

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In Re:

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

Reorganized Debtors.

Chapter 11

Case No. 14-40987-MSH

Case No. 14-40988-MSH

Case No. 14-40989-MSH

Substantively Consolidated

RESPONSE BY TRUSTEE TO MOTION BY FABIO WANZELER
FOR RECONSIDERATION

To the Honorable Melvin S. Hoffman, United States Bankruptcy Judge:

Stephen B. Darr, the duly appointed Liquidating Trustee (the "Trustee") of TelexFree, LLC, TelexFree, Inc., and TelexFree Financial, Inc. (collectively, the "Debtors" or "TelexFree") pursuant to the confirmed liquidating plan of reorganization, respectfully submits this response to the *Motion by Fabio Wanzeler for Reconsideration* (the "Motion"). As set forth below, Wanzeler has not demonstrated any facts or law warranting reconsideration of the order of the Court dated December 21, 2020 [docket no. 3668] (the "Order"), and the Motion should be denied. In further support of this opposition, the Trustee states as follows:

ARGUMENT

Reconsideration of an order of the Court is authorized by Fed. R. Civ. P. 60, made applicable to bankruptcy cases by Fed. R. Bankr. P. 9024. "The purpose of a motion for reconsideration is to correct manifest errors of law or fact or to present newly discovered evidence. A party may not submit evidence that is not newly discovered in support of a motion for reconsideration." *In re Marron*, 2011 Bankr. LEXIS 3279 (Bankr. D. Mass. 2011); *see also In re Wedgestone Financial*, 142 B.R. 7, 8 (Bankr. D. Mass. 1992) *citing In re Mortgage*



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Investors Corp., 136 B.R. 592, 598 (Bankr. D. Mass. 1992); *Harley-Davidson Motor Co., Inc. v. Bank of New England-Old Colony, N.A.*, 897 F.2d 611, 616 (1st Cir. 1990).

Mr. Wanzeler has not demonstrated any new evidence or manifest error of law or fact to warrant the Court's reconsideration of the Order. The Motion is the most recent of several pleadings filed by Wanzeler objecting to any reference in pleadings to his settlement of claims asserted by the Trustee against him. The Court previously accommodated Mr. Wanzeler by striking language in the settlement motion that Wanzeler found to be objectionable. In the most recent ruling, the Court concluded that the statements in the applications for professional compensation referencing prior settlements "are not demeaning and are not prohibited, including by any prior order of this Court."

There is no remedy sought in the Motion and, since the Trustee's settlement with Wanzeler has long since been approved and consummated, it is unclear what additional relief Wanzeler could seek. Alluding to the lack of a remedy, the Court noted in the Order that "to the extent that Mr. Wanzeler is seeking other relief, his motion is denied as it generally does not request relief of a kind that the Court has the authority to provide and, to the extent that any relief requested is within the Court's authority to provide, good cause has not been shown for granting such relief." In fact, Mr. Wanzeler's continued submission of pleadings on this subject appears to be at odds with the relief he seeks.

The Motion effectively reiterates issues long since resolved and raises no new issues of fact or law. The Motion should therefore be summarily denied.

Respectfully Submitted,

STEPHEN B. DARR,
LIQUIDATING TRUSTEE,
By counsel:

/s/ Andrew G. Lizotte

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DATED: January 12, 2021 (790799)

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DISTRICT OF MASSACHUSETTS**

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CERTIFICATE OF SERVICE

I, Andrew G. Lizotte, hereby certify that on January 12, 2021, I caused to be served, by this Court's CM/ECF system, and by electronic mail as indicated on the service list attached as Exhibit A, a copy of the following document:

- Response by Trustee to Motion of Fabio Wanzeler for Reconsideration

/s/ Andrew G. Lizotte

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Dated: January 12, 2021
790812

**IN RE: TELEXFREE, LLC, TELEXFREE, INC., AND
TELEXFREE FINANCIAL, INC.
BANKRUPTCY NO. 14-40987**

EXHIBIT A TO

CERTIFICATE OF SERVICE

(Dated January 12, 2021)

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