

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____ )	
SECURITIES AND EXCHANGE COMMISSION, )	
)	
Plaintiff, )	
)	
v. )	Case No. 1:14-civ-11858-NMG
)	
TELEXFREE, INC., )	
TELEXFREE, LLC, )	
JAMES M. MERRILL, )	
CARLOS N. WANZELER, )	
STEVEN M. LABRIOLA, )	
JOSEPH H. CRAFT, )	
SANDERLEY RODRIGUES DE VASCONCELOS, )	
SANTIAGO DE LA ROSA, )	
RANDY CROSBY and )	
FAITH R. SLOAN, )	
)	
Defendants, )	
)	
and )	
)	
TELEXFREE FINANCIAL, INC., )	
TELEXELECTRIC, LLLP and )	
TELEX MOBILE HOLDINGS, INC., )	
)	
Relief Defendants. )	
_____ )	

**FINAL JUDGMENT AS TO DEFENDANT RANDY CROSBY**

The Securities and Exchange Commission having filed a Complaint and Defendant Randy Crosby (“Crosby” or “Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment; waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment; and Defendant having admitted to the facts set forth in Annex A to the Consent of Randy Crosby (“the Consent”); and the Consent and Annex A being hereby

incorporated by reference with the same force and effect as if fully set forth herein.

**I.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant is permanently restrained and enjoined from violating Section 5 of the Securities Act [15 U.S.C. §77e] by, directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;
- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or
- (c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act [15 U.S.C. §77h].

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's

officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

**II.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant is enjoined from offering, operating, or participating in any marketing or sales program in which a participant is compensated or promised compensation solely or primarily (1) for inducing another person to become a participant in the program, or (2) if such induced person induces another to become a participant in the program.

**III.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant is liable for disgorgement of \$530,009.11, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$75,273.82, for a total of \$605,282.93. Based on the sworn representations in Defendant's Statement of Financial Condition dated September 17, 2017, and other documents and information submitted to the Commission, however, the Court is not ordering him to pay a civil penalty, and payment of all but \$294,014 of the disgorgement and prejudgment interest thereon is waived subject to the remainder of this section and sections IV, V, VI, VII and VIII below.

The determination not to impose a civil penalty and to waive payment of all but \$294,014 of the disgorgement and pre-judgment interest is contingent upon the accuracy and completeness of Defendant's Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that Defendant's representations to the Commission concerning his assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made,

the Commission may, at its sole discretion and without prior notice to Defendant, petition the Court for an order requiring Defendant to pay the unpaid portion of the disgorgement, pre-judgment and post-judgment interest thereon, and the maximum civil penalty allowable under the law. In connection with any such petition, the only issue shall be whether the financial information provided by Defendant was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Defendant to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment. The Commission may also request additional discovery. Defendant may not, by way of defense to such petition: (1) challenge the validity of the Consent or this Final Judgment; (2) contest the allegations in the Complaint filed by the Commission; (3) assert that payment of disgorgement, pre-judgment and post-judgment interest or a civil penalty should not be ordered; (4) contest the amount of disgorgement and pre-judgment and post-judgment interest; (5) contest the imposition of the maximum civil penalty allowable under the law; or (6) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense. Defendant shall also pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

#### IV.

Pursuant to Section 308(a) of Sarbanes-Oxley Act of 2002, as amended by the Dodd Frank Act of 2010, a Fair Fund is established for the disgorgement, pre-judgment interest, and penalties referenced in this paragraph for distribution to harmed investors. \$255,559 of the judgment shall be deemed satisfied upon compliance with the terms of this Judgment and with the terms of the Settlement Agreement by and among Crosby, Sonya Crosby, and Stephen Darr,

the Chapter 11 Trustee of TelexFree LLC, TelexFree, Inc., and TelexFree Financial, Inc. (the “Trustee”) filed in the adversary case entitled *Darr v. Benjamin Argueta et al.*, Adv. Proc. 16-04032, presently pending in the United States Bankruptcy Court for the District of Massachusetts as part of *In re TelexFree, Inc.*, Case 14-04006 (Bankr. D.Mass.) (“the TelexFree bankruptcy”). “The Trustee shall not assess any costs or expenses against the assets recovered pursuant to this settlement, other than the Trustee’s commission, and the fees and expenses associated with the liquidation and distribution of the assets and proceeds thereof recovered in the settlement, including reasonable attorneys’ fees.” No other administrative claims shall be charged against the funds attributable to the SEC’s claim.

**V.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, within thirty (30) days of entry of this Final Judgment, the following institutions shall transfer to the Trustee all assets held in the following accounts unless otherwise denoted:

#	Name(s) on Account	Bank	Account No.	Amount
1	Randy Crosby	SunTrust Bank	xxx2437	All funds in account
2	Randy and Sondra Crosby	SMC Management	XXw23	\$50,000

**VI.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, within sixty (60) days of entry of this Final Judgment but no sooner than 30 days after transfer of fund, Defendant and Sondra Crosby, shall deliver the title and physical possession of the following two vehicles to the Trustee:

#	Description
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1	2014 Porsche Cayenne Diesel, Vin WPA1FA29ELA28988
2	2014 Porsche Panamera S Hybrid, Vin WPAD2A79EL044276

**VII.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that within thirty (30) days of entry of this judgment, SMC Management will turn over all remaining sums not included in Section V to Randy Crosby.

**VIII.**

Crosby shall pay the total remaining disgorgement due of \$38,435 in 20 installment payments to the Commission according to the following schedule: Defendant shall satisfy this obligation in 20 installment payments according to the following schedule: 1) \$1921.75 within 90 days of final judgment; 2) \$1921.75 within 180 days of final judgment; 3) \$1921.75 within 270 days of final judgment; 4) \$1921.75 within 360 days of final judgment; 5) \$1921.75 within 450 days of final judgment; 6) \$1921.75 within 540 days of final judgment; 7) \$1921.75 within 630 days of final judgment; 8) \$1921.75 within 720 days of final judgment; 9) \$1921.75 within 810 days of final judgment; 10) \$1921.75 within 900 days of final judgment; 11) \$1921.75 within 990 days of final judgment; 12) \$1921.75 within 1080 days of final judgment; 13) \$1921.75 within 1170 days of final judgment; 14) \$1921.75 within 1260 days of final judgment; 15) \$1921.75 within 1350 days of final judgment; 16) \$1921.75 within 1440 days of final judgment; 17) \$1921.75 within 1530 days of final judgment; 18) \$1921.75 within 1620 days of final judgment; 19) \$1921.75 within 1710 days of final judgment; and 20) \$1921.75 within 1825 days of final judgment. Payments shall be deemed made on the date they are received by the Commission and shall be applied first to post-judgment interest, which accrues pursuant to 28

U.S.C. § 1961 on any unpaid amounts due after 14 days of the entry of Final Judgment. Prior to making the final payment set forth herein, Crosby shall contact the staff of the Commission for the amount due for the final payment.

Defendant may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to:

Enterprise Services Center

Accounts Receivable Branch

6500 South MacArthur Boulevard

Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; Randy Crosby as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendant shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Defendant.

If Crosby fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Final Judgment, including post-judgment interest, minus any payments made, shall become due and payable

immediately at the discretion of the staff of the Commission without further application to the Court.

**IX.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

**X.**

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: April 27, 2018

Nathaniel M. Gorton  
UNITED STATES DISTRICT JUDGE