

**COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE SECRETARY OF THE COMMONWEALTH
SECURITIES DIVISION
ONE ASHBURTON PLACE, ROOM 1701
BOSTON, MASSACHUSETTS 02108**

2014 APR 15 PM 0:42
SECURITIES DIVISION

IN THE MATTER OF:)	
)	ADMINISTRATIVE
)	COMPLAINT
TELEXFREE, INC. f/k/a COMMON)	
CENTS COMMUNICATIONS, INC., &)	
TELEXFREE, LLC)	
)	Docket No. 2014-0004
RESPONDENTS.)	
)	

I. PRELIMINARY STATEMENT

The Enforcement Section of the Massachusetts Securities Division of the Office of the Secretary of the Commonwealth (hereinafter the “Enforcement Section” and the “Division,” respectively) files this administrative complaint (hereinafter the “Complaint”) in order to commence an adjudicatory proceeding against the above-named Respondents, TelexFREE, Inc. f/k/a Common Cents Communications, Inc., and TelexFREE, LLC (hereinafter collectively the “Respondents”) for violations of MASS. GEN. LAWS ch. 110A, the Massachusetts Uniform Securities Act (hereinafter the “Act”) and 950 MASS. CODE REGS. 10.00 *et seq.*, (hereinafter the “Regulations”). The Complaint alleges that Respondents engaged in the fraudulent offer or sale of unregistered securities in the Commonwealth of Massachusetts (hereinafter the “Commonwealth”) in violation of the Act and Regulations.

The Enforcement Section seeks an Order: 1) requiring Respondents to permanently cease and desist from further conduct in violation of the Act and Regulations in the Commonwealth; 2) requiring Respondents to provide an accounting of all proceeds which

were received as a result of the alleged wrongdoing; 3) to offer restitution to and fairly compensate investors for those losses attributable to the alleged wrongdoing; 4) requiring Respondents to disgorge all profits and other direct or indirect remuneration received from the alleged wrongdoing; 5) censuring Respondents; 6) permanently barring the association or registration of the Respondents with any broker-dealer, issuer of securities, or investment adviser in the Commonwealth; 7) imposing an administrative fine on Respondents in such amount and upon such terms and conditions as the Director or Presiding Officer may determine; and 8) taking any such further actions which may be necessary or appropriate in the public interest for the protection of Massachusetts investors.

II. SUMMARY

While touted as a paradigm shift in telecommunications and advertising, TelexFREE is merely a veiled pyramid and Ponzi scheme targeting the hard-working Brazilian-American community. TelexFREE's scheme borrows elements from the once common phone card frauds of the mid 2000s while supercharging its reach through an elaborate internet-marketing machine. Using various interrelated bank accounts and entities, TelexFREE has raised over \$90,000,000.00 in the Commonwealth and nearly \$1,000,000,000.00 worldwide—often from honest earnings and savings accounts of Brazilian-Americans and other minority groups.

Despite such an impressive capital raise, TelexFREE operations are untenable without a continuous influx of new capital. Indeed, the financial basis of the TelexFREE scheme centers on the recruitment of additional participants and placing online advertisements—not the sales of 99TelexFREE Voice over Internet Protocol computer programs (hereinafter “VoIP Program(s)”). Respondents fraudulently induce investment

in at least two business opportunities involving the offer or sale of unregistered securities in the Commonwealth—namely 1) TelexFREE's passive income scheme and 2) an offer to invest in TelexFREE's hotel program.

TelexFREE's business purportedly centers on the sale of its VoIP Program, 99TelexFREE, despite the fact that TelexFREE's president testified to having limited knowledge of Voice over Internet Protocol (hereinafter "VoIP") and never having been in the telecom business. A VoIP computer program, such as 99TelexFREE, allows an individual to place phone calls over the internet. In effect, an individual can use VoIP as a substitute for traditional landline phone services. Using technology borrowed from Disk A Vontade, a nearly identical venture with common management, TelexFREE rebranded the VoIP Program, offering it for a flat monthly fee of \$49.90. Unlike Disk A Vontade operations, however, TelexFREE coupled the VoIP Program with a wildly lucrative and fraudulent scheme (hereinafter the "Passive Income Scheme").

The core of the Passive Income Scheme centers on the investment of either \$289.00 or \$1,375.00. A participant who invests \$289.00 receives one advertisement kit and ten VoIP Programs. A participant who invests \$1375.00 receives five advertisement kits and fifty VoIP Programs. The TelexFREE advertisement kit enables participants to generate a return by posting pre-written advertisements, to pre-determined websites, through an automated TelexFREE system. A participant's daily use of the advertisement kits generates investment returns without the need for any VoIP Program sales. As testified to, posting advertisements is an effortless process that takes only a few minutes per advertisement. Indeed, many participants pay third parties to post advertisements—completely outsourcing any required work at a minimal cost.

By merely posting one advertisement each day of the week, the TelexFREE participant receives an additional VoIP Program. The participant can sell the additional VoIP Program to TelexFREE for \$20.00. Thus, over the course of the year, a participant who initially invests \$289.00 and does nothing more than place one advertisement per day can receive profit of at least \$681.00—a return in excess of 200%. Alternatively, a participant who initially invests \$1,375.00 and does nothing more than place five advertisements per day can receive profit of at least \$3,675.00—a return in excess of 250%. This feature alone has attracted thousands of individuals to invest in TelexFREE.

The Passive Income Scheme generates further returns for participants through various bonus structures and recruitment commissions. TelexFREE tailors each of the additional income streams to incentivize recruitment. By merely recruiting one individual into the TelexFREE scheme, a participant can receive as much as \$100.00. By recruiting multiple individuals, TelexFREE participants become eligible for revenue sharing bonuses of up to 3% of the TelexFREE's VoIP Program sales.

Hidden among TelexFREE's bonus structure and recruitment commissions is the fact that TelexFREE participants may self-qualify. Indeed, as testified by participants, a participant may invest in more than one advertisement kit and personally purchase the VoIP Program to earn bonuses. Thus, a participant may purchase a VoIP Program, never use the program, and still qualify for additional income. Without ever selling any VoIP Program, the participant receives a return far in excess of the 200-250% guaranteed return.

To drum up interest in recruiting, TelexFREE held extravaganzas complete with a rock concert atmosphere and wild cheering, including the “wave.” Until recently, the

TelexFREE website and TelexFREE presentations included pictures of cash and luxury property. In one such presentation, TelexFREE touted the Passive Income Scheme as “the opportunity of a lifetime.” Through such fantasies, reserved only for those at the top of the Passive Income Scheme, TelexFREE induced investments drawn from participants’ earnest earnings and savings. Troublingly, TelexFREE allowed certain participants to join the scheme despite prior run-ins with the law. TelexFREE prominently highlighted one such participant, Sann Rodrigues (hereinafter “Rodrigues”), as the top promoter in the world on the TelexFREE website. Rodrigues, a self-proclaimed millionaire, had previously operated a similar multi-level marketing phone card fraud shuttered by the SEC in 2006.

TelexFREE’s revenue, from VoIP Programs sales alone, is inadequate to satisfy participant returns. In 2012 and 2013, TelexFREE identified 4,845,576 VoIP Program transactions totaling \$238,395,353.80. Net revenue received by TelexFREE from VoIP Program sales was significantly less due to substantial commission payments. Importantly, TelexFREE founder Carlos Wanzeler (hereinafter “Wanzeler”) could not identify the number of individuals purchasing only a VoIP Program without also becoming a participant. Wanzeler provided wildly varied estimates when challenged to identify the number of VoIP Programs sold to non-participants.

Over the same period, TelexFREE had 783,771 investments of either \$289.00 or \$1,375.00 totaling \$880,189,455.32. Assuming that each participant invested only \$289.00 and did no more than post one advertisement per day, TelexFREE owed participants a total of \$799,446,420.00. Alternatively, if each participant invested only \$1,375.00 and did no more than post five advertisements per day, TelexFREE owed

\$3,997,232,100.00 to its participants. According to data provided by TelexFREE, \$1,375.00 investments accounted for 88% of transactions through Massachusetts based participants.

Even assuming that only 50% of all participant investments were for \$1,375.00, TelexFREE would still owe \$2,398,897,200.00—a number that far exceeds TelexFREE's reported total revenues over the same period. This figure, of almost \$2.4 billion, does not even include further bonuses, recruitment commissions, and revenue sharing. The inclusion of these additional payments would create an even greater disparity between the VoIP Program revenue and guaranteed money paid out of the Passive Income Scheme to participants.

In addition to the Passive Income Scheme, TelexFREE, through a Brazilian affiliate, offered an investment in a Best Western Hotel. As described by TelexFREE's president, the Best Western Hotel opportunity was an important marketing tool to bolster TelexFREE credibility worldwide. TelexFREE management facilitated the offer of the Best Western Hotel opportunity through the inclusion of the Best Western Hotel opportunity on the front page of the TelexFREE website accessible in the Commonwealth. Through a prominently placed website banner and video, TelexFREE presented an investment opportunity with a guaranteed yearly return of over 8%. The Best Western Hotel opportunity video remained on the United States based TelexFREE website for months despite the fact that the president of TelexFREE was aware of the video and requested TelexFREE's website staff remove the video.

In fact, the difference between U.S. TelexFREE operations and Brazilian operations is a distinction without a difference. As described by TelexFREE

management, the ownership interests in TelexFREE, Inc. (Massachusetts based), TelexFREE LLC (Nevada based) and Ympactus (Brazilian based), overlap. Both James Merrill (hereinafter "Merrill") and Wanzeler, self-proclaimed founders of TelexFREE hold 50% ownership interest in the United States entities and 20% and 40% interests respectively in the Brazilian entity. Carlos Costa (hereinafter "Costa"), head of Brazilian operations and longtime friend of Wanzeler, was an owner of TelexFREE, LLC. In late 2013, Costa withdrew his ownership for what Merrill characterized as "legal reasons." Furthermore, TelexFREE entities use the same website and back office support, merely providing identical information in multiple languages. Perhaps most telling, both Merrill and Wanzeler testified to transferring at least \$3,000,000.00 to Costa long after Brazilian authorities shut down Ympactus operations.

Over two years of operations, TelexFREE has employed multiple financial accounts, including domestic and international bank accounts and various online payment processors, to facilitate the fraudulent offer or sale of securities in the Commonwealth. Almost all financial institutions have terminated their relationship with TelexFREE after only a few months of business. Recently, frantic emails between TelexFREE management and financial institutions paint an entirely bleak picture of continuing TelexFREE financial operations. TelexFREE operations have become a risk that financial institutions are no longer willing to bear. As described by one financial institution, "[n]o US Bank or Processor . . . will accept your [TelexFREE] business given that you are on month five of the Visa Chargeback monitoring program. You are one of only three merchants in the USA on month five so you are a real hot-potato as they say."

Recently on March 9, 2014, TelexFREE management made several changes to its once wildly popular Passive Income Scheme. A central component of the new changes affects the ease of participant withdrawals. Currently, TelexFREE participants are no longer able to withdraw money, even money already “earned,” without making a specified number of retail sales and recruiting a number of new investors. Certain TelexFREE participants have frantically contacted the Division suspecting that these changes are the harbinger of TelexFREE’s collapse. Not only is it now more difficult to withdraw money from TelexFREE, TelexFREE has also switched its compensation plan from one that pays participants in dollars to one that operates on TelexFREE “credits.” These credits appear to be nothing more than IOUs. To this end, on April 14, 2014 TelexFREE filed for Chapter 11 bankruptcy protection in Nevada.

Based on its investigation, the Enforcement Section believes that since 2012 TelexFREE has offered or sold securities in the Commonwealth. Through the offer or sale of unregistered securities, TelexFREE has caused and continues to cause great harm to unsophisticated minority populations enticed by the false pretense of getting rich quick.

III. JURISDICTION AND AUTHORITY

1. As provided for by the Act, the Division, under the Office of the Secretary of the Commonwealth, maintains jurisdiction over matters relating to securities. The Act authorizes the Division to regulate: 1) the offer, sale, and purchases of securities; 2) those persons engaged in the business of effecting transactions in securities for the account of others or for their own account; and 3) those persons transacting business as investment advisers within the Commonwealth.

2. The Division brings this action pursuant to the enforcement authority conferred upon it by Section 407A of the Act and MASS. GEN. LAWS ch. 30A, wherein the Division has the authority to conduct an adjudicatory proceeding to enforce the provisions of the Act and all Regulations and rules promulgated thereunder.
3. This proceeding is brought in accordance with Sections 101, 201, 301, 404 and 407A of the Act and its Regulations. Specifically, the acts and practices constituting violations occurred within the Commonwealth.
4. The Division specifically reserves the right to amend this Complaint and/or bring additional administrative complaints to reflect information developed during the current and ongoing investigation.

IV. RELEVANT TIME PERIOD

5. Except as otherwise expressly stated, the conduct described herein occurred during the approximate time period of December 31, 2002 through the present (hereinafter the "Relevant Time Period").

V. RESPONDENTS

6. TelexFREE, Inc., f/k/a Common Cents Communications, Inc. (hereinafter "TelexFREE, Inc."), is a domestic for-profit corporation organized under the laws of the Commonwealth of Massachusetts on December 31, 2002. TelexFREE, Inc. has a last known principal place of business at 225 Cedar Hill St., Suite 118, Marlboro, Massachusetts, 01752. TelexFREE, Inc. operates a publically available website located at www.telexfree.com (hereinafter the "TelexFREE Website").
7. TelexFREE, LLC (hereinafter "TelexFREE, LLC"), is a foreign limited liability company organized under the laws of the State of Nevada on August 19, 2012 and

was registered with the Secretary of the Commonwealth as of April 19, 2013. TelexFREE, LLC has a last known principal place of business at 4705 S. Durango Drive, #100-J51, Las Vegas, Nevada, 89147 (hereinafter "Las Vegas Address"). TelexFREE, LLC's Las Vegas address consists only of a United States mail address. TelexFREE, LLC maintains a Massachusetts office at 225 Cedar Hill Street, Suite 200, Marlboro, Massachusetts, 01752.

VI. RELATED PARTIES

8. Carlos Nataniel Wanzeler (hereinafter "Wanzeler"), is an individual with a last known principal place of residence in Northborough, Massachusetts. According to corporate filings with the Secretary of the Commonwealth, Wanzeler currently serves as Treasurer and Director of TelexFREE, Inc. Corporate filings list Wanzeler as Chief Executive Officer of TelexFREE, Inc. and Manager of TelexFREE, LLC.
9. James Matthew Merrill (hereinafter "Merrill"), is an individual with a last known principal place of residence in Ashland, Massachusetts. According to corporate filings with the Secretary of the Commonwealth, Merrill currently serves as President, Secretary, Director, and Registered Agent of TelexFREE, Inc. Corporate filings list Merrill as Chief Financial Officer of TelexFREE, Inc. and Manager and registered agent for TelexFREE, LLC.
10. Steven M. Labriole, a/k/a Steve Labriola (hereinafter "Labriola") resides in Upton, Massachusetts. As late as December 31, 2010, corporate filings with the Secretary of the Commonwealth list Labriole as a Director of TelexFREE, Inc. Labriole serves as the International Marketing Director for TelexFREE, Inc.

11. Carlos Roberto Costa (hereinafter “Costa”) is an individual associated with TelexFREE, Inc. and TelexFREE, LLC and currently residing in Brazil. According to corporate filings with the Secretary of the Commonwealth, Costa served as Manager of TelexFREE, LLC. Upon information and belief, Costa currently, or formerly, also serves as Director of Marketing for TelexFREE in Brazil.
12. Fabio N. Wanzeler (hereinafter “Fabio Wanzeler”) is an individual with a last known principal place of residence in Coral Springs, Florida. As late as December 31, 2010, corporate filings with the Secretary of the Commonwealth list Fabio Wanzeler as a Director of TelexFREE, LLC.
13. Ympactus Comercial LTDA-ME (hereinafter “Ympactus”) is a Brazilian entity, formerly operating TelexFREE, Inc. and TelexFREE, LLC in Brazil. Ympactus, TelexFREE, Inc. and TelexFREE, LLC maintain interrelated financial and management control. According to a Brazilian journalist, the Public Ministry of the State of Arce in Brazil froze Ympactus operations for allegedly operating an illegal pyramid scheme.
14. Lyvia Mara Campista Wanzeler (hereinafter “Lyvia”) is an individual believed to have signatory authority for Ympactus.
15. Disk A Vontade Telefonica Ltda, a/k/a Diskavontade, a/k/a Disk (hereinafter “Disk A Vontade”) is a Brazilian entity with a last known principal place of business at Rua Jose Luiz Gabeira, NRO 170, APTO 103 Barro Vermelho. Disk A Vontade has a last known Massachusetts office located at 225 Cedar Hill Street, Suite 200, Marlboro, Massachusetts, 01752. Wanzeler is Chief Executive Officer of Disk A Vontade. According to documents produced to the Enforcement Section, Merrill is a Vice

President of Disk A Vontade with signatory authority. According to testimony, Disk A Vontade is a d/b/a for Brazilian Help, Inc.

16. Brazilian Help, Inc. (hereinafter “Brazilian Help”) is a domestic for-profit corporation organized under the laws of the Commonwealth of Massachusetts on October 10, 2007. Brazilian Help has a last known principal place of business at 225 Cedar Hill St., Suite 118, Marlboro, Massachusetts, 01752. Corporate documents list Wanzeler as the President, Treasurer, Secretary, and registered agent of Brazilian Help.
17. Sanderley R. De Vasconcelos, a/k/a Sann Rodrigues, a/k/a Sanderley Vasconcelos (hereinafter “Rodrigues”) is an individual believed to reside in Orlando, Florida. Upon information and belief, Rodrigues has significant and substantial ties to the Massachusetts Brazilian community. In 2006, Rodrigues was held liable for operating a fraudulent pyramid scheme targeting the Brazilian community. As part of the court proceedings, Rodrigues was permanently barred from the offer and sale of securities. The TelexFREE Website publically listed Rodrigues as “the top promoter in the world.”
18. Telexfree Financial, Inc., is a TelexFREE, Inc. and TelexFREE, LLC related entity believed to be operating various bank accounts. Wanzeler incorporated Telexfree Financial, Inc. in Florida with the Florida Department of State, Division of Corporations.

VII. ALLEGATIONS OF FACT

A. The TelexFREE Investigation

19. The Enforcement Section commenced its investigation after receiving communication from a Brazilian journalist. Through an initial conversation, the Brazilian journalist

proceeded to describe an alleged multi-million dollar fraud occurring in Brazil involving Respondents.

20. TelexFREE, Inc. and TelexFREE, LLC (hereinafter collectively “TelexFREE”) hold themselves out as multi-level marketing companies selling telecommunication services to retail consumers.

21. TelexFREE’s United States headquarters has always been, and continues to be, located in Massachusetts.

a. The TelexFREE Website as accessible in the Commonwealth

22. The Enforcement Section immediately began monitoring the TelexFREE Website, registered to a post office box located in Worcester, Massachusetts.

23. As described on the TelexFREE Website, TelexFREE offers a Voice over Internet Protocol software program¹, 99TelexFREE, (hereinafter “VoIP Program”) for a “simple monthly payment of only \$49.90.”

24. Voice over Internet Protocol (hereinafter “VoIP”) allows a user to place telephone calls through the internet. An individual who purchases a VoIP Program through the TelexFREE Website receives software that enables phone calls to certain landlines and cell phones.

25. TelexFREE also offers a “TelexFREE Promoter” program. The TelexFREE Website describes the “TelexFREE Promoter” program as, “[a]n amazing opportunity for promoters to profit from the sale and distribution of products and services Telexfree.” The TelexFREE Website provides bullet points, which describe benefits of becoming a “Promoter”. Among these benefits: “[a]ccess to Telexfree software...[r]esale rights...[d]irect commissions on the sale of plans for clients and

¹Common VoIP programs include, Skype, Comcast VoIP, and Vonage.

promoters...[i]ndirect commissions for network consumption...[and] [v]irtual online office to manage your indications and gains.”

26. As of February 26, 2014, the TelexFREE Website highlighted key members of the TelexFREE management team, including Merrill, Wanzeler, and Labriola. Currently, the TelexFREE Website highlights Merrill’s contributions to the company, Merrill’s traditional American upbringing, and Merrill’s ties to the Brazilian community.
27. As of February 26, 2014, the TelexFREE Website additionally displayed a banner inviting all TelexFREE “affiliates” to a “mega event” held on March 1, 2014 through March 2, 2014 in Spain. Throughout the Relevant Time Period, TelexFREE’s Website has linked to other “affiliate” events including luxury cruise vacations.
28. Currently, the TelexFREE Website contains, without any disclosure to the contrary, links and icons suggestive of affiliations with Windows, Google, and Apple.
29. As late as May 21, 2013, the TelexFREE Website browser bar included the tag line “make money by posting ads.”
30. As late as March 31, 2014, the TelexFREE Website contained a page devoted to its founder, Merrill, which included a biography.
31. As recently as March 28, 2014, Merrill’s biography on TelexFREE’s Website stated, “[...] James Merrill graduated in economics in the class of 1985 at Westfield State University.”
32. According to testimony provided to the Division, Merrill only attended Westfield State University for two years, leaving in 1981 without receiving a degree or declaring a major.

33. As President of TelexFREE Merrill had notified both Costa and Wanzeler of the misrepresentation, however, Costa and Wanzeler ignored his requests to have the information changed.
34. As recently as March 28, 2014, TelexFREE's Website stated that Merrill is "well versed in one of the new technologies of the era (VoIP) [*sic*]. . . ." However, according to testimony provided to the Division, Merrill testified to having only a basic understanding of VoIP technology, that VoIP technology allowed calls to be made over the internet rather than through traditional land based phone lines.

b. TelexFREE headquarters in the Commonwealth

35. Wanzeler incorporated TelexFREE, Inc. as a Massachusetts for-profit corporation on December 31, 2002 under the name Common Cents Communications, Inc. Wanzeler amended the name to TelexFREE, Inc. on February 15, 2012. Corporate documents describe TelexFREE, Inc.'s business as "SALES OF LONG DISTANCE TELECOMMUNICATION SERVICES".
36. Starting in 2007, corporate documents list 225 Cedar Hill St., Suite 200, Marlboro, Massachusetts, 01752 as the principal office of TelexFREE, Inc. and later as the Massachusetts office location for Telexfree, LLC.
37. On Monday, February 3, 2014 at approximately 10:00 a.m., members of the Enforcement Section traveled to 225 Cedar Hill Street, Marlboro, Massachusetts, 01752 (hereinafter "TelexFREE Headquarters").
38. TelexFREE Headquarters (as identified on the TelexFREE Website) consists of a multi-tenant office building. Staff members visited Suite 200—a conference space

rented by multiple tenants. An office directory at TelexFREE Headquarters listed 24 tenants of Suite 200, including Disk A Vontade.

39. Disk A Vontade is a telecommunications company providing VoIP services as a d/b/a for Brazilian Help. According to documents produced to the Enforcement Section, Merrill is a vice president of Disk A Vontade with signatory authority. Wanzeler is the chief executive officer of Disk A Vontade. Furthermore, Disk A Vontade is the registered owner of the TelexFREE Website.
40. TelexFREE is a repackaging of Disk A Vontade operations, structure, and management—including telecommunication carrier agreements. Disk A Vontade provides identical telecommunications services to retail customers.

B. TelexFREE has Offered or Sold Securities in the Commonwealth and Continues to Offer or Sell Securities in the Commonwealth

41. Through an elaborate internet scheme, Respondents fraudulently induced investment in at least two business opportunities involving the offer or sale of securities—namely 1) TelexFREE’s passive income scheme and 2) an offer to invest in TelexFREE’s hotel program.
42. TelexFREE’s passive scheme (hereinafter the “Passive Income Scheme”) constitutes an investment contract. TelexFREE participants invest money in a common enterprise with the expectation of profits to be derived from the essential managerial efforts of TelexFREE. The fortunes of TelexFREE participants are interwoven with and dependent upon the efforts and successes of TelexFREE management, namely Wanzeler and Merrill.
43. Respondents have never filed an application for the registration of, or exemption for, securities to be offered in the Commonwealth during the Relevant Time Period.

44. Respondents have never registered in Massachusetts as broker-dealer, an agent of a broker-dealer or an issuer, an investment adviser or an investment adviser representative, or in any other capacity during the Relevant Time Period.
45. The Division has never registered Wanzeler as a broker-dealer, an agent of a broker-dealer or an issuer, an investment adviser or an investment adviser representative, or in any other capacity in the securities business in the Commonwealth during the Relevant Time Period.
46. The Division has never registered Merrill as a broker-dealer, an agent of a broker-dealer or an issuer, an investment adviser or an investment adviser representative, or in any other capacity in the securities business in the Commonwealth during the Relevant Time Period.

C. TelexFREE's Passive Income Scheme

47. TelexFREE offers and has induced investment in a multi-level, multi-dimensional pyramid and Ponzi scheme in the Commonwealth.
48. Interests in TelexFREE's Passive Income Scheme are sold in the form of sales packages called AdCentral packages (hereinafter "AdCentral Package(s)") and AdCentral Family packages (hereinafter "AdCentral Family Package(s)").
49. TelexFREE's AdCentral Packages and AdCentral Family Packages are investment contracts and the VoIP Programs sold by TelexFREE are merely incidental to TelexFREE operations.
50. In order to join the TelexFREE Passive Income Scheme, a TelexFREE participant must either purchase an AdCentral Package for \$289.00 or purchase an AdCentral Family Package for \$1375.00.

51. TelexFREE pools money received from the sale of both AdCentral Packages and AdCentral Family Packages into common bank accounts maintained and controlled in the name of TelexFREE. These accounts are used by Respondents to conduct business.
52. A purchaser of an AdCentral Package or an AdCentral Family Package expects to earn a minimum guaranteed profit of at least 200% or 250%, respectively, during a 12 month period.
53. In order to earn the minimum return for either the AdCentral Package or an AdCentral Family Package, TelexFREE's only requirement is for participants to post at minimum one advertisement per day—a task that merely requires an internet connection, several minutes of one's time, and no thought or effort by participants.
54. As such, the expected minimum returns can only come from TelexFREE's ability to generate revenues from TelexFREE's VoIP Program, which no participant is required to sell.

a. The basic TelexFREE investment

55. According to the TelexFREE Website, at the most basic level, participants can invest \$289.00 in return for the activation of an AdCentral kit (hereinafter "AdCentral Kit") and ten VoIP Programs.
56. According to the TelexFREE Website, the AdCentral Kit is an advertisement system that enables participants to earn one additional VoIP Program per week simply by posting one pre-written advertisement daily. The TelexFREE Website describes the advertising process by stating, "[a]ll in a fast and standardized manner atin [*sic*] your easy Telexfree virtual office (BO)." The "virtual office" and "BO" (hereinafter

- collectively the “TelexFREE Back Office”) is an internal website that each participant uses to manage their AdCentral Packages or AdCentral Family Packages.
57. According to testimony, as payment for posting one pre-written advertisement daily, a TelexFREE participant receives one additional VoIP Program per week from TelexFREE. The TelexFREE participant may sell the VoIP Program to TelexFREE for \$20.00 or receive a 10% commission (\$4.99) on any personal sales of the VoIP Program.
58. Upon information and belief, the vast majority of TelexFREE participants choose to receive the guaranteed \$20.00 weekly income by selling the additional VoIP Program to TelexFREE rather than sell a weekly VoIP Program for a commission of \$4.99.
59. Upon information and belief, the resale of VoIP Programs by a participant to TelexFREE is a simple process requiring only a few keystrokes by the participant in their TelexFREE Back Office.
60. As described in a “Business Presentation,” accessible on the TelexFREE Website as early as January 30, 2013, the posting of advertisements requires little or no participant effort (hereinafter “TelexFREE Website Presentation”). The TelexFREE Website Presentation states, “[w]e have it all computerized, with only 3 steps, in your virtual office (BackOffice).”
61. According to testimony from two TelexFREE participants, participants can purchase an advertisement application to automatically post advertisements. Even in the absence of automated computer and phone applications, the posting of daily advertisements consists merely of copying and pasting pre-drafted advertisements to

pre-determined websites. Still further, the TelexFREE scheme caps participants' efforts by crediting only one advertisement per day per AdCentral Package.

62. Upon information and belief, TelexFREE does not effectively limit the number of AdCentral Packages purchased by a participant. According to data provided by TelexFREE, many promoters own multiple AdCentral Packages.
63. Thus, a participant who invests in an AdCentral Package and chooses to do no more than post one pre-written daily advertisement, receives one weekly VoIP Program. A participant who sells each additional VoIP Program to TelexFREE will receive a net yearly return of at least \$681.00—a return in excess of 200%.
64. According to information provided by Respondents to the Enforcement Section, TelexFREE participants have purchased over 7,800 AdCentral Packages, with proceeds totaling over \$2,000,000.00 through Massachusetts based “promoters.”

b. The TelexFREE accelerated investment

65. According to TelexFREE's Website Presentation, TelexFREE participants may also choose to invest more money to secure higher returns.
66. TelexFREE participants may invest \$1,375.00 in return for the activation of one AdCentral Family Package.
67. Unlike the AdCentral Package, the AdCentral Family Package consists of fifty VoIP Programs and five AdCentral Kits, which enables investors to earn five additional VoIP Programs per week simply by posting five pre-written advertisements daily.
68. According to testimony, as payment for posting five pre-written advertisements daily, a TelexFREE participant receives five additional VoIP Programs per week from TelexFREE. The TelexFREE participant may sell the VoIP Programs to TelexFREE

for \$100.00 or receive a 10% commission (\$4.99) on any personal sales of the VoIP Program.

69. Upon information and belief, the vast majority of TelexFREE participants choose to receive the guaranteed \$100.00 weekly income by selling the additional VoIP Programs to TelexFREE rather than sell each weekly VoIP Program for a \$4.99 commission.
70. As described in the TelexFREE Website Presentation, the posting of advertisements requires little or no participant effort. The TelexFREE Website Presentation states, “[w]e have it all computerized, with only 3 steps, in your virtual office (BackOffice).”
71. According to testimony from two TelexFREE participants, participants can purchase an advertisement application to automatically post advertisements. Even in the absence of automated computer and phone applications, the posting of daily advertisements consists merely of copying and pasting pre-drafted advertisements to pre-determined websites. Still further, the TelexFREE scheme caps participants’ efforts by crediting only five advertisements per day.
72. Upon information and belief, TelexFREE does not effectively limit the number of AdCentral Family Packages purchased by a participant. According to data provided by TelexFREE, many promoters own multiple AdCentral Family Packages, including Rodrigues who owns hundreds.
73. Thus, a participant who buys an AdCentral Family Package and chooses to do no more than post five pre-written daily advertisements, receives five weekly VoIP Programs. A participant who sells each additional VoIP Program to TelexFREE will receive a net yearly return of at least \$3,675.00—a return in excess of 250%.

74. According to information provided by Respondents to the Enforcement Section, TelexFREE participants have purchased over 58,000 AdCentral Family Packages, with proceeds totaling over \$80,000,000.00 through Massachusetts based “promoters.”

c. Basic recruitment income

75. Once initiated into the Passive Income Scheme (through an AdCentral Package or AdCentral Family Package), TelexFREE offers participants multiple recruitment payout structures, which generate pooled income for a TelexFREE participant with little or no effort required.

76. Respondents publically promote recruitment, by highlighting the success of individual participants, including Rodrigues; the former president of a Massachusetts based Ponzi scheme ordered to pay restitution of over \$1,800,000.00.

77. As President of Universo Foneclub Corp., Rodrigues offered a similar phone card investment targeting the Brazilian-American community.

78. As late as February 25, 2014, TelexFREE’s Website promoted Rodrigues as the “Top Promoter in the World.”

79. Despite knowing of Rodrigues’ past problems with authorities, nowhere on TelexFREE’s Website did TelexFREE disclose that Rodrigues had been sued by the SEC for offering and selling fraudulent phone card securities.

80. According to testimony from multiple participants, Rodrigues has recruited individuals within the Boston area into TelexFREE.

81. According to testimony from a participant, Rodrigues pitched TelexFREE as an “opportunity.”

82. To emphasize recruitment further, TelexFREE holds lavish meetings, referred to on at least one occasion as an “Extravaganza”. In connection with one particular “Extravaganza”, TelexFREE, LLC spent over \$100,000.00 at a Mercedes Benz dealership in Orlando, Florida. As drafted, the check indicated, “Cars for Extravaganza ID #s 46928139 1247078387.”
83. TelexFREE extravaganzas include rock music and audience participation akin to a pep rally. At certain extravaganzas, Merrill fueled participant excitement by leading the wave.
84. TelexFREE materials additionally suggest the potential for TelexFREE to change a participant’s life. The TelexFREE Website Presentation, attributed to Merrill, displayed the caption, “Beginning of FUTURE!!! Do not waste time Sign up now!,” accompanied by pictures of money, a happy family, and a mansion.
85. The Passive Income Scheme rewards TelexFREE participants for recruitment with \$20.00 for each AdCentral Package and \$100.00 for each AdCentral Family Package purchased by downstream participants.
86. The Passive Income Scheme further rewards recruitment by paying an additional \$20.00 or \$80.00 each time a TelexFREE participant completes a pairing of downstream participants on the right and left side of the TelexFREE participant’s pyramid.
87. A participant can invest in more than one AdCentral Package or AdCentral Family Package, simply by creating a new username, thereby instantly expanding their pyramid with little effort.

88. By recruiting two AdCentral Family Package participants (or merely purchasing two additionally AdCentral Family Packages), and having a VoIP program, an individual TelexFREE participant will receive additional commissions of at least \$230.00.
89. By recruiting two downstream participants to TelexFREE and selling one VoIP Program, the Passive Income Scheme yields an additional 2% of all VoIP Program sales by downstream participants for up to six levels of recruitment.
90. As testified to, a participant need not sell the VoIP Program to a non-TelexFREE participant, but rather, may personally purchase the VoIP Program to qualify for further income. Thus, even when recruited participants fail to sell VoIP Programs to non-TelexFREE participants, the TelexFREE participant still receives a return.
91. As testified to, TelexFREE management could not identify the number of individuals purchasing only a VoIP Program without also becoming a participant.

d. Bonus Pools further incentivize recruitment

92. TelexFREE also offers at least two bonus programs in the Commonwealth—the Team Builder Bonus and the Team Cycle Bonus.
93. According to documents produced by TelexFREE, a TelexFREE participant is eligible for the Team Builder Bonus when the TelexFREE participant 1) invests in an AdCentral Family Package, 2) personally enrolls five retail customers, and 3) recruits 10 other TelexFREE participants who have also personally enrolled five retail customers.
94. According to documents produced by TelexFREE, a TelexFREE participant who is eligible for the Team Builder Bonus will receive 2% percent of TelexFREE's net billing for the following month divided among all qualifying TelexFREE participants.

95. According to documents produced by TelexFREE, at least 45 Massachusetts participants have qualified for the Team Builder Bonus and are receiving a portion of TelexFREE's revenue.
96. In one month alone TelexFREE paid over \$15,000.00 to Massachusetts participants who qualified for the Team Builder Bonus.
97. According to documents produced by TelexFREE, a TelexFREE participant is eligible for the Team Cycle Bonus when the TelexFREE participant qualifies for 22 cycle bonuses within 20 days.
98. According to documents produced by TelexFREE, a TelexFREE participant qualifies for the cycle bonus by 1) recruiting two additional participants and 2) enrolling one customer.
99. A TelexFREE participant who qualifies for the Team Cycle Bonus shares in one percent of TelexFREE's revenue, which, according to TelexFREE financials is nearly indistinguishable from gross profit.

D. The Passive Income Scheme is a Combined Ponzi and Pyramid Scheme Consisting of Fraudulent and Unregistered Securities

a. Overview

100. Over the last two years, primarily through recruitment efforts, Respondents have pooled nearly \$1,000,000,000.00 from investors worldwide and approximately \$93,000,000.00 from over 18,000 transactions through participants based in the Commonwealth.
101. TelexFREE's scheme operates through multiple entities with overlapping management and fluid movement of money between and among entities through various domestic and international financial institutions.

102. TelexFREE management maintains common ownership of the TelexFREE entities. Merrill and Wanzeler each own 50% of TelexFREE, Inc. and TelexFREE, LLC. Wanzeler, Costa, and Merrill own Ympactus jointly. Wanzeler and Costa each hold a 40% stake in Ympactus and Merrill owns 20%.
103. Additionally, the contract that governs a participant's relationship with TelexFREE makes several references to Ympactus (TelexFREE's Brazilian affiliate), including operating and payment agreements between TelexFREE and Ympactus.
104. Until recently, Costa was a member of TelexFREE, LLC. Costa has signatory authority for Ympactus.
105. In 2013, TelexFREE paid Costa at least \$3,000,000.00—months after Brazilian authorities froze Ympactus' assets and operations.

b. TelexFREE payouts are unsustainable through VoIP sales

106. While TelexFREE emphasizes the sale of VoIP Programs, participants have no requirement to sell the VoIP Programs. The only requirement to earn money from TelexFREE is to post daily pre-written advertisements. TelexFREE's guaranteed payment is not based on a participant's VoIP Program sales, but instead from the minimal effort required to post daily prewritten advertisements to predetermined websites.
107. Participants spend no more than five minutes per day to post the pre-written advertisements. There is no requirement that participants even post the advertisements themselves, and can instead pay others.

108. In response to the Division's subpoena dated February 5, 2014, TelexFREE identified 4,845,576 retail transactions during the 2012 and 2013 period, totaling \$238,395,353.80.
109. Upon information and belief, the net income to TelexFREE through retail sales was substantially less.
110. TelexFREE pays an initial 90% commission for the first month a VoIP Program is sold to a new client, a 10% commission for each month a client continues to buy the VoIP Program, and a 2% override commission for all up-line participants for up to six levels.
111. While TelexFREE asserts it keeps no data recording VoIP Program sales by participants, when factoring in commissions, at a minimum TelexFREE paid participants at least \$23,839,535.38 from 2012 through 2013. The actual commission payment to participants is likely in excess of this figure when considering the 2% residual commission.
112. Respondents have failed to disclose that VoIP Program sales are not sufficient to pay "guaranteed" returns. The success of the TelexFREE scheme requires an ever-increasing number of participants to continue to pay the returns promised to current participants.
113. Upon information and belief, TelexFREE made, and caused others to make, material misrepresentations concerning the source of the monies paid to its earlier members. TelexFREE did not generate sufficient revenue from VoIP Programs necessary to pay participants the represented returns. Instead, Wanzeler and Merrill operated TelexFREE as a massive pyramid and Ponzi scheme in which TelexFREE

took money that it received from subsequent participants to repay the earlier participants their principal and profit, while encouraging its participants, using material misrepresentations, to promote TelexFREE as an easy and legal means to earn a substantial income.

114. Despite over \$1.2 billion in revenue from 2012 through 2013, Respondents' operations reveal a simple entity, with little or no staff to manage day-to-day operations. In fact, according to TelexFREE financial statements, total payroll expenses, including all salaries, amounted to only \$120,683.88 in 2013.
115. Included among TelexFREE's salary expenses is a mere seven-person customer service department responsible for hundreds of thousands of purported VoIP Program customers.
116. TelexFREE, not the participants, handle all payments, manage the bank accounts, payment service providers, technical issues, create all advertisements, join participant videos and calls, hold participant meetings, and track, determine, and distribute all payments.
117. TelexFREE and its affiliate Ympactus created, update, and operate the TelexFREE Website.
118. TelexFREE pools participant funds in banks and other financial institutions. Participant funds flow between and among various entities sharing common ownership.
119. TelexFREE, not the participants, employ capital to create new programs, including, but not limited to, TelexMobile, Telexfree Financial Inc., and TelexElectric, LLLP.

c. TelexFREE financial data

120. TelexFREE's financial data reaffirms TelexFREE's operations as merely a pyramid and Ponzi scheme.

121. On April 23, 2013, TelexFREE produced a January to December 2012 profit and loss statement in response to the Enforcement Section's April 4, 2013 request for "a profit and loss statement for the past year for Telexfree, Inc." (hereinafter "Jan./Dec. 2012 P&L One") When asked to clarify certain line items, TelexFREE asserted that it could not locate the January to December 2012 profit and loss statement. On February 5, 2014, the Enforcement Section requested "[a] profit and loss statement (in accordance with U.S. GAAP Financial Statement standards) for Telexfree, Inc. for 2012." On February 26, 2014, TelexFREE submitted a two page January to December 2012 profit and loss statement (hereinafter "Jan./Dec. 2012 P&L Two"). A comparison of the Jan./Dec. 2012 P&L One and the Jan./Dec. 2012 P&L Two reveal significant discrepancies, including, but not limited to the following:

	Jan./Dec 2012 P&L One	Jan./Dec 2012 P&L Two
Total Income	\$1,864,939.70	\$2,834,835.70
Agent Commission	\$520,582.95	\$2,105,925.61
Total Expenses	\$784,899.22	\$2,333,893.09
Net Operating Income	\$1,080,040.48	\$478,251.56
Net Income	\$1,066,313.39	\$477,652.23

122. According to profit and loss statements for TelexFREE, Inc. and TelexFREE, LLC, the combined entities had income totaling \$1,209,345,258.47 from January 2012 to December 2013. Out of the approximately \$1.2 billion in income, only approximately \$238,000,000.00 in income came from the sale of VoIP Programs.
123. Based on a response to an interrogatory posed by the Division in the February 5, 2014 subpoena, TelexFREE stated that it had sold 783,771 wholesale packages (i.e. an AdCentral Package or an AdCentral Family Package) to “promoters” during the 2012 to 2013 period.
124. Assuming that each participant invests only in an AdCentral Package, TelexFREE owed participants a total of \$799,446,420.00 for the years 2012 and 2013. In the alternative, if participants invested exclusively in the AdCentral Family Package, TelexFREE owed \$3,997,232,100.00 to its participants. The majority of TelexFREE participants purchase one or more AdCentral Family Packages. According to data provided by TelexFREE, 88% of wholesale packages sold by Massachusetts based participants were AdCentral Family Packages.
125. Additionally, according to information provided by TelexFREE over 75% of wholesale packages sold worldwide were AdCentral Family Packages.
126. Even assuming that only 50% of investments were AdCentral Family Packages, TelexFREE would still owe participants a total \$2,398,897,200.00, a number that far exceeds TelexFREE’s reported revenues over the same period. This figure, of almost \$2.4 billion, does not include further payouts, such as the Team Builder bonus and Team Cycle bonus, as well as the 10% commission paid on retail sales. The inclusion

of these additional bonus payments would create an even greater disparity between TelexFREE's income and the money being paid out of the program to participants.

127. According to profit and loss statements provided by TelexFREE in response to a subpoena from the Division dated February 5, 2014, TelexFREE had income totaling \$1,209,345,258.47 and a gross profit of \$1,206,578,682.50 from January 2012 through December 2013. Of that gross profit, TelexFREE paid more than 75% as commissions to TelexFREE promoters.

128. Upon information and belief, the commissions paid by TelexFREE are unsustainable. TelexFREE participants receive the commissions for posting pre-written ads and recruiting and otherwise bring no value to the enterprise. The TelexFREE scheme hinges exclusively on the recruitment of new participants and the constant influx of new capital.

129. On April 23, 2013, TelexFREE produced a December 31, 2012 balance sheet for TelexFREE Inc. (hereinafter "Dec. 2012 Balance Sheet One"). When asked to clarify certain line items, TelexFREE asserted that it could not locate Dec. 2012 Balance Sheet One. On February 5, 2014, the Enforcement Section requested "[a] balance sheet for Telexfree, Inc. for 2012." On February 26, 2014, TelexFREE submitted a one page December 31, 2012 balance sheet (hereinafter "Dec. 2012 Balance Sheet Two"). A comparison of Dec. 2012 Balance Sheet One and Dec. 2012 Balance Sheet Two reveal significant discrepancies, including, but not limited to the following:

	Dec. 2012 Balance Sheet One	Dec. 2012 Balance Sheet Two
Loan from Telexfree LLC	\$93,880.88	\$701,525.00
Total Liabilities	\$102,084.83	\$709,728.95
Total Equity	\$1,066,313.39	\$477,652.23
Total Assets	\$1,168,398.22	\$1,187,381.18

130. The balance sheet for 2013 produced by TelexFREE to the Division in response to the Division's February 5, 2014 subpoena also differs significantly from the 2013 balance sheet submitted to the Washington Utilities and Transportation Commission for exact same period. For example, on the balance sheet submitted to the Division, TelexFREE lists a loan to Ympactus with a balance of \$0. The balance sheet submitted to the State of Washington lists a loan to Ympactus as an asset of \$291,808.02.

d. TelexFREE bank accounts and online payment accounts

131. TelexFREE operations flow through multiple domestic and international financial institutions.

i. TelexFREE Bank Accounts

132. Respondents produced 2012 and 2013 balance sheets for TelexFREE, Inc. and TelexFREE, LLC identifying multiple bank accounts (hereinafter "TelexFREE Bank Accounts").

133. A review of TelexFREE Bank Accounts records reveal unusual patterns of deposits, withdrawals and transfers—in many cases at very high frequencies and often in cash.
134. For example, a review of TelexFREE’s transaction history in accounts at one banking institution, reveal scores of daily deposits in small sums by participants. Upon information and belief, Respondents allow and encourage participants to structure deposits in order to avoid heightened bank scrutiny.
135. The Enforcement Section also reviewed a significant number of transactions initiated by the same investor on the same day. Upon information and belief, Respondents allow participants to structure multiple deposits under different participant usernames to create and maintain recruitment bonuses.
136. Certain deposits contain specific memos, including “T Builder” and “buying 1 Family,” indicating that the money be credited to a participant’s recruitment efforts.
137. The significant numbers of deposits reviewed by the Enforcement Section appear in amounts consistent with AdCentral Packages and AdCentral Family Packages.
138. In one bank account alone, Respondents deposited over \$12,000,000.00. Of the \$12,000,000.00, Enforcement Staff identified only nine deposits for \$49.90—approximately .004% of all deposit transactions.
139. Upon information and belief, certain withdrawals in bank accounts controlled by Respondents indicate Respondents use participant money for personal expenses, including international restaurant purchases.
140. Bank records indicate that in late December 2013, TelexFREE wired at least \$7 million from one of TelexFREE’s bank accounts to a personal bank account held by

Wanzeler. Upon information and belief, of the \$7,000,000.00 wired to Wanzeler, Wanzeler intended to transfer at least \$3,000,000.00 to Costa.

141. Bank records indicate that in early December 2013 TelexFREE wired approximately \$12,000,000.00 to various brokerage firms.
142. Bank records also indicate that on December 30, 2013 TelexFREE wired approximately \$1.7 million USD to Botafogo de Futebol e Regatas, a profession soccer club based in Rio de Janeiro, Brazil.

ii. TelexFREE Online Payment Processors

143. In addition to bank accounts, TelexFREE operations flow through online payment processors, which processed at least 200,000 transactions and approximately \$300,000,000.00 between August 2012 and March 2014.
144. Of these 200,000 transactions reviewed by the Enforcement Section, only approximately 20,000 transactions represented purchases of the VoIP Program.
145. In one online payment account, TelexFREE, after refunds, credit card declines, and chargebacks, received only approximately \$540,000.00 from \$49.90 VoIP Programs—roughly 1.7% of processed transactions.
146. In another online payment account, TelexFREE received only approximately \$425,000.00 invoiced as \$49.90 transactions—roughly 0.18% of processed transactions.

iii. TelexFREE Investments

147. TelexFREE additionally transferred over \$25,000,000.00 to multiple investment accounts held with broker-dealers registered in the Commonwealth.

iv. TelexFREE as a Financial Pariah

148. The financial activities of TelexFREE have raised red flags in many United States financial institutions where it maintains accounts.
149. At least one bank in Massachusetts made what it described as a “business decision” to terminate its relationship with TelexFREE after only 2 months.
150. Another financial institution that provided credit card payment processing services to TelexFREE terminated its relationship with TelexFREE after less than 6 months of doing business with TelexFREE.
151. In an email to Merrill explaining its decision to terminate its business with TelexFREE, an employee of the credit card payment processing service wrote the following:

No US Bank or Processor [. . .] will accept your [TelexFREE] business given that you are on month five of the Visa Chargeback monitoring program. **You are one of only three merchants in the USA on month five so you are a real hot-potato as they say.** (Emphasis Added)

152. During the same period, another credit processing service explained its decision to terminate business, stating, “[r]ecent Due-Diligence has led us to believe that **your company poses significant and unacceptable risk...**” (Emphasis Added)

e. Lack of control over investments

153. The Enforcement Section’s investigation has also uncovered non-conventional and uncontrolled TelexFREE investments demonstrating an utter lack of oversight by Respondents.
154. For all investments (whether through the TelexFREE Website or elsewhere), Respondents make no effort to determine if participants have the financial

- wherewithal to invest, nor determine a participant's experience in investing before committing capital.
155. TelexFREE fails to verify investor residency information—information manipulated to circumvent legal issues TelexFREE faces elsewhere.
 156. In testimony to the Division, one participant testified that he recruited two individuals from Brazil to join TelexFREE within the past six months.
 157. Ympactus has had its assets frozen and activities enjoined by Brazilian authorities since June 2013.
 158. Furthermore, using electronic money transfer services contracted by TelexFREE, one participant testified that his two TelexFREE recruits from Brazil are still able to receive cash payouts in Brazil from their TelexFREE accounts despite Ympactus' assets being frozen.
 159. Upon information and belief, TelexFREE operations allow participants in Brazil to continue to invest money and withdraw money from their TelexFREE accounts by signing up as United States participants.
 160. In response to the Division's subpoena dated February 5, 2014 requesting a "list of all Massachusetts investors currently enrolled in and participating in TelexFREE, Inc.," TelexFREE produced a list of 71,874 usernames linked to Massachusetts participants. TelexFREE included individual addresses for each "promoter." The addresses listed for Massachusetts linked accounts, include, but are not limited to, addresses located in some of the largest Brazilian cities, including Sao Paulo and Rio de Janeiro, in addition to other international locations, such as London.

161. TelexFREE has no restrictions on the number of participants who can join. For example, there is no evidence to suggest TelexFREE limits its participant concentration in certain geographical regions.
162. TelexFREE has no restriction on the number of AdCentral Packages or AdCentral Family Packages that a participant can buy.
163. TelexFREE has demonstrated a complete lack of oversight concerning its participants. For example, one TelexFREE participant, interviewed by the Enforcement Section, deposited over \$240,000.00 since late 2012 through wire transfers and personal check deposits, amassing at least 176 AdCentral Family Packages.
164. As testified to, multiple TelexFREE participants have purchased packages directly from other TelexFREE participants to secure subscription levels, rather than invest through TelexFREE. These participants received uncontrolled cash deposits outside of the TelexFREE system.
165. One Massachusetts business entity was organized to engage in the following activity:
- [t]o buy Telexfree packages, and all types of real estate within the USA or foreign countries. That is to deal and make various instruments. Dubai investors will furnish money to the corporation, and the corporation will invest said money.
166. Additionally, on February 14, 2014, the Enforcement Section identified an advertisement, posted on a publically available website, seeking to sell an automobile in the Commonwealth in return for AdCentral Packages and AdCentral Family Packages.

167. TelexFREE is aware of the volume of third-party information posted on the internet regarding TelexFREE. Yet nowhere on its website does TelexFREE notify investors of widespread false and unauthorized information.

E. TelexFREE's Best Western Hotel Opportunity

168. As early as May, 3, 2013 the TelexFREE Website contained a hyperlinked banner depicting a Best Western hotel with the description "Hotel Best Western Opportunity" (hereinafter "Best Western Offer") accessible to residents in the Commonwealth.

169. The Best Western Offer linked directly to a YouTube website found at <http://www.youtube.com/v/TJ8GO8IMobE> with the title "Hotel TelexFREE Tijuca." A review of the YouTube website containing the "Hotel TelexFREE Tijuca" video identifies username "vixmais" and a publish date of November 26, 2012.

170. Upon information and belief, YouTube username "vixmais" is associated with a Brazilian entity, Vix Mais Soluções (hereinafter "Vix Mais"), a Brazilian production company.

171. Vix Mais's publically available website lists TelexFREE as a client on at least three different website pages.

172. The YouTube video contains numerous references to a TelexFREE participants' ability to invest in new hotel construction sponsored by TelexFREE.

173. During various portions, the video describes an investment opportunity afforded to TelexFREE participants.

174. As translated, a voice states, "**A new opportunity for a return on your investment has arrived.** Best Western, TelexFREE Tijuca. With its unique location

for both business and pleasure travelers, the Best Western TelexFREE Tijuca is in an area that is developing and increasing in value at a rapid pace.” (Emphasis added).

175. The video continues:

By investing in shares of Best Western TelexFREE Tijuca you could get a return of over 0.7% per month, once it’s stabilized. That’s what it is, one of the best investments available on the market. And you have the privilege of knowing about it firsthand. What are you waiting for? Come be part of this success. (Emphasis added).

176. In addition to the TelexFREE Website, TelexFREE also maintains a login only portion of the TelexFREE Website, accessible only to TelexFREE participants.

177. The TelexFREE Back Office is identical for all participants.

178. The TelexFREE Back Office, as accessible to all participants, contains various icons and information, including an icon described by Merrill as “Best Western, Telexfree Tijuca.”

179. According to testimony provided by Merrill, TelexFREE created the Best Western Offer to “give us some credibility because of this investment that the company made in Brazil.”

180. Pursuant to the Enforcement Section’s request for all agreements concerning the Best Western Offer, TelexFREE produced two documents: a one page document with the title “Sub-License and Services Agreement” (hereinafter “Best Western Agreement”) and 13 page document with the title “Contrato Hotel TelexFREE Tijuca” (hereinafter “Tijuca Hotel Agreement”) respectively.

181. The Tijuca Hotel Agreement, dated October 26, 2012, is an agreement (drafted in Portuguese) between Tijuca Design Hotel SPE LTDA and Ympactus, signed by both Costa and Lyvia.

182. The Tijuca Hotel Agreement calls for the investment of R\$32,350,000.00 by Ympactus.
183. On April 12, 2013, TelexFREE produced a one page Best Western Agreement, containing the watermark "Modelo."
184. According to the Ministerio Publico do Estado do Acre (a Brazilian prosecutorial office), as of June 18, 2013, Brazilian authorities have frozen TelexFREE operations in Brazil.
185. During the period that the Best Western Offer was accessible in the Commonwealth, TelexFREE failed to disclose that Brazilian authorities had frozen Ympactus operations on the TelexFREE Website or according to any materials available to investors.
186. Upon information and belief, TelexFREE published the Best Western Offer to induce further investment in TelexFREE.
187. As accessed on February 13, 2014, the Enforcement Section also uncovered a Craigslist.org posting, titled "TelexFREE advertise & technology (Boston ma)" (hereinafter "Craigslist Offer"), highlighting the Best Western Offer.
188. The Craigslist Offer stated:
- The Company is doing a Joint Venture with Best Western in Brazil. TelexFREE and Best Western are building one new hotel (60% complete) as a Joint venture and will be refurbishing/renovating the existing 500, to be ready for the World Cup and Olympics 2016 in Brazil. **TelexFREE members will be allowed to purchase shares in this venture from October 2013 and receive income from these shares for an 11 year period. These shares are reserved for TelexFREE partners prior to being offered to the general public.** (Emphasis added).
189. The Craigslist Offer provided a Massachusetts contact number, linked to a Massachusetts participant.

190. According to testimony provided to the Division, the Telexfree participant responsible for posting the information on Craigslist located the information on the internet through a simple Google search.
191. Respondents have never filed an application for the registration of, or exemption for, securities to be offered in the Commonwealth during the Relevant Time Period.
192. Respondents have never registered in Massachusetts as broker-dealer, an agent of a broker-dealer or an issuer, an investment adviser or an investment adviser representative, or in any other capacity during the Relevant Time Period.

F. Recent Unexpected Changes to TelexFREE's Passive Income Scheme and Bankruptcy Filing

193. On March 9, 2014, TelexFREE changed the terms of the Passive Income Scheme.
194. As of April 2, 2014, TelexFREE locked payouts to participants pending the fulfillment of new sales requirements imposed by TelexFREE.
195. Further, upon information and belief, at least as of April 4, 2014, TelexFREE changed its method of payment to participants from dollars to TelexFREE "credits."
196. On April 14, 2014, TelexFREE filed for Chapter 11 bankruptcy protection in Nevada.

VIII. VIOLATIONS OF LAW

Count I – Violations of MASS. GEN. LAWS ch. 110A, § 101

197. Section 101 of the Act provides:

It is unlawful for any person, in connection with the offer, sale or purchase of any security, directly or indirectly

- (1) to employ any device, scheme, or artifice to defraud,
- (2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the

- statements made, in light of the circumstances under which they are made, not misleading, or
- (3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

198. The Enforcement Section herein re-alleges and restates the allegations of fact set forth in paragraphs 1 through 196 above.

199. The conduct of Respondents as described above constitutes violations of MASS. GEN. LAWS ch. 110A, § 101.

Count II - Violations of MASS. GEN. LAWS ch. 110A, § 201

200. Section 201 of the Act provides, in pertinent part: “(a) It is unlawful for any person to transact business in this commonwealth as a broker-dealer or agent unless he is registered under this chapter.” MASS. GEN. LAWS ch. 110A, § 201(a).

201. The Division herein restates and re-alleges the facts and allegations set forth in paragraphs 1 through 196 above.

202. The conduct of Respondents, as described above, constitutes a violation of MASS. GEN. LAWS ch. 110A, § 201(a).

Count III – Violations of MASS. GEN. LAWS ch. 110A, § 301

203. Section 301 of the Act provides:

It is unlawful for any person to offer or sell any security in the commonwealth unless:--

- (1) the security is registered under this chapter;
- (2) the security or transaction is exempted under section 402; or
- (3) the security is a federal covered security.

204. The Enforcement Section herein re-alleges and restates the allegations of fact set forth in paragraphs 1 through 196 above.

205. The conduct of Respondents as described above constitutes violations of MASS. GEN. LAWS ch. 110A, § 301.

Count IV – Violations of MASS. GEN. LAWS ch. 110A, § 404

206. Section 404 of the Act provides:

It is unlawful for any person to make or cause to be made, in any document filed with the secretary or in any proceeding under this chapter, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect.

207. The Enforcement Section herein re-alleges and restates the allegations of fact set forth in paragraphs 1 through 196 above.

208. The conduct of Respondents as described above constitutes violations of MASS. GEN. LAWS ch. 110A, § 404.

IX. STATUTORY BASIS FOR RELIEF

209. Section 407A of the Act entitled “Violations; Cease and Desist Orders; Costs” provides, in pertinent part:

(a) If the secretary determines, after notice and opportunity for hearing, that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order issued thereunder, he may order such person to cease and desist from such unlawful act or practice and may take such affirmative action, including the imposition of an administrative fine, the issuance of an order for an accounting, disgorgement or rescission or any other such relief as in his judgment may be necessary to carry out the purposes of [the Act].

210. The Enforcement Section herein re-alleges and restates the allegations of fact set forth in paragraphs 1 through 196 above.

211. Respondents, directly and indirectly, engaged in the acts and practices set forth in the Complaint above, and it is the Enforcement Section’s belief that Respondents will continue to engage in acts and practices similar in subject and purpose that constitute

violations of Sections 101, 201, 301 and 404 of the Act if not ordered to cease and desist.

X. PUBLIC INTEREST

For any and all of the reasons set forth above, the following relief is necessary and appropriate in the public interest and for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Massachusetts Uniform Securities Act.


XI. RELIEF REQUESTED

Wherefore, the Enforcement Section of the Division requests that the Director or Presiding Officer take the following actions:

- A. Find that all the sanctions and remedies as detailed herein are necessary and appropriate in the public interest and for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Massachusetts Uniform Securities Act;
- B. Find as fact the allegations set forth in paragraphs 1 through 196 inclusive, of the Complaint;
- C. Require Respondents to permanently cease and desist from further conduct in violation of the Act and Regulations in the Commonwealth;
- D. Require Respondents to provide an accounting of all proceeds which were received as a result of the alleged wrongdoing, and to offer restitution to and fairly compensate investors for those losses attributable to the alleged wrongdoing;

- E. Require Respondents to disgorge all profits and other direct or indirect remuneration received from the alleged wrongdoing;
- F. Censure Respondents;
- G. Impose an administrative fine on Respondents in such amount and upon such terms and conditions as the Director or Presiding Officer may determine; and
- H. Take any such further actions that may be necessary or appropriate in the public interest for the protection of Massachusetts investors.

**MASSACHUSETTS SECURITIES DIVISION
ENFORCEMENT SECTION**



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