

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE  
MONTANA STATE AUDITOR**

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IN THE MATTER OF:	)	CASE NO. SEC-2014-106
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	)	
TELEXFREE, INC. f/k/a COMMON	)	<b>TEMPORARY ORDER TO CEASE</b>
CENTS COMMUNICATIONS, INC.;	)	<b>AND DESIST AND OPPORTUNITY</b>
TELEXFREE, LLC; JAMES MERRILL;	)	<b>FOR HEARING</b>
AND CARLOS WANZELER	)	
	)	
	)	
Respondents.	)	
	)	

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The Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), pursuant to the authority of the Securities Act of Montana, Mont. Code Ann. § 30-10-101 et seq., hereby sets forth the following allegations of fact, conclusions of law, order to cease and desist, and notice of right to a hearing:

**ALLEGATIONS OF FACT**

1. TelexFREE, Inc. is a for-profit corporation organized under the laws of the Commonwealth of Massachusetts. Co-founder Carlos Wanzeler incorporated the entity on December 31, 2002, under the name Common Cents Communications, Inc. Wanzeler amended the name to TelexFREE, Inc. on February 15, 2012.

2. TelexFREE, LLC is a limited liability company organized under the laws of the State of Nevada. TelexFREE, LLC registered with the Montana Secretary of State on July 19, 2012.

3. Carlos Wanzeler is a co-founder of TelexFREE, Inc. and TelexFREE, LLC. He serves as the Chief Executive Officer of TelexFREE, Inc., and Manager of TelexFREE, LLC.

4. James Merrill is a co-founder of TelexFREE, LLC. He serves as President, Secretary, Director, and Registered Agent of TelexFREE, Inc; and Manager and Registered Agent for TelexFREE, LLC.

5. Respondents operate what they represent to be a multilevel distribution company (TelexFREE). According to Respondents, TelexFREE offers participants the opportunity to sell a Voice over Internet Protocol software product.

6. Until recently, the TelexFREE program also included a purportedly lucrative passive income component involving the purchase of "AdCentral" memberships. Respondents claimed this membership allowed participants to earn income by posting pre-drafted advertisements on pre-selected internet sites. Participants were also compensated upfront for recruiting other AdCentral members, and could allegedly earn residual income through downline revenue sharing.

7. On July 22, 2013, Respondents filed a Form MLD-1 with the CSI in an attempt to register TelexFREE as a multilevel distribution company conducting business in Montana. The form Respondents submitted was obsolete and no longer accepted by the CSI.

8. According to Respondents' records, Respondents had already solicited and obtained Montana participants for several months prior to the July 22, 2013, MLD-1 filing.

9. On August 6, 2013, the CSI requested in writing that Respondents provide the following information in support of the registration form:

- a. A list of all TelexFREE Montana participants, including name, address, phone number, consideration paid to date, compensation received to date, initial date of participation, and name and address of the individual sponsoring each participant;
  - b. Copies of all agreements, solicitation documentation, sales materials, marketing materials, brochures, any policy and procedure manual, any customer receipt, and any other information made available to prospective participants;
  - c. A sample TelexFREE start-up kit; and
  - d. A list, including the date, time, and location, of any recruitment, demonstration, or other meeting involving TelexFREE held in Montana since January 1, 2012.
10. On October 9, 2013, Respondents' attorney provided the following information:
- a. An incomplete spreadsheet of Montana TelexFREE participants. The spreadsheet did not include each participant's sponsor, telephone number, or compensation received to date;
  - b. A link to the TelexFREE website, [www.telexfree.com](http://www.telexfree.com). The website purportedly contained all agreements, solicitation documentation, sales materials, marketing materials, brochures, any policy and procedure manual, any customer receipt, and any other information made available to and maintained for present and prospective TelexFREE participants;
  - c. A statement that TelexFREE did not provide startup kits; and
  - d. A statement that one Billings, Montana, participant was holding meetings regarding TelexFREE twice weekly.

11. The CSI subsequently learned that Respondents' spreadsheet not only failed to provide all requested fields of information, but also failed to accurately disclose all consideration paid to date by at least one participant.

12. In October of 2013, the CSI notified Respondents that they needed to file the correct Form MLD to register in Montana.

13. On October 24, 2013, Respondents' attorney notified the CSI that Respondents were in the process of gathering information to re-submit their application and, in the meantime, had ceased offering the TelexFREE program in Montana.

14. Despite Respondents' assertion that they no longer offered the TelexFREE program to Montanans, the CSI subsequently received information to the contrary. For example, one Montana participant alone made five TelexFREE purchases following the date Respondents claimed to have stopped offering the program in Montana.

15. On February 25, 2014, the CSI again requested supporting documentation from Respondents. Respondents' attorney told the CSI that Respondents would not complete the registration process, again stating that TelexFREE was not offering its program to Montanans.

16. To date, the CSI has identified 34 Montana TelexFREE participants who collectively paid over \$70,000 into the TelexFREE program. Because Respondents have failed to accurately disclose all Montana participant information, the CSI believes more Montana participants may exist.

17. On April 14, 2014, TelexFREE, Inc. and TelexFREE, LLC filed for Chapter 11 bankruptcy in the state of Nevada.

18. On April 15, 2014, the Securities and Exchange Commission filed a complaint in federal district court against Respondents and related parties. The complaint alleges that TelexFREE is

an illegal pyramid scheme, that Respondents illegally issued securities to participants, and that Respondents otherwise engaged in securities violations.

19. On April 15, 2014, the Massachusetts Securities Division of the Office of the Secretary of the Commonwealth filed an administrative complaint against TelexFREE, Inc. and TelexFREE, LLC. The complaint alleges that TelexFREE is an illegal pyramid and Ponzi scheme, that Respondents illegally issued securities to participants, and that Respondents otherwise engaged in securities violations.

### **CONCLUSIONS OF LAW**

1. The Commissioner has jurisdiction over this matter pursuant to § 30-10-101 et seq.
2. A “person” is an individual, a corporation, a partnership, or an association. § 30-10-103(16).
3. Respondents are persons as defined under § 30-10-103(16).
4. It is unlawful for a person to transact business in Montana as a multilevel distribution company unless the person is registered or subject to an exemption. § 30-10-216(1).
5. The CSI may by order deny the registration of any multilevel distribution company if the Commissioner finds that the order is in the public interest and that the registrant has filed a registration application that is incomplete in any material respect or contained a materially false or misleading statement. § 30-10-216(6)(a).
6. It is unlawful for any person to knowingly make or cause to be made, in any document filed with the CSI, any materially false or misleading statement. § 30-10-302.
7. Respondents violated § 30-10-216(1) when they offered and sold the TelexFREE program to Montana participants while not being registered with the CSI.

8. Respondents violated § 30-10-216(6)(a) when they submitted a supplemental registration spreadsheet that did not include all requested fields of information, and that failed to accurately disclose all consideration paid to date by Montana participants.

9. Respondents violated § 30-10-302 when they submitted a supplemental registration information spreadsheet that failed to accurately disclose all consideration paid to date by Montana participants.

10. Respondents violated § 30-10-302 when they represented in writing to the CSI that Respondents had ceased operations in Montana when, in fact, they continued offering TelexFREE to Montana participants.

### **CEASE AND DESIST ORDER**

Pursuant to § 30-10-305, it appears to the CSI that Respondents have engaged, are engaged, or are about to engage in acts or practices constituting violations of the Securities Act of Montana.

Therefore, it is hereby ORDERED that Respondents shall immediately cease and desist from transacting business in Montana as a multilevel distribution company.

### **PENALTIES**

Pursuant to § 30-10-305, a violation of this Order is a separate violation for which the CSI may impose a fine not to exceed \$5,000 per violation in addition to any other penalties imposed by law.

### **NOTICE OF RIGHT TO HEARING**

You are entitled to a hearing to respond to this Temporary Cease and Desist Order and to present evidence and arguments on all issues involved in this case. If you wish to contest the allegations herein, you must make a written request for a hearing within 15 days of receipt of this

Order to Nick Mazanec, Attorney, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Avenue, Helena, MT 59601. The hearing shall then be held within 20 days of the CSI's receipt of the hearing request, unless the time is extended by agreement of the parties or by order of the hearing examiner. If you do not request a hearing and the CSI orders none, this Order shall become permanent, and the above allegations will be declared the findings of fact and the above conclusions of law will be declared the final conclusions of law.

Should you request a hearing, you have the right to be accompanied, represented, and advised by an attorney. If the attorney you choose has not been admitted to the practice of law in the state of Montana, she or he must comply with the Montana State Bar for appearing pro hac vice and the requirements of *Application of American Smelting and Refining Co.* (1973), 164 Mont. 139, 520 P.2d 103 and *Montana Supreme Court Commission on the Unauthorized Practice of Law v. O'Neil*, 2006 MT 284, 334 Mont. 311, 147 P.3d 200. If you request a hearing, you will be given notice of the date, time, and place of the hearing.

DATED this 23<sup>rd</sup> day of April, 2014.

**MONICA J. LINDEEN**  
Commissioner of Securities and Insurance,  
Montana State Auditor

By:   
**LYNNE EGAN**  
Deputy Securities Commissioner