

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS**

In re:

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

Reorganized Debtors.

Chapter 11 Cases

14-40987-EDK
14-40988-EDK
14-40989-EDK

Substantively Consolidated

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

Plaintiff,

v.
FRANZ BALAN, A REPRESENTATIVE OF A
CLASS OF DEFENDANT NET WINNERS,

Defendants.

Adversary Proceeding
No. 16-4006

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

Plaintiff,

v.
MARCO PUZZARINI AND SANDRO PAULO
FREITAS, REPRESENTATIVES OF A CLASS
OF DEFENDANT NET WINNERS,

Defendants.

Adversary Proceeding
No. 16-4007

REQUEST FOR SCHEDULING CONFERENCE

Stephen Darr, the liquidating trustee under the confirmed liquidating plan of reorganization (the “Trustee”) of TelexFree LLC, TelexFree, Inc., and TelexFree Financial, Inc. (“TelexFree” or the “Debtors”), respectfully requests that the Court schedule a conference to address the remaining matters in Phase I of this litigation.



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1. The Court entered a Scheduling Order in these adversary proceedings, dividing the litigation into two phases [see A.P. 16-4006, docket 421, as amended by docket 433].

2. On October 12, 2023 and October 30, 2023, the Court held an evidentiary hearing on the *Motions by Defendants to Exclude Testimony of Dr. Cameron Freer* (“Motion to Exclude”) and related motions. On October 30, 2023, the Court entered an order denying the Motion to Exclude, finding that “Dr. Freer’s testimony meets the standards of Federal Rule of Evidence 702” [A.P. 16-4006, docket no. 497].

3. The parties have since conferred regarding the prospect of settlement but have been unable to resolve the outstanding matters.

4. Accordingly, the Trustee requests that the Court schedule a status conference as its earliest convenience to establish a deadline for filing pretrial statements and to conduct an evidentiary hearing on the remaining matters in Phase I of the litigation, as follows:

- (i) Whether the Trustee has established his *prima facie* case that ownership of a User Account Cluster is determined based upon the Lowest Rep ID, subject to the right of a Participant to challenge the ownership of the User Account Cluster based upon the Lowest Rep ID;
- (ii) Whether the Trustee has established his *prima facie* case that the User Account Clusters appended to the Freer Report correctly aggregate User Accounts by Participant, subject to the rights of a Participant to challenge the ownership of individual User Accounts within a User Account Cluster;
- (iii) Whether the Trustee has established his *prima facie* case that the Presumed Net Winnings for each User Account Cluster (as appended to the Freer Report) are accurate including the presumption that Participants received cash when serving as a recruiting Participant in a Triangular Transaction, subject to the right of a

Participant to challenge Cash payment amounts identified as being received by that Class Defendant in a Triangular Transaction;

- (iv) Whether the Trustee has established that inter-Participant credit transfers are properly excluded from the computation of Presumed Net Winnings.

STEPHEN B. DARR AS TRUSTEE
OF THE CHAPTER 11 ESTATES OF
TELEXFREE, LLC, TELEXFREE, INC.
AND TELEXFREE FINANCIAL, INC.
By his counsel,

/s/ Andrew G. Lizotte
Charles R. Bennett, Jr.
Daniel J. Lyne
Andrew G. Lizotte (BBO #559609)
Murphy & King Professional Corporation
28 State Street, Suite 3101
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(617) 423-0400
ALizotte@murphyking.com

Date: February 9, 2024

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No. 16-4007

MARCO PUZZARINI AND SANDRO PAULO
FREITAS, REPRESENTATIVES OF A CLASS
OF DEFENDANT NET WINNERS,

Defendants.

CERTIFICATE OF SERVICE

I, Andrew G. Lizotte, hereby certify that on February 9, 2024, I caused a copy of the *Request for Scheduling Conference* to be served electronically through the Court's ECF System upon the registered participants as identified on the Notice of Electronic Filing.

Dated: February 9, 2024

/s/ Andrew G. Lizotte
Andrew G. Lizotte (BBO #559609)
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