Inc.*, 348 F.3d 417, 431 (4th Cir. 2003)).

13. Further, the named Class Representative Frantz Balan is alleged to be a significant Net Winner of the TelexFree scheme. Allegedly, Frantz Balan received over \$500,000 from TelexFree (either individually or together with another family member). The proposed Class Representative is not likely to abandon or return these substantial sums without mounting a vigorous defense. Frantz Balan, the proposed Class Representative, has an arrangement with the law firm of Milligan Rona Duran & King LLC (“MRDK”). MRDK, the law firm proposed to be retained by Mr. Balan, is experienced and has qualified attorneys, fully capable of protecting the interests of their clients and consequently the class [See *Decl. of Ilyas Rona in Support of Motion to Designate Class Representative, Appoint Milligan Rona Duran & King LLC as Class Counsel and Create Defense Fund*, docket entry 189]

14. The participation of Class Counsel will serve to expedite the resolution of the action, resolution of the Class issues and provide for the most expeditious and least expensive method to accomplish these goals. Class Counsel will result in a substantial contribution to the Estates in resolving the claims and maximizing the return to Net Losers. *See Gray v. Shapiro (In re Dehon)*, 298 B.R. 206 (Bankr. D. Mass. 2003).

15. The Court finds that Defendants and their counsel can and will adequately represent the class.

**B. Rule 23(b) Analysis**

16. Rule 23(b)(1), under which the Trustee seeks to certify the Net Winner class, permits class certification in instances where prosecuting separate actions would either create:

- (A) inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the party opposing the class; or
- (B) adjudications with respect to individual class members that, as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests.

Fed. R. Civ. P. 23(b)(1).

17. Courts have certified Defendant Classes pursuant to Rule 23(b)(1)(A) in actions involving voidable preferences and fraudulent conveyances “to insure that separate proceedings would not result in inconsistent adjudication of the common issues, thus leaving the trustee in a stalemated position.” *In re Broadhollow*, 66 B.R. at 1013 (finding certification under 23(b)(1)(A) warranted and adopting reasoning in *Guys v. Abdulla*, 57 F.R.D. 14 (N.D. Ohio 1972)).<sup>3</sup> If the Trustee herein was forced to file separate actions against the 15,000 Defendants, he would certainly be risking inconsistent and varying adjudications. If one court found that a fraudulent transfer occurred, but another court did not, then those inconsistent decisions would place the Trustee in a stalemated or conflicted position. If the Trustee attempted to enforce a valid judgment against a particular Defendant that Defendant might refuse to pay because other Defendants similarly situated were not held to be liable for the same underlying conduct related to TelexFree. These conflicting results would leave the Trustee in an untenable position, and

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<sup>3</sup> In *Guy v. Abdulla*, the court certified a defendant class under Rule 23(b)(1)(A) so that the bankruptcy trustee could maintain an action against all parties allegedly holding voidable preferences and property transferred by fraudulent conveyances without the risk of inconsistent adjudication of the common issues.

circumstances such as these are precisely why class actions exist. *See Guy v. Abdulla*, 57 F.R.D. at 17-18.

18. The Court also finds that Rule 23(b)(1)(B) certification is appropriate. Advisory Notes to Rule 23 indicate that a “fraudulent conveyance” is exactly the type of situation where a class should be certified because separate adjudication “will necessarily or probably have an adverse practical effect.” Fed. R. Civ. P. 23 advisory committee’s note. In *Integra Realty Resources*, the Court of Appeals for the Tenth Circuit upheld class certification under Rule 23(b)(1)(B) in a class action involving questions of whether a fraudulent transfer occurred and whether there was an unlawful dividend distributed. *Integra Resources*, 354 F 3d at 1263-64. The court noted that the first suit against a defendant or group of defendants could be dispositive of all remaining suits and would decide the rights of absent defendants “without the class action’s assurance that they be adequately represented.” *Id.* at 1264. The court reasoned that, as here, a defendant “has only a small number of possible individual defenses” and “the primary legal and factual issues in the first case would not only form the basis for the application of stare decisis in subsequent cases; they would almost inevitably prove dispositive in those cases.” *Id.*

19. A Defendant Class action certified under Rule 23(b)(1) is fair to the Defendants, particularly relatively small Net Winners. The efficiency of one action in which all parties can argue their case and assert their rights will benefit both TelexFree and small winners and supports the intent behind both Rule 23(b)(1)(A) and (b)(1)(B). While the Court is mindful of due process concerns as well as other problems specific to Defendant Class actions, the Court finds a class action is the only means to reasonably and efficiently resolve the Trustee’s claims against 15,000 Net Winners.

Based on the foregoing, the Court makes the following further rulings and findings:

A. The proposed class of defendants (the “Class”) is so numerous and geographically dispersed that joinder of all members is impracticable;

B. There are questions of law and fact common to all class members including but not limited to that the common claims, issues, defenses of the Class include but are not limited to: (i) what transfers should be included in the determination of a Net Winner; (ii) whether Net Winners should be determined by an aggregation of Related User Accounts; (iii) whether the initial methodology for determining Related User Accounts is reasonable; (iv) whether the information maintained on the Debtors’ SIG records with respect to each Participant transactions with the Debtor and other Participants is reasonably reliable; (v) whether the Net Winner Payments are avoidable as fraudulent transfers because the Debtors had the actual intent to hinder, delay, or defraud creditors; (vi) whether the Net Winner Payments are avoidable as fraudulent transfers because the transfers were made for less than fair consideration while the Debtors were insolvent, undercapitalized, or unable to pay debts as they became due; (vii) whether the Net Preference Payments may be recovered as preferential transfers; (viii) whether the Court’s finding that the Debtors engaged in a Ponzi and pyramid scheme may be applied, along with any applicable presumptions, in determining the Trustee’s claims.

C. The defenses of Frantz Balan as the putative Class Representative are typical of the defenses of the Class;

D. Franz Balan as the Class Representative will fairly and adequately represent the interests of the Class;

E. The prosecution of separate actions by or against individual members of the Class would create the risk that adjudications with respect to individual members of the class would as a practical matter be dispositive of the interests of the other members not parties to the

adjudications, or may be inconsistent or varying, or substantially impair or impede the ability of Class members to protect their interests;

F. The questions of law and fact common to the members of the Class predominate over any questions affecting only individual members, and a class action is superior to other methods for fair and efficient adjudication of the controversy;

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The proposed class action complaint satisfies the requirements of Fed. R. Civ. P. 23(a) and (b) as adopted by Fed. R. Bankr. P. 7023 and the Motion is granted, except as inconsistent with the terms of this Order.

2. The Court certifies a Class of all persons who reside in the United States, who purchased at least one membership plan (“Plan”) or voice over internet (“VoIP”) package from one or more of the Debtors (“a Participant”), and who satisfy one or both of the following criteria:

- (i) Is alleged to be a “Net Winner,” that is, a Participant who is alleged to have received more from the Debtors and from other persons in connection with the purchase of Plans or VoIP packages than such Participant paid to the Debtors or to other persons in connection with the purchase of Plans or VoIP packages, as determined based upon an aggregation of all activity in the User Accounts of a Participant (“Related User Accounts”);
- (ii) Is alleged to be a Net Winner as defined in section (i) above who also is alleged to have been a Net Winner with respect to transactions occurring in the 90 days prior to the bankruptcy filings.

3. The Class is certified under Fed. R. Civ. P. 23(a) and 23(b)(1). Accordingly, no member of the Class shall be permitted to opt out of the class, and each and every member of the class shall be bound by all orders or judgments of this Court in this adversary proceeding. At any time during the proceedings, the court may, upon motion or *sua sponte*, exercise its discretion under Fed. R. Civ. P. 23(c) and (d) to create sub-classes, remove or replace the Class Representative, or otherwise condition the conduct of this adversary proceeding in order to fairly and adequately protect the rights of the Class members.

4. Frantz Balan is appointed as the Class Representative.

5. The Class Representative has selected MRDK to serve as class counsel. The Court has reviewed the Affidavit submitted by Attorney Rona as to his qualifications to serve as class counsel and finds him qualified.

6. MRDK is hereby appointed Class Counsel for the Net Winner Class and shall serve until further order of the Court. Notice of the certification of the Net Winner Class and the appointment of MRDK as Class Counsel shall be sent to the members of the Class by the Trustee.

7. The Trustee is authorized to utilize estate funds in an aggregate amount not to exceed Two Hundred and Twenty Five Thousand Dollars (\$225,000.00) to pay Class Counsel for legal fees and cost incurred by Class Representative provided that (i) Class counsel submit a fee application that satisfies the requirement of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure and the Massachusetts Local Bankruptcy Rules (MLBR), including without limitation MLBR 2016-1 and applicable case law in this district and (ii) any payment shall be authorized by this Court upon notice and after all interested parties have an opportunity to be heard.

8. The Trustee is authorized to utilize estate funds in an aggregate amount not to exceed Eighty Seven Thousand Five Hundred Dollars (\$87,500.00) to pay fees and cost incurred by Class Representative for his Expert to assist Class Counsel in representation of the Class provided that (i) the Expert submit a fee application that satisfies the requirement of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure and the MLBR, including without limitation MLBR 2016-1 and applicable case law in this district and (ii) any payment shall be authorized by this Court upon notice and after all interest parties have an opportunity to be heard.

9. MRDK is authorized to communicate with the Net Winner Class as it deems reasonable and necessary through such means that it believes to be most efficient and cost-effective. The Trustee will provide to MRDK contact information, primarily email addresses, to facilitate MRDK's communications with the members of the Net Winner Class and the Trustee will assist the Class representative in sending Notices to the Class members.

10. MRDK is authorized and instructed to explain to the Net Winner Class that in the event that liability on one or more of the Trustee's claims is established, the Trustee intends to seek a process to determine the net winnings of each Net Winner Class member. Therefore, it is not necessary for any net winner to communicate with MRDK related to determining the amount of his or her net winnings because each member of the Class will have an opportunity to address those issues in the damages process ordered by the Court.

11. MRDK is authorized and instructed to inform the members of the Net Winner Class, if they have not already done so, to gather and preserve any documents or information (including electronic files) related to the amount each paid into and received from TelexFree so those documents and that information can be used in the later process to determine the amount of their individual net winnings.



12. MRDK is hereby appointed to serve without bond and shall have full power and authority to act in the best interests of the Net Winner Class. MRDK and its agents, acting within the scope of MRDK's duties, are entitled to rely on all outstanding rules of law and Orders of this Court and shall not be liable to anyone for their own good faith compliance with any order, rule, law, judgment, or decree. In no event shall MRDK be liable to anyone for its good faith compliance with its duties and responsibilities as Class Counsel, nor shall MRDK be liable to anyone for any actions taken or omitted except upon a finding by this Court that it acted or failed to act as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of its duties.

13. Subject to this Court's having jurisdiction, this Court shall hear any action filed against MRDK based upon acts or omissions committed in its representative capacity.

14. In the event MRDK decides to resign, it shall first give written notice to the Court of its intention, and the resignation shall not be effective until the Court appoints a successor.

15. The Trustee has expressed a willingness to consider voluntary settlements on the Trustee's claims with TelexFree's Net Winners and others against whom the Trustee has claims. Accordingly, members of the Net Winner Class and the Trustee are permitted to discuss a potential settlement of the Trustee's claims against them even though they have become members of the Net Winner Class.

16. The Trustee is instructed to post, in English, Spanish and Portuguese, a copy of this order on the Claims and Noticing Agent's website and to send a copy to all potential Net Winners. Any member of the Net Winner Class or other interested person who objects to this order must file such objection within 30 days of the date of its entry. The Court finds that there is no just cause to delay the implementation of the agreement reflected in this order pending the

objection period, but may revise or terminate this order after review of any objections filed.

However, any fees incurred by MRDK prior to modification of this order shall be paid in accordance with the order.

Dated at Boston this 6th day of October, 2016



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Hon. Melvin S. Hoffman  
Chief United States Bankruptcy Judge

711465-v1

## Exhibit A.2

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS**

In re:

TELEXFREE, LLC,  
TELEXFREE, INC. AND  
TELEXFREE FINANCIAL, INC.,

Debtors.

Chapter 11

Case Nos. 14-40987-MSH

14-40988-MSH

14-40989-MSH

Jointly Administered

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

Plaintiff,

v.

PAOLA ZOLLO ALECCI, et al. and a  
Defendant Class of Net Winners,

Defendants.

Adversary Proceeding

No. 16-4007

**CLASS CERTIFICATION ORDER  
AND APPROVAL OF CLASS COUNSEL**

After notice and hearing, and for good cause shown, the Motion for Certification of a Defendant Class consisting of Net Winners<sup>1</sup> [docket entry 2] filed by Stephen B. Darr (the “Trustee”) is granted under Rule 23(a) and 23(b)(1) of the Federal Rules of Civil Procedure, as incorporated by Rule 7023 of the Federal Rules of Bankruptcy Procedure. The Court makes the following findings:

**I. BACKGROUND**

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<sup>1</sup> Terms not otherwise defined herein shall have the meaning set forth in the *Memorandum in Support of Plaintiff's Motion for Class Certification*, docket entry 3.

1. This litigation was commenced by the Trustee seeking to recover money paid to various Participants who received more in payments (both in direct transactions and Triangular Transactions) than the Participants paid directly or through Triangular Transactions to the Debtors, i.e., Net Winners. The Trustee has brought this action seeking a certification of a class of defendants consisting of all Net Winners residing outside the United States of America. The Trustee asserts that the non-US Net Winner class consists of approximately 80,000 individuals or entities and the aggregate Net Winner payments exceed \$1,200,000,000.

2. The Trustee asserts that he may recover the payments to Net Winners as fraudulent transfers pursuant to Section 548 of the Bankruptcy Code and the payments made within ninety (90) days of the commencement of these proceedings as preferences pursuant to Section 547 of the Bankruptcy Code. The Court has previously ruled that (1) the Debtors engaged in a Ponzi scheme, (2) claims are to be determined on a net equity basis and only Participants who paid more to the Debtors, either directly or through Triangular Transactions, than they received from the Debtors, either directly or through Triangular Transactions, will have Allowed Claims (“Net Losers”) [docket entries 654, 687 in case no. 14-40987].

## **II. DISCUSSION**

3. The Federal Rules of Civil Procedure allow for a Defendant Class. Rule 23(a) states that “[o]ne or more members of a class may sue *or be sued* . . . .” Fed. R. Civ. P. 23(a) (It is apparent from the words of Rule 23(a) “sue or be sued as representative parties” that [suits] against a Defendant Class are permitted. *See Tilley v. TJX Companies, Inc.*, 345 F.3d 34, 37 (1<sup>st</sup> Cir. 2003) (Rule 23 treats plaintiff and defendant classes the same). Defendant Class actions have been certified when, as here, there is a need for a “procedural device that allows one who has a common grievance against a multitude of persons to resolve . . . the dispute by using only a

few members of the class.” *Broadhollow Funding Corp. v. Fitzmaurice (In re Broadhollow Funding Corp.)*, 66 B.R. 1005, 1007 (Bankr. E.D.N.Y. 1986).

4. A Defendant Class may be certified if it meets four prerequisites: (1) numerosity; (2) commonality; (3) typicality; and (4) fair and adequate representation. Fed. R. Civ. P. 23(a). In addition to meeting the four prerequisites of Rule 23(a), certification of the proposed class requires satisfaction of one of the class requirements set forth in Rule 23(b).

**A. Rule 23(a) Analysis**

(1) Numerosity

5. It is undisputed that the proposed class meets the numerosity requirements, as it consists of approximately 80,000 Net Winner Defendants, who are dispersed throughout the world. [Darr Decl. ¶ 31] The sheer number of the members of the proposed class and geographic diversity satisfy the numerosity requirement. *Kerrigan v. Phila. Bd. of Edu.*, 284 FRD 740 (E.D.P. 2008); and *In re Carbon Black Antitrust Litig.*, 03-10191-DPW, 2005 WL 102966 (D. Mass. Jan. 18, 2005).

(2) Commonality

6. The “commonality” factor examines whether there are “questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). Here, the common questions include, among others, (i) what transfers should be included in the determination of a Net Winner; (ii) whether Net Winners should be determined by an aggregation of Related User Accounts; (iii) whether the Net Winner Payments are avoidable as fraudulent transfers because the Debtors had the actual intent to hinder, delay, or defraud creditors; (iv) whether the Net Winner Payments are avoidable as fraudulent transfers because the transfers were made for less than fair consideration while the Debtors were insolvent, undercapitalized, or unable to pay debts as they became due; (v) whether

the Net Preference Payments may be recovered as preferential transfers; (vi) whether the Court's finding that the Debtors engaged in a Ponzi and pyramid scheme may be applied, along with any applicable presumptions, in determining the Trustee's claims. "It is not required that all factual or legal questions raised in the lawsuit be common so long as a single issue is common to all class members." *Weinman v. Fid. Capital Appreciation Fund (In re Integra Realty Res., Inc.)*, 170 B.R. 264, 270 (Bankr. D. Colo. 1995); *see also In re Cardinal Indus.*, 105 B.R. 834, 844 (Bankr. S.D. Ohio 1989) ("There need only exist one significant issue or fact common to all members of the putative class.") (citing *Newburg on Class Actions* § 3.10).

7. The proposed class members in this action share a common set of facts. The Trustee alleges that all class members had or controlled usernames and accounts with TelexFree through which the Trustee can trace all of the transactions, whether the transaction is either a direct or a Triangular Transaction. Further, class members are alleged to have received more money from TelexFree than they paid into TelexFree (their "Net Winnings") during the course of their alleged participation in TelexFree's scheme. There are also common questions of law, that is: whether the payments from TelexFree to class members are fraudulent transfers that must be disgorged and repaid and/or preferential transfers that must be disgorged and repaid.

8. Moreover, individual circumstances do not impact the commonality requirement. As a fraudulent transfer case, the Trustee's case focuses on whether there was a fraudulent transfer to all the Net Winners that must be repaid, without regard to the individual circumstances of participation in the scheme. Accordingly, the Court finds that the core common issues of law and fact that exist herein satisfy the commonality requirement.<sup>2</sup>

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<sup>2</sup> The Supreme Court's decision in *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011), its most recent look at the commonality requirement, has no bearing on this case. The plaintiffs failed the commonality test in *Wal-Mart*, mainly because of the unique nature of their claims. They sought to represent a class of

(3) Typicality

9. The third prerequisite shifts the focus from the characteristics of the class members to the characteristics of the named class representatives. *See In re Broadhollow*, 66 B.R. at 1009. The typicality requirement addresses whether the “the claims or defenses of the representative parties are typical of the claims or defenses of the class.” Fed. R. Civ. P. 23(a)(3). Marco Puzzarini and Sandro Paulo Freitas have been proposed to serve as Class Representatives.

10. The typicality requirement does not mandate that the defenses of the representative parties and the class be completely identical or perfectly coextensive *In re Integra Realty Resources, Inc.*, 175 B.R. 264 (Bankr. D. Colo. 1995, aff’d 354 F.3d 1246 (10<sup>th</sup> Cir. 2004). Rather, it is sufficient if the defenses are substantially similar and “there is a nexus between class representatives/claims or defenses and common questions of fact or law which unite the class.” *In re Integra Realty Resources Inc.*, 179 B.R. at 270. Here, the Trustee alleges that the proposed Class Representatives and class members participated in the same event and course of conduct that has given rise to the Defendant Class; that is, they are all accused of participating in and receiving more from TelexFree than they paid to TelexFree. Because the Class Representatives are alleged to have participated in the same TelexFree scheme, they inevitably share the same defenses against liability for repayment of the alleged fraudulent transfers made to the class, which does not depend on the personal circumstances of particular affiliates. *See Weinman*, 354 F. 3d at 1265. The Court finds that the typicality requirement is satisfied.

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1.5 million female employees alleging that Wal-Mart had discriminated against them in employment by delegating pay and promotion decisions to local managers. The Court focused on the absence of a single, common policy that the plaintiffs were challenging; the whole point of their claims was that they were challenging many local policies and practices. There is no such issue here: the Trustee alleges a single Ponzi or pyramid scheme, with essentially identical transactions that carry essentially identical legal consequences for the Net Winners under bankruptcy law.



11. The Court has also previously determined that it has personal jurisdiction over the Class Representatives.

(4) Fairly and Adequately Represent the Class

12. The last prerequisite for certification is that the proposed class representatives and their counsel be able to fairly and adequately represent the interests of the Defendant Class. Fed. R. Civ. P. 23(a)(4). In determining whether a named representative in a class action is “a fair and adequate representative,” some courts have applied a two-pronged test: (1) the representative must be able to conduct the litigation; and (2) the representative’s interests must not be antagonistic to those of the class members. *See Weinman*, 179 B.R. at 270-71; *see also Baehr v. Creig Northrop Team, P.C.*, WDQ-13-0933, 2014 WL 346635, at \*9 (D. Md. Jan. 29, 2014) (noting representation is adequate if the named representatives’ interests are not opposed to those of the other class members, and the attorneys are “qualified, experienced and able to conduct the litigation”) (citing *Mitchell-Tracey v. United Gen. Title Ins. Co.*, 237 F.R.D. 551, 558 (D. Md. 2006)); *Harris v. Rainey*, 299 F.R.D. 486, 490-91 (W.D. Va. 2014).

13. Here, the proposed Class Representatives’ interests are not antagonistic to but aligned with the interests of the unnamed class members because they share the common objective to defend against having to return funds received from TelexFree as demanded by the Trustee. Thus, there is no conflict which would defeat adequacy of representation. *See Harris*, 299 F.R.D. at 491 (recognizing that “[a] conflict must be fundamental to defeat adequacy of representation; a conflict is not fundamental when all class members ‘share common objectives and the same factual and legal oppositions and have the same interest in establishing the liability of defendants.’”) (quoting *Ward v Dixie Nat. Life Ins. Co.*, 595 F.3d 164, 180 (4<sup>th</sup> Cir. 2010) and *Gunnells v. Healthplans Servs., Inc.*, 348 F.3d 417, 431 (4<sup>th</sup> Cir. 2003)).

14. Further, the named Class Representatives are alleged to be significant Net Winners of the TelexFree scheme. Allegedly, Marco Puzzarini received more than \$334,000 from TelexFree and Sandro Paulo Freitas received more than \$1,647,000 from TelexFree (either individually or together with other family member(s)). The proposed Class Representatives are not likely to abandon or return these substantial sums without mounting a vigorous defense. The proposed Class Representatives have an arrangement with the law firm of Milligan Rona Duran & King LLC (“MRDK” or “Class Counsel”). MRDK, the law firm proposed to be retained by the Class Representatives, is experienced and has qualified attorneys, fully capable of protecting the interests of their clients and consequently the class [See *Decl. of Ilyas Rona in Support of Motion to Designate Class Representative, Appoint Milligan Rona Duran & King LLC as Class Counsel and Create Defense Fund*, docket entry 424]

15. The participation of Class Counsel will serve to expedite the resolution of the action, resolve the Class issues and provide for the most expeditious and least expensive method to accomplish these goals. Class Counsel will result in a substantial contribution to the Estates in resolving the claims and maximizing the return to Net Losers. See *In re Dehon*, 298 B.R. 206 (Bankr. D. Mass. 2003).

16. The Court finds that Defendants and their counsel can and will adequately represent the class.

#### **B. Rule 23(b) Analysis**

17. Rule 23(b)(1), under which the Trustee seeks to certify the Net Winner class, permits class certification in instances where prosecuting separate actions would either create:

- (A) inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the party opposing the class; or

- (B) adjudications with respect to individual class members that, as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests.

Fed. R. Civ. P. 23(b)(1).

18. Courts have certified Defendant Classes pursuant to Rule 23(b)(1)(A) in actions involving voidable preferences and fraudulent conveyances “to insure that separate proceedings would not result in inconsistent adjudication of the common issues, thus leaving the trustee in a stalemated position.” *In re Broadhollow*, 66 B.R. at 1013 (finding certification under 23(b)(1)(A) warranted and adopting reasoning in *Guys v. Abdulla*, 57 F.R.D. 14 (N.D. Ohio 1972)).<sup>3</sup> If the Trustee herein was forced to file separate actions against the 80,000 Defendants, he would certainly be risking inconsistent and varying adjudications. If one court found that a fraudulent transfer occurred, but another court did not, then those inconsistent decisions would place the Trustee in a stalemated or conflicted position. If the Trustee attempted to enforce a valid judgment against a particular Defendant that Defendant might refuse to pay because other Defendants similarly situated were not held to be liable for the same underlying conduct related to TelexFree. These conflicting results would leave the Trustee in an untenable position, and circumstances such as these are precisely why class actions exist. *See Guy v. Abdulla*, 57 F.R.D. at 17-18.

19. The Court also finds that Rule 23(b)(1)(B) certification is appropriate. Advisory Notes to Rule 23 indicate that a “fraudulent conveyance” is exactly the type of situation where a class should be certified because separate adjudication “will necessarily or probably have an adverse practical effect.” Fed. R. Civ. P. 23 advisory committee’s note. In *Integra Realty*

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<sup>3</sup> In *Guy v. Abdulla*, the court certified a defendant class under rule 23(b)(1)(A) so that the bankruptcy trustee could maintain an action against all parties allegedly holding voidable preferences and property transferred by fraudulent conveyances without the risk of inconsistent adjudication of the common issues.

*Resources*, the Tenth circuit upheld class certification under Rule 23(b)(1)(B) in a class action involving questions of whether a fraudulent transfer occurred and whether there was an unlawful dividend distributed. *Integra Resources*, 354 F 3d at 1263-64. The court noted that the first suit against a defendant or group of defendants could be dispositive of all remaining suits and would decide the rights of absent defendants “without the class action’s assurance that they be adequately represented.” *Id.* At 1264. The court reasoned that, as here, a defendant “has only a small number of possible individual defenses” and “the primary legal and factual issues in the first case would not only form the basis for the application of stare decisis in subsequent cases; they would almost inevitably prove dispositive in those cases.” *Id.*

20. A Defendant Class action certified under Rule 23(b)(1) is fair to the Defendants, particularly relatively small Net Winners. The efficiency of one action in which all parties can argue their case and assert their rights will benefit both TelexFree and small winners and supports the intent behind both Rule 23(b)(1)(A) and (b)(1)(B). While the Court is mindful of due process concerns as well as other problems specific to Defendant Class actions, the Court finds a class action is the only means to reasonably and efficiently resolve the Trustee’s claims against 80,000 Net Winners.

21. Accordingly, the Court makes the following express rulings and findings:

A. The proposed class of defendants (the “Class”) is so numerous and geographically dispersed that joinder of all members is impracticable;

B. There are questions of law and fact common to all class members including that the common claims, issues, defenses of the Class include but are not limited to: (i) what transfers should be included in the determination of a Net Winner; (ii) whether Net Winners should be determined by an aggregation of Related User Accounts; (iii) whether the initial methodology for

determining Related User Account is reasonable; (iv) whether the information maintained on the Debtors' SIG records with respect to each Participant transactions with the Debtor and other Participants is reasonably reliable; (v) whether the Net Winner Payments are avoidable as fraudulent transfers because the Debtors had the actual intent to hinder, delay, or defraud creditors; (vi) whether the Net Winner Payments are avoidable as fraudulent transfers because the transfers were made for less than fair consideration while the Debtors were insolvent, undercapitalized, or unable to pay debts as they became due; (vii) whether the Net Preference Payments may be recovered as preferential transfers; (viii) whether the Court's finding that the Debtors engaged in a Ponzi and pyramid scheme may be applied, along with any applicable presumptions, in determining the Trustee's claims.

C. The defenses of the putative Class Representatives are typical of the defenses of the Class;

D. Marco Puzzarini and Sandro Paulo Freitas as the Class Representatives will fairly and adequately represent the interests of the Class;

E. The prosecution of separate actions by or against individual members of the Class would create the risk that adjudications with respect to individual members of the class would as a practical matter be dispositive of the interests of the other members not parties to the adjudications, or may be inconsistent or varying, or substantially impair or impede the ability of Class members to protect their interests;

F. The questions of law and fact common to the members of the Class predominate over any questions affecting only individual members, and a class action is superior to other methods for fair and efficient adjudication of the controversy;

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The proposed class action complaint satisfies the requirements of Fed. R. Civ. P. 23(a) and (b) as adopted by Fed. R. Bankr. P. 7023 and the Motion is granted, except as inconsistent with the terms of this Order.

2. The Court certifies a Class of all persons who reside outside of the United States, purchased at least one membership plan (“Plan”) or voice over internet (“VoIP”) package from one or more of the Debtors (“a Participant”), and satisfy one or both of the following criteria:

- (i) Is alleged to be a “Net Winner,” that is, a Participant who is alleged to have received more from the Debtors and from other persons in connection with the purchase of Plans or VoIP packages than such Participant paid to the Debtors or to other persons in connection with the purchase of Plans or VoIP packages, as determined based upon an aggregation of all activity in the User Accounts of a Participant (“Related User Accounts”);
- (ii) Is alleged to be a Net Winner as defined in section (i) above who also is alleged to have been a Net Winner with respect to transactions occurring in the 90 days prior to the bankruptcy filings.

3. The Class is certified under Fed. R. Civ. P. 23(a) and 23(b)(1). Accordingly, no member of the Class shall be permitted to opt out of the class, and each and every member of the class shall be bound by all orders or judgments of this Court in this adversary proceeding. At any time during the proceedings, the Court may, upon motion or *sua sponte*, exercise its discretion under Fed. R. Civ. P. 23(c) and (d) to create sub-classes, remove or replace the Class Representatives, or otherwise condition the conduct of this adversary proceeding in order to fairly and adequately protect the rights of the Class members.

4. Marco Puzzarini and Sandro Paulo Freitas are appointed as the Class Representatives.

5. The Class Representatives have agreed to have MRDK to serve as class counsel. The Court has reviewed the Affidavit submitted by Attorney Rona as to his qualifications to serve as class counsel and finds him and his law firm MRDK qualified.

6. MRDK is hereby appointed Class Counsel for the Net Winner Class and shall serve until further order of the Court. Notice of the certification of the Net Winner Class and the appointment of MRDK as Class Counsel shall be sent to the members of the Class by the Trustee.

7. The Trustee is authorized to utilize estate funds in an aggregate amount not to exceed One Hundred Sixty Five Thousand Dollars (\$165,000) to pay Class Counsel for legal fees and cost incurred by Class Representatives provided that (i) Class Counsel submit a fee application that satisfies the requirement of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure and the Massachusetts Local Bankruptcy Rules (MLBR), including without limitation MLBR2016-1 and applicable case law in this district and (ii) any payment shall be authorized by this Court upon notice and after all interested parties have an opportunity to be heard.

8. The Trustee is authorized to utilize estate funds in an aggregate amount not to exceed Sixty Thousand Dollars (\$60,000) to pay fees and cost incurred by Class Representatives for their Expert to assist Class Counsel in representation of the Class provided that (i) the Expert submit a fee application that satisfies the requirement of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure and the MLBR, including without limitation MLBR2016-1 and applicable case law in this district and (ii) any payment shall be authorized by this Court upon notice and after all interest parties have an opportunity to be heard.

9. MRDK is authorized to communicate with the Net Winner Class as MRDK deems reasonable and necessary through such means that MRDK believes to be most efficient and cost-effective. The Trustee will provide to MRDK contact information, primarily email addresses, to facilitate MRDK's communications with the members of the Net Winner Class and the Trustee will assist the Class representatives in sending Notices to the Class members.

10. MRDK is authorized and instructed to explain to the Net Winner Class that in the event that liability on one or more of the Trustee's claims is established, the Trustee intends to seek a process to determine the net winnings of each Net Winner Class member. Therefore, it is not necessary for any net winner to communicate with MRDK related to determining the amount of his or her net winnings because each member of the Class will have an opportunity to address those issues in the damages process ordered by the Court.

11. MRDK is authorized and instructed to inform the members of the Net Winner Class that, if they have not already done so, to gather and preserve any documents or information (including electronic files) related to the amount each paid into and received from TelexFree so those documents and that information can be used subsequently to determine the amount of each defendant's net winnings, if any.

12. MRDK is hereby appointed to serve without bond and shall have full power and authority to act in the best interests of the Net Winner Class. MRDK and its agents, acting within the scope of MRDK's duties, are entitled to rely on all outstanding rules of law and Orders of this Court and shall not be liable to anyone for their own good faith compliance with any order, rule, law, judgment, or decree. In no event shall MRDK be liable to anyone for its good faith compliance with its duties and responsibilities as Class Counsel, nor shall MRDK be liable to anyone for any actions taken or omitted except upon a finding by this Court that it acted



or failed to act as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of its duties.

13. This Court shall retain jurisdiction over any action filed against MRDK based upon acts or omissions committed in MRDK's representative capacity.

14. In the event MRDK decides to resign, it shall first give written notice to the Court of MRDK's intention, and the resignation shall not be effective until the Court appoints a successor.

15. The Trustee has expressed a willingness to consider voluntary settlements on the Trustee's claims with TelexFree's Net Winners and others against whom the Trustee has claims. Accordingly, members of the Net Winner Class and the Trustee are permitted to discuss a potential settlement of the Trustee's claims against them even though they have become members of the Net Winner Class.

16. The Trustee is instructed to post, in English, Spanish, and Portuguese, a copy of this order on the Claims and Noticing Agent's website and to send a copy to all potential Net Winners. Any member of the Net Winner Class or other interested person who objects to this order must file such objection within 30 days of the date of its entry. The Court finds that there is no just cause to delay the implementation of the agreement reflected in this order pending the objection period, but may revise or terminate this order after review of any objections filed. However, any fees incurred by MRDK prior to modification of this order shall be paid in accordance with the order.

Dated at Boston this 3rd day of August, 2017.



Hon. Melvin S. Hoffman  
Chief United States Bankruptcy Judge

730635

## Exhibit B

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January 5, 2017

**Subject to the Attorney Work Product and  
Communications Privileges  
Confidential**

Ilyas J. Rona, Esq.  
Partner  
Milligan Rona Duran & King LLC  
50 Congress Street, Suite 600  
Boston, MA 02109

*Re: TelexFree, LLC, et al., -- Adversary Proceeding No. 16-04006*

Dear Mr. Rona:

Effective November 30, 2016, this letter sets out the agreement between StoneTurn Group, LLP ("StoneTurn" or "we") and Milligan Rona Duran & King LLC ("Counsel") on behalf of certain named individuals listed in the above action (the "parties to this agreement") in connection with the above-referenced matter. Subject to the conditions discussed herein, StoneTurn will provide non-testifying consulting services to assist Counsel. StoneTurn does not have a fiduciary duty to Counsel.

We understand that all communications among the parties to this agreement, either oral or written, as well as any materials or information developed or received by StoneTurn during this engagement will be treated as confidential. Accordingly, we agree, subject to applicable law or court order, not to disclose any of our communications, or any of the information we receive or develop in the course of our work, to any person or entity apart from those persons designated by Counsel directing us on this engagement.

If access to any of the materials in our possession relating to this engagement is sought by a third party, we will notify Counsel of such action and cooperate with Counsel concerning any response thereto. In the event that we receive a subpoena relating to any work performed in connection with this engagement, StoneTurn will bill for time and expenses involved in responding to such subpoena(s).

Subject to the preceding paragraphs, the parties to this agreement agree that any written reports, memoranda or analyses prepared by StoneTurn, as well as any testimony relating thereto, will only be used for purposes of the above-referenced matter and only with StoneTurn's consent. Counsel will inform StoneTurn of any applicable legal requirements related to the performance of services by StoneTurn in this matter and coordinate with StoneTurn concerning any scheduling and deadlines relevant to our work. StoneTurn does not provide any assurance as to the outcome of its analyses, or its ability to support any particular position.



Ilyas J. Rona, Esq.  
January 5, 2017  
Page 2

## **Conflicts**

We have undertaken a reasonable review of our records to determine our professional relationships with the parties, persons and entities identified by Counsel. We are not aware of any conflicts of interest or relationships that would preclude us, on the basis of independence or confidentiality, from performing the above-referenced work under conflict of interest rules applicable to Certified Public Accountants in consulting engagements. Under those rules, we are not generally restricted from working on other engagements, either for or adverse to Counsel or other parties in this matter, and we may have in the past worked, may currently be working or may in the future work on such matters. All confidential information in this matter will be kept confidential from personnel other than those assigned to this matter.

## **Engagement Team and Fees**

StoneTurn bills for its services on a time and materials basis. Our current hourly rates (which may be adjusted from time to time) are as follows:

Partner	\$550 - \$700
Managing Director	\$375 - \$450
Manager	\$300 - \$375
Senior Consultant	\$250 - \$300
Consultant	\$195 - \$225

Our fees are not contingent upon any particular outcome or result of the matter. We understand that Stephen B. Darr is the duly appointed and acting trustee (the "Trustee") of the Chapter 11 bankruptcy estates of TelexFree, Inc., TelexFree, LLC and TelexFree Financial, Inc. (collectively, the "Debtors") and that our fees will be paid by Trustee after approval by the Court in this matter. We will bill for all out-of-pocket expenses, including but not limited to travel, postage, photocopying, and fee-based research. We understand the current fees approved by the Court are \$85,000; we shall inform you of our progress and provide notice if we believe the budget requires amendment. In no event will we seek to collect fees any unpaid fees from Counsel.

Our normal policy is to provide time and expense information in a summary format by timekeeper and period; however, in this matter, StoneTurn will track and provide time and expense detail required for reporting time and expenses as part of the bankruptcy proceedings. Invoices are due upon presentation; we understand invoices may be subject to payment instructions by the U.S. Bankruptcy Court. Counsel agrees that all amounts invoiced by StoneTurn be paid prior to any reports or analyses being issued or testimony provided.

## **Other Matters**

Counsel agrees that StoneTurn will not be liable to Counsel for any claims or amounts relating to this matter in excess of the fees actually paid to StoneTurn within the twelve month period preceding the assertion of a claim for such fees in a judicial proceeding. Further, we agree that any question or dispute with respect to the time or expense reflected on any invoice must be presented in writing within 30 days of the invoice date or such claim is considered waived.

Lastly, StoneTurn may resign from this engagement upon written notice to Counsel and StoneTurn agrees to provide reasonable cooperation in the transition, or upon termination of this matter, including the return of



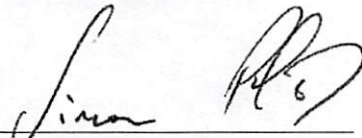
Ilyas J. Rona, Esq.  
January 5, 2017  
Page 3

documents provided to StoneTurn by Counsel. Upon request, StoneTurn will provide copies of any of its work product created in support of its reports or opinions in this matter upon full payment of all outstanding invoices.

Please sign and return an executed letter to me by email ([splatt@stoneturn.com](mailto:splatt@stoneturn.com)) or mail to my office. If you have any questions, please do not hesitate to call me at (617-570-3710). We look forward to working with you.

Very truly yours,

StoneTurn Group, LLP

By:   
Simon Platt, Partner

Agreed:  
Milligan Rona Duran & King LLC

Signature:   
Counsel

Printed Name: ILYAS RONA

Title: Partner/Member

Date: 1/23/17

## Exhibit C

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EXHIBIT C

(1) Preliminary Research, Discussion, and Document Review (8/23/16 - 12/15/16)					
Name	Initials	Level	Hours	Rate (Hourly)	Amount
Simon D. Platt	SDP	Partner	1.0	\$625	\$625.00
Joshua W. Dennis	JWD	Managing Director	14.0	\$425	\$5,950.00
Patrick J. Ryan	PJR	Manager	5.2	\$325	\$1,690.00
<b>Total:</b>			<b>20.2</b>		<b>\$8,265.00</b>

## Exhibit D

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EXHIBIT D

(2) Formatting, Preparation, Loading and Sampling of Databases (12/16/16 - 4/24/17)					
Name	Initials	Level	Hours	Rate (Hourly)	Amount
Joshua W. Dennis	JWD	Managing Director	3.4	\$425	\$1,445.00
Patrick J. Ryan	PJR	Manager	83.0	\$325	\$26,975.00
<b>Total:</b>			<b>86.4</b>		<b>\$28,420.00</b>

## Exhibit E

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EXHIBIT E

(3) Testing and Anlaysis of Net Equity Calculation (4/25/17 - 9/15/17)					
Name	Initials	Level	Hours	Rate (Hourly)	Amount
Joshua W. Dennis	JWD	Managing Director	80.7	\$425	\$34,297.50
Patrick J. Ryan	PJR	Manager	133.2	\$325	\$43,290.00
<b>Total:</b>			<b>213.9</b>		<b>\$77,587.50</b>

## Exhibit F

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EXHIBIT F

GRAND TOTALS (8/23/16 - 9/15/17)					
Name	Initials	Level	Hours	Rate (Hourly)	Amount
Simon D. Platt	SDP	Partner	1.0	\$625	\$625.00
Joshua W. Dennis	JWD	Managing Director	98.1	\$425	\$41,692.50
Patrick J. Ryan	PJR	Manager	221.4	\$325	\$71,955.00
Total:			320.5		\$114,272.50

## Exhibit G

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Exhibit G

Date	Person	Hours	Rate (Hourly)	Amount	Description
8/23/2016	Platt, Simon	1.0	\$625	\$625.00	Discussions regarding overview of TelexFree matter
8/23/2016	Dennis, Joshua	1.5	\$425	\$637.50	Research and initial internal discussions regarding background of TelexFree matter
8/26/2016	Dennis, Joshua	2.0	\$425	\$850.00	Review of background documentation; Research TelexFree pyramid scheme architecture
8/28/2016	Dennis, Joshua	2.7	\$425	\$1,147.50	Review of background documentation; Research TelexFree pyramid scheme architecture
8/29/2016	Dennis, Joshua	3.2	\$425	\$1,360.00	Finalize research and create summary of pyramid mechanics and binary marketing scheme
12/9/2016	Ryan, Patrick	1.5	\$325	\$487.50	Prepare for and participate in initial discussions with Huron and MRDK regarding net winner analysis
12/9/2016	Dennis, Joshua	1.6	\$425	\$680.00	Preparation and discussions with Huron/MRDK regarding database and net equity calculations
12/12/2016	Ryan, Patrick	0.7	\$325	\$227.50	Determination of SIG database requirements and scope for loading
12/14/2016	Dennis, Joshua	0.6	\$425	\$255.00	Preparation for in-person meeting with Huron/MRDK regarding SIG database and associated calculations
12/15/2016	Ryan, Patrick	3.0	\$325	\$975.00	Prepare for and participate in meeting with Huron Consulting and Murphy King re net winners analysis and available databases
12/15/2016	Dennis, Joshua	2.4	\$425	\$1,020.00	Meeting with Huron and MRDK regarding available database and processes used for analysis of net equity
1/6/2017	Dennis, Joshua	0.5	\$425	\$212.50	Review of specifications for TelexFree Data Export/Virtual Server
1/9/2017	Ryan, Patrick	1.0	\$325	\$325.00	Prepare for and participate in teleconference with network infrastructure provider to determine handling of cc52 virtual server
1/10/2017	Ryan, Patrick	1.0	\$325	\$325.00	Decompress cc52 appliance; attach cc52 appliance to another machine for initial exploration
1/11/2017	Ryan, Patrick	6.0	\$325	\$1,950.00	Import cc52 appliance into virtual environment; perform data exploration on server; modify database and network config files to start MySQL server and connect to databases in StoneTurn environment
1/18/2017	Ryan, Patrick	2.5	\$325	\$812.50	Export data from SIG database and related Huron tables into StoneTurn MySQL environment and perform preliminary review
1/19/2017	Ryan, Patrick	2.2	\$325	\$715.00	Export data from SIG database and related Huron tables into StoneTurn MySQL environment and perform preliminary review
1/20/2017	Ryan, Patrick	2.0	\$325	\$650.00	Export SIG database and related Huron tables into StoneTurn MySQL environment and perform preliminary review
1/27/2017	Dennis, Joshua	0.7	\$425	\$297.50	Discussions w/ MRDK regarding potential analyses and preliminary work plan
2/3/2017	Ryan, Patrick	4.0	\$325	\$1,300.00	Develop SQL script to obtain random samples from Huron database tables.
2/4/2017	Ryan, Patrick	3.5	\$325	\$1,137.50	Perform initial exploratory analysis of sampling from Huron tables; investigate potential issue with distribution of samples; update SQL script for sampling to address issue identified in initial samples.
2/6/2017	Ryan, Patrick	4.0	\$325	\$1,300.00	Update SQL script to provide for a more uniformly distributed sample of rows from each Huron table.
2/10/2017	Ryan, Patrick	4.0	\$325	\$1,300.00	Update Huron tables to include unique integer identifier for purposes of sampling.
2/14/2017	Ryan, Patrick	7.2	\$325	\$2,340.00	Generate sample of Huron database table records for 1,000 representatives for purposes of exploratory data analysis
2/15/2017	Ryan, Patrick	6.5	\$325	\$2,112.50	Perform exploratory analysis of Huron database tables using data for 1,000 random representatives
2/16/2017	Ryan, Patrick	6.0	\$325	\$1,950.00	Continue exploratory analysis of Huron database tables using data for 1,000 random representatives; create initial summary statistics
2/17/2017	Ryan, Patrick	4.5	\$325	\$1,462.50	Generate summary statistics and analyses for 1,000 random representatives; review/explore results
2/20/2017	Ryan, Patrick	4.2	\$325	\$1,365.00	Create preliminary graphics for random representatives and summaries of key information derived

Exhibit G

Date	Person	Hours	Rate (Hourly)	Amount	Description
2/24/2017	Ryan, Patrick	5.0	\$325	\$1,625.00	Research Huron process for identifying net equity transactions and matching representative accounts in bankruptcy motions/orders; begin analysis of top net winners and losers
2/27/2017	Ryan, Patrick	5.7	\$325	\$1,852.50	Perform exploratory analysis and generate preliminary reports on top net winners and net losers per JWD
2/28/2017	Ryan, Patrick	4.0	\$325	\$1,300.00	Perform exploratory analysis and generate preliminary reports on top net winners and net losers per JWD
3/1/2017	Ryan, Patrick	5.0	\$325	\$1,625.00	Prepare preliminary data analysis, including top 100 net winners and net losers, sample distributions for each table in the Huron database, and case study analysis of data related to specified individuals
3/17/2017	Ryan, Patrick	2.0	\$325	\$650.00	Compile and consolidate preliminary data analyses for review, identify key talking points and trends
3/28/2017	Ryan, Patrick	1.7	\$325	\$552.50	Prepare for and participate in conference with MRDK and JWD re data analysis deliverables
3/28/2017	Dennis, Joshua	1.2	\$425	\$510.00	Discussions with MRDK and PJR re preliminary data analysis and approach
3/31/2017	Dennis, Joshua	0.5	\$425	\$212.50	Review of preliminary analysis related to sample data and summary statistics with respect to distribution of net winners, net losers and account aggregation
4/24/2017	Ryan, Patrick	1.0	\$325	\$325.00	Prepare for and participate in conference with MRDK re project deliverables
4/24/2017	Dennis, Joshua	0.5	\$425	\$212.50	Discussions with PJR and MRDK regarding net equity calculation
5/30/2017	Ryan, Patrick	4.5	\$325	\$1,462.50	Analyze full rep_id_summary table for full scope analysis
5/31/2017	Ryan, Patrick	6.5	\$325	\$2,112.50	Analyze full rep_id_summary table for full scope analysis
6/1/2017	Ryan, Patrick	2.0	\$325	\$650.00	Prepare descriptive statistics and extracts of requisite Huron tables
6/2/2017	Ryan, Patrick	5.7	\$325	\$1,852.50	Prepare descriptive statistics and extracts of requisite Huron tables
6/6/2017	Ryan, Patrick	0.5	\$325	\$162.50	Conference with MRDK regarding project status
6/6/2017	Dennis, Joshua	0.5	\$425	\$212.50	Preparations and Discussions with MRDK on case status and analysis
6/20/2017	Ryan, Patrick	1.0	\$325	\$325.00	Conference with JWD project status; review and update of project deliverables outline
6/21/2017	Ryan, Patrick	4.0	\$325	\$1,300.00	Prepare Project Deliverables summary documentation; preliminary analysis and planning
6/22/2017	Ryan, Patrick	2.0	\$325	\$650.00	Prepare summary data analysis outline and template
6/26/2017	Ryan, Patrick	3.0	\$325	\$975.00	Prepare summary data analysis outline and template
6/27/2017	Ryan, Patrick	8.5	\$325	\$2,762.50	Perform data extraction for select representatives per client
6/29/2017	Ryan, Patrick	1.0	\$325	\$325.00	Prepare for and participate in conference call with client re project deliverables.
6/30/2017	Ryan, Patrick	2.5	\$325	\$812.50	Reverse engineer TelexFree database to understand architecture and relevant fields
7/6/2017	Ryan, Patrick	3.0	\$325	\$975.00	Reverse engineer TelexFree database to understand architecture and relevant fields
7/26/2017	Ryan, Patrick	2.0	\$325	\$650.00	Develop SQL script to extract transaction counts and amounts aggregated by transaction type and category
7/27/2017	Ryan, Patrick	4.0	\$325	\$1,300.00	Continue to develop SQL script to extract transaction counts and amounts aggregated by transaction type and category; develop dynamic data visualization of transaction counts and amounts by transaction category and type
7/28/2017	Ryan, Patrick	4.0	\$325	\$1,300.00	Continue to develop dynamic data visualization of transaction counts and amounts by transaction category and type



Exhibit G

Date	Person	Hours	Rate (Hourly)	Amount	Description
8/1/2017	Ryan, Patrick	3.0	\$325	\$975.00	Develop SQL script to aggregate transaction counts and amounts by date
8/3/2017	Ryan, Patrick	2.7	\$325	\$877.50	Perform exploratory data analysis on full account and transaction population; identify number of participants and sub-accounts, as well as descriptive statistics of the same
8/7/2017	Ryan, Patrick	2.5	\$325	\$812.50	Continue to perform exploratory data analysis on full account and transaction population; calculate descriptive statistics for payments data
8/9/2017	Ryan, Patrick	2.0	\$325	\$650.00	Continue to perform exploratory data analysis on full account and transaction population; calculate descriptive statistics for receipts data
8/10/2017	Ryan, Patrick	2.5	\$325	\$812.50	Develop tabular presentation of descriptive statistics; finalize scatterplot visualization of transaction counts vs. aggregate transaction amounts for random sample of participants plus specific case studies requested by MRDK for purposes of comparison.
8/11/2017	Ryan, Patrick	2.0	\$325	\$650.00	Develop time series visualization of transaction counts and amounts aggregated by date
8/16/2017	Dennis, Joshua	1.5	\$425	\$637.50	Review account detail for provided sample net winners/losers, as well as overall statistics of aggregate population
8/17/2017	Dennis, Joshua	3.7	\$425	\$1,572.50	Preparation for, and discussions with, MRDK re SIG database net equity calculations
8/18/2017	Dennis, Joshua	4.4	\$425	\$1,870.00	Review of Huron documentation regarding calculation of net equity and summary statistics; Comparison of sample/aggregate data
8/21/2017	Dennis, Joshua	3.2	\$425	\$1,360.00	Review of net equity and transactional data for sample individuals; determination of work and subsequent testing to be performed
8/21/2017	Ryan, Patrick	2.0	\$325	\$650.00	Develop SQL script to identify the top 100 net winners and losers by net equity
8/22/2017	Dennis, Joshua	4.7	\$425	\$1,997.50	Review, analysis and creation of summaries for top 100 net winner and net loser, as well as sample individuals
8/22/2017	Ryan, Patrick	2.0	\$325	\$650.00	Develop SQL script to identify the top 100 net winners and losers by net equity
8/23/2017	Dennis, Joshua	1.8	\$425	\$765.00	Review, analysis and creation of summaries for top 100 net winner and net loser, as well as sample individuals
8/23/2017	Ryan, Patrick	7.4	\$325	\$2,405.00	Develop SQL script to report on number and amount of transactions by type for all US participants.
8/24/2017	Dennis, Joshua	7.8	\$425	\$3,315.00	Determination of account aggregation methodology; matching and reconciliation of top net losers account(s) to top net winner account(s)
8/24/2017	Ryan, Patrick	8.7	\$325	\$2,827.50	Develop, revise and update SQL scripts to identify the top net winners and losers by net equity; develop, revise and update SQL script to report on number and amount of transactions by type for all US participants
8/25/2017	Dennis, Joshua	4.5	\$425	\$1,912.50	Testing of account aggregation methodology; creation of summary visualization re: timing of net winners/losers
8/25/2017	Ryan, Patrick	4.0	\$325	\$1,300.00	Develop, revise and update SQL script to report on number and amount of transactions by type for all US participants
8/26/2017	Dennis, Joshua	3.6	\$425	\$1,530.00	Review results of U.S. TelexFree net equity reports; generated graphic visualizations of net winners/losers over time
8/26/2017	Ryan, Patrick	1.3	\$325	\$422.50	Update SQL script to obtain counts and aggregate transaction amounts by transaction type and category for all US participants in an effort to approximate Huron's assumptions for same; Update same to include first and last transaction date for each US participant
8/27/2017	Dennis, Joshua	1.8	\$425	\$765.00	Adjusted U.S. TelexFree graphic visualization to reflect TelexFree/Ympactus on a combined basis
8/27/2017	Ryan, Patrick	4.2	\$325	\$1,365.00	Update SQL scripts to obtain counts and aggregate transaction amounts by transaction type and category for all US participants having a US address at the highest participant level.

Exhibit G

Date	Person	Hours	Rate (Hourly)	Amount	Description
8/28/2017	Ryan, Patrick	5.0	\$325	\$1,625.00	Migrate tables from TelexFree source database to StoneTurn database for indexing and search.
8/28/2017	Dennis, Joshua	3.5	\$425	\$1,487.50	Discussions with PJR; Continued analysis and review of account aggregation and determination of primary account country location
8/29/2017	Ryan, Patrick	5.0	\$325	\$1,625.00	Begin analysis of intra-participant transfers ; Conference with MRDK et al. re project status
8/29/2017	Dennis, Joshua	4.2	\$425	\$1,785.00	Preparation for and meeting with MRDK
8/30/2017	Ryan, Patrick	3.8	\$325	\$1,235.00	Develop SQL query to calculate aggregate counts and amounts of intra- and extra-participant transactions; Export SQL query results for aggregate counts and amounts of intra- and extra-participant transactions to Excel; Export aggregate counts and amounts of intra- and extra-participant transactions for selected case studies to MS Excel; export aggregated amounts from rep_id_summary table for BBC Financial accounts to MS Excel for review
8/30/2017	Dennis, Joshua	5.6	\$425	\$2,380.00	Analysis of aggregation issues with case studies; creation of summary analysis
8/31/2017	Ryan, Patrick	4.8	\$325	\$1,560.00	Develop SQL query to identify all accounts held by participants that were counterparties to triangular or transfer credit transactions; search for accounts held by additional case study participants
8/31/2017	Dennis, Joshua	3.1	\$425	\$1,317.50	Analysis of aggregation issues with case studies; creation of summary analysis
9/1/2017	Ryan, Patrick	1.0	\$325	\$325.00	Prepare select extracts of Huron database table data; prepare extract of all purchase of credit transactions.
9/1/2017	Dennis, Joshua	2.2	\$425	\$935.00	Analysis of cumulative net equity; charting of net equity over time
9/5/2017	Ryan, Patrick	0.3	\$325	\$97.50	Conference with JWD re project status and next steps.
9/5/2017	Dennis, Joshua	5.3	\$425	\$2,252.50	Creation of case study results work product analysis and summary of key findings
9/6/2017	Ryan, Patrick	6.1	\$325	\$1,982.50	Develop SQL query to extract account transfer data for accounts; develop SQL query to extract purchase credit transaction records with participant and account names; attempt to reconcile counts and amounts to Huron presentation data; develop directed acyclic graph of accounts to explore relationships among accounts.
9/6/2017	Dennis, Joshua	4.5	\$425	\$1,912.50	Creation of case study results work product analysis and summary of key findings
9/7/2017	Dennis, Joshua	4.0	\$425	\$1,700.00	Continued creation of case study results work product analysis and summary of key findings
9/8/2017	Ryan, Patrick	3.7	\$325	\$1,202.50	Review, revise, and edit summary and excel workbook prepared by JWD

Exhibit G

Date	Person	Hours	Rate (Hourly)	Amount	Description
9/8/2017	Dennis, Joshua	1.3	\$425	\$552.50	Continued creation of case study results work product analysis and summary of key findings; Modify pivot tables and formatting
9/12/2017	Dennis, Joshua	1.6	\$425	\$680.00	Review of analyses and drafting Summary of Preliminary Findings memo
9/13/2017	Dennis, Joshua	1.2	\$425	\$510.00	Review of analyses and drafting Summary of Preliminary Findings memo
9/14/2017	Ryan, Patrick	2.5	\$325	\$812.50	Conference with MRDK and JWD re analysis findings
9/14/2017	Dennis, Joshua	3.5	\$425	\$1,487.50	Meeting with PR and MRDK regarding findings; Prep for subsequent meeting with trustee
9/15/2017	Ryan, Patrick	2.5	\$325	\$812.50	Conference with JWD, MRDK and bankruptcy trustee re project status and findings
9/15/2017	Dennis, Joshua	3.2	\$425	\$1,360.00	Preparation for and meeting with Trustee re: Preliminary Findings

<b>TOTAL:</b>	<u><u>320.5</u></u>	<u><u>\$114,272.50</u></u>
(8/23/16 - 9/15/17)		

## Exhibit H

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## Simon D. Platt

CPA, CFF, FCA

Chairman

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M: +1 617 513 9992  
E: [splatt@stoneturn.com](mailto:splatt@stoneturn.com)

**Boston**  
75 State Street  
Suite 902  
Boston, MA 02109

Simon Platt co-founded StoneTurn in 2004, and was the firm's managing partner until 2016, when he was appointed Chairman.

Simon has led and been involved in many accounting and financial disclosure-related investigations on behalf of Audit and Special Committees of Boards of Directors. He has also testified in Federal and State courts and at arbitrations, assisted in mediations and acted as an independent, neutral arbitrator in accounting-related matters. His engagements include numerous expert testimony and non-testifying consulting roles.

Simon's extensive background includes working with companies from large U.S. multinational corporations and foreign public companies to smaller, privately-held enterprises, across a wide range of industries. Principal areas of experience include Generally Accepted Accounting Principles ("GAAP") and Generally Accepted Auditing Standards ("GAAS") issues, U.S. Securities and Exchange Commission ("SEC") investigations, purchase price disputes, contractual damage quantification, accounting record reconstruction, fraud investigations and business analysis.

Prior to co-founding StoneTurn, Simon was with Deloitte for more than 23 years, where he served as a U.S. audit partner specializing in the retail, distribution and manufacturing industries. He led Deloitte's New York / Boston Dispute Consulting practice, established the firm's Dispute Consulting Group in Boston, founded and led its Forensic Audit Assistance program, and served as the National Forensic Practice Leader.

He is a Fellow of the Institute of Chartered Accountants in England & Wales, and a Certified Public Accountant in Massachusetts and New York.

### Education

Advanced Management Program, Harvard Business School

B.A., Economics, University of Manchester, U.K.

### Practice Areas

Investigations

Compliance & Monitoring

Litigation

Expert Testimony

## PREVIOUS EXPERIENCE

- Deloitte & Touche LLP (1980 – 2004)
  - Partner-in-Charge – New York and Boston Dispute Consulting Groups
  - National Partner-in-Charge - Forensic and Investigative Services
  - Global Partner-in-Charge – Forensic Audit Assistance program
  - Member – Deloitte Managing Partner Advisory Committee
  - Member – Deloitte Innovation Service Board

## PROFESSIONAL AFFILIATIONS / OTHER

- Member, American Institute of Certified Public Accountants (AICPA)
- Member, Massachusetts Society of Certified Public Accountants
- Fellow, Institute of Chartered Accountants in England & Wales
- Licensed CPA in Massachusetts and New York
- Certified in Financial Forensics
- Former Board Member and Treasurer, Massachusetts Appleseed Center for Law and Justice, Inc.
- Member and Chair, Town of Carlisle Audit Committee
- Former Member and Chair, Town of Carlisle Finance Committee

## SELECT PROFESSIONAL EXPERIENCE

- Consulted on and led a number of matters relating to regulatory compliance of several residential mortgage origination and servicing entities, including assessing controls' effectiveness, compliance with relevant regulatory and contractual requirements, analyzing application of GAAP and GAAS requirements and reporting to regulators. Has consulted on a number of investigations into banks' compliance with GAAP requirements, including loan loss reserves, related-party transactions and internal control requirements.
- Led multiple forensic accounting investigations dealing with SEC and financial reporting issues performed at the request of Boards of Directors. These engagements have included the assessment of revenue recognition policies and criteria, accounting for reserves, capitalization issues, expense recognition, promotional allowances, and round-trip transactions, concluding in reports to Audit and Special Committees, Boards of Directors and regulators.
- Assisted counsel in the representation of individuals against regulatory actions alleging violations of the securities laws and accounting rules. These matters include accounting and related issues around stock options, revenue recognition, software capitalization and other complex accounting issues. As part of this work, has

provided counsel with in-depth analysis of the issues at hand in order to assist counsel with Wells Notice submissions and / or affidavits.

- Led the teams that performed annual evaluations and estimates of the Central Tunnel / Artery Project (the “Big Dig”) for three years, evaluated certain cash flow needs and status of a key contractor for the project over a 12-month period, and participated in dispute resolution processes relating to five contract over-run claims.
- Served as an expert witness in various matters dealing with multi-million dollar claims, including where the contested issues involved the application of GAAP. These matters have included testimony concerning revenue recognition criteria as well as the accepted application of the definition of various balance sheet accounts.
- Consulted with counsel on, testified in and acted as arbiter on many purchase price disputes relating to contractual earn-outs and working capital adjustments, application of US GAAP and International Financial Reporting Standards (“IFRS”) and assessments of effects of non-compliance with contractual requirements. Matters include U.S. and global software, technology, consumer products, banking, energy, consulting, medical device and electronics entities.
- Participated in, managed and led a number of engagements dealing with damage analysis, valuation and consideration of market forces, including quantifying the value of disputed Summer Olympic sponsorship by a prominent sportswear manufacturer, the analysis of a local insurance market and quantifying the benefit of promotional sponsorship for a major U.S. beer importer and distributor.
- Served as an audit partner for clients in the distribution, publishing, high-tech and consumer product industries. These clients have included software company audits and have required analyses of royalty agreements, the assessment of the application revenue recognition standards and the assessment of software capitalization.



## Joshua Dennis

**CVA**

**Managing Director**

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**Boston**  
75 State Street  
Suite 902  
Boston, MA 02109

Joshua Dennis has more than 12 years of experience working with clients and counsel on issues requiring complex data analysis, including economic damages, enforcement, forensic accounting, compliance monitoring, and valuation engagements.

Through his expertise, which includes financial modeling and data analysis, Josh has assisted companies and their counsel across a wide range of dispute matters. He not only has significant experience analyzing accounting, economic and business data, as well as issues related thereto, but also applying his expertise to the creation of dynamic visual models that provide clarity and key insights.

Josh has also quantified and assessed reasonable royalty and lost profits damages related to patent, trademark, trade secret and copyright infringement claims, as well as the valuation of intellectual property outside of litigation. He also has experience in evaluating and quantifying damages related to a variety of issues, including contract disputes, purchase price disputes and class action matters.

Josh has also worked extensively in matters involving data collection, mining, anomaly detection, and reporting of transactional and trading data employed across a range of industries, including banking, financial services, manufacturing, pharmaceuticals, e-Commerce and retail, among others.

Josh is a Certified Valuation Analyst, and earned a Certificate in Intellectual Property Law from Suffolk University.

### Education

B.S., Management  
and Business,  
Skidmore College

Minor, Computer  
Science, Skidmore College

### Practice Areas

Data Analytics

Intellectual Property

Litigation



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## PROFESSIONAL AFFILIATIONS / OTHER

- Member, National Association of Certified Valuation Analysts
- Licensing Executive Society
- Suffolk Law Advance Legal Studies, Intellectual Property Certificate

## SELECT PROFESSIONAL EXPERIENCE

### Financial Modeling and Complex Data Analysis

- Josh has designed and created complex databases to assist clients in matters such as breach of contract, mutual fund roundtrip trading and stock option backdating. These database models were capable of analyzing large and complex datasets, based on various selected time periods or scenarios. Representative case experience includes:
- Assisted counsel in a class-action matter to rebut the damages asserted by plaintiff related to allegations of market timing within the defendant's mutual funds over a period of more than a decade. Analyses included the creation of a dynamic model that could generate multiple scenarios based upon user-selected inputs, and which encompassed over six million transactions across more than 30 mutual funds. This model was also used to determine the proportionate settlement amount that was, ultimately, paid to the class members.
- Engaged to evaluate and tests certain banking covenant for an acquired company both pre- and post-acquisition. Analyses included the creation of a dynamic model to determine the outcome of the covenant test based upon user-selected criteria.
- Retained to provide assistance to a financial services company in response to an SEC inquiry. The company provided a "signaling service" and advertised that investors utilizing the service had never had a down year. Analysis required the creation of a complex database and model to independently determine the historical returns for each investor over more than a decade, the results of which were provided in a written report to the SEC.
- Engaged to quantify the economic damages related to pricing used to determine reimbursement pursuant to a federal drug rebate program. Specifically, the allegations related to improperly reporting prices based upon the bundled sale of certain types of products. As part of the data analysis, a model was created in SQL to determine the "unbundled" price of products under various scenarios, the result of which were applied in the determination of the appropriate rebate calculated under the program. Also, assisted in preparation for trial, including the identification and subsequent modeling of damages scenarios based upon specific hospitals or groups of hospitals, as well as other potential legal outcomes. The case was ultimately settled by the parties for an amount consistent with the total damages conclusion generated by the economic model.

- Retained to analyze certain purchase and sale transaction data of securities in connection with potentially improper trading activities by a broker. Specifically, the broker was suspected of engaging in excessive trading in order to generate higher commissions and fees. The analysis included the creation of a Tableau workbook that allowed the user to visually explore trading patterns and behaviors over time, such as the proximity of related buy and sell transactions. The Tableau workbook also allowed for the comparison of various transaction data metrics, such as turnover and cost ratios, and any changes in these amounts across accounts, years and security types.

## Complex Business Disputes

- Josh has worked on a wide-variety of dispute matters in litigation and arbitration settings. He has significant experience in quantifying economic damages related to business interruptions, non-interference and non-compete agreements, supply agreements, franchise agreements and other contractual disputes. Representative case experience includes:
  - Engaged by defendant, a global chemical manufacturer to assist in quantifying damages in a litigation that related to an alleged breach of contract. The contract included a “most favored customer” pricing provision and the parties disputed the interpretation and historical application of the provision.
  - Engaged by defendant, a leading manufacturer and distributor of clinical laboratory instrumentation for in vitro diagnostic application, to determine economic damages related to defendant’s counterclaim involving an alleged breach of contract. The breach related to plaintiff’s interference with the attempted auction of a number of defendant’s subsidiaries, and the solicitation of key employees.
  - Retained by defendant, a national owner and franchisor of travel centers, to evaluate the alleged damages suffered by plaintiff, a global manufacturer of pharmaceutical and its insurance carrier, resulting from a stolen truckload of pharmaceutical drugs.
  - Retained by respondent, a global restaurant franchisor, to assist in arbitration and rebut the economic damages proffered by the opposing expert related to an alleged breach of contract. The rebuttal included a detailed analysis of the opposing expert’s damages model, and a critique of the key assumptions put forth therein.

## Intellectual Property

- Josh has performed quantitative and qualitative analyses to determine reasonable royalty and lost profit damages for leading software / hardware providers, retailers and financial institutions. He has also provided in-depth examinations of the relevant industries, markets and technologies, as well as each party’s financial performance, to assist in the determination of value. Representative case experience includes:
  - Retained by defendant, a worldwide manufacturer of mobile devices and electronics, to assess damages and provide rebuttal analyses in connection with an alleged patent infringement. The patent related to the resizing and formatting of digital images prior to being sent via MMS message.

- Performed a fair market valuation of a company that specialized in the synthesis of keratin, including its patent portfolio that contained 28 patents related to the applications of keratin in a range of cosmetic and medical products.
- Engaged by plaintiff to provide both industry and damages expertise in connection with a breach of a software licensing agreement between the licensor and licensee. Analyses included the development of several complex models in order to compute damages under a number of different assumptions based on the language of the agreement.
- Retained by defendants in a multi-defendant litigation that included OEM computer manufacturers, as well as certain operating system and computer chip suppliers. The lawsuit, brought by a non-practicing entity, asserted alleged infringement against the defendants with respect to four patents that were purported to provide power savings in desktop and laptop computers. Analyses included the determination of a reasonable royalty, as well as a rebuttal of the damages asserted by plaintiff.
- Engaged by defendant, a national distributor of clothing and accessories, to assess the damages related to an alleged copyright infringement. The infringement matter involved the use of a photograph to create a derivative work for use on apparel and in promotional materials and merchandise.
- Retained by defendant, a global office supply company, to evaluate the reasonable royalty and lost profit damages asserted by plaintiff related to the alleged infringement of a design patent and trade dress. The technology related to the shape and feel of novelty silicone calculators.

## Business Valuation

- Josh has assisted in the preparation of business valuation analyses and reports for various matters, including sale negotiations, contract disputes and for tax purposes. These reports required the use of both the income and market valuation approaches, and included analyses of discounted cash flows, as well as comparable companies and sale transactions. Representative case experience includes:
  - Retained to calculate the value of a minority interest in a privately held international manufacturer of fluid sealing products. The subject company was also a defendant in a significant number of asbestos-related lawsuits that greatly impacted the fair market value, which had to be accounted for within the valuation. The final report was submitted to the IRS for estate tax purposes.
  - Retained to perform a valuation of a franchise area development agreement for a company in the heating and air conditioning industry. Analyses included the capitalization method of valuation based upon the historical financial performance of the company and a determination of the appropriate risk-adjusted discount rate.

- Engaged by counsel for plaintiff, an individual stakeholder in an oil and gas distribution company, to assess and critique certain valuation reports that had been used in connection with a potential buy-out of the plaintiffs' interest in the subject company.

### Non-Profit

- Josh assisted a local non-profit organization on a pro-bono basis by providing an economic analysis related to foster children entering into a pre-college program. The analysis focused on helping the organization quantitatively demonstrate the incremental economic value to the State associated with individuals that hold a college degree.
- Josh assisted a local non-profit organization on a pro-bono basis by providing an analysis of the organization's overhead costs, and how those costs compare to other similar organizations in the industry. The results of this analysis were presented to the Board of Directors.



## Patrick Ryan

JD

Manager

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New York, NY 10004

Patrick Ryan, a Manager with StoneTurn, brings significant experience in forensic analytics. Working for and with large financial services firms, he has helped large enterprises to match, trace, and analyze transactions in connection with numerous fraud investigations.

Prior to joining StoneTurn, Patrick was a Senior Manager of Data Analytics for AIG's internal audit division. In this role, he helped to design and manage the division's technology and analytics infrastructure, and he developed customized data-driven solutions and dynamic visualizations for use in internal audit and fraud investigations.

His educational and professional background includes substantive experience in statistical analysis and the application of distributed computing methods to store, process and analyze extremely large datasets.

### Education

J.D., Seton Hall  
University School  
of Law

B.A., English, John  
Carroll University

### Practice Areas

Data Analytics

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## SELECT PROFESSIONAL EXPERIENCE

### Data Analytics

- Assisted counsel in an internal investigation into whether a mortgage lender sought second appraisals to approve residential mortgages when initial appraisers did not adequately value the properties. Analysis required a complex model that applied multiple text clustering and matching methods to identify potential matching transactions among more than one hundred thousand payment records. To account for entropy in the requested parameters, the analysis was presented with a set of dynamic filters to allow counsel to identify the most relevant matching payments for purposes of its investigation.
- Developed a web-based software application to assist the monitor of a global bank in tracking, evaluating and reporting on the bank's organizational and operational risks. Improved the monitor's efficiency by reducing the duplication of work across multiple review teams and by automating the production of complex reports for presentation to the bank.

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

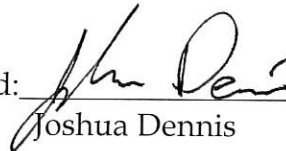
**DECLARATION RE: ELECTRONIC FILING**

I, Joshua Dennis, hereby declare under penalty of perjury that all of the information contained in the *First Interim Application for Compensation and Reimbursement of Expenses of Stoneturn Group, LLP as Expert Consultants for Both Domestic and International Defendant Classes* (the "Document"), filed electronically, is true and correct. I understand that this DECLARATION RE: ELECTRONIC FILING (the "Declaration") is to be filed with the Clerk of the Court electronically concurrently with the electronic filing of the Document. I understand that failure to file this Declaration may cause the Document to be struck and any request contained or relying thereon to be denied, without further notice.

I further understand that, pursuant to the Massachusetts Electronic Filing Local Rule (MEFR) 7(b), all paper documents containing original signatures executed under the penalties of perjury and filed electronically with the Court are the property of the bankruptcy estate and shall be maintained by the authorized CM/ECF Registered User for a period of five (5) years after the closing of this case.

Dated: November 9, 2017

Signed: \_\_\_\_\_

  
Joshua Dennis

**DECLARATION OF ATTORNEY**

I, Ilyas J. Rona, certify that: (i) the affiant above signed this form before I submitted the above Document, (ii) I gave the affiant a copy of the Document and this Declaration, and (iii) I have followed all other electronic filing requirements currently established by local rule and standing order. This Declaration is based on all information of which I have knowledge and my signature below constitutes my certification of the foregoing under Fed. R. Bankr. P. 9011. I have reviewed and will comply with the provisions of Massachusetts Electronic Filing Local Rule (MEFR) 7.

Respectfully Submitted,

Dated: November 9, 2017

/s/ Ilyas J. Rona  
Ilyas J. Rona, Esq. (BBO# 642964)  
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