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*"From the first day of this case, Mr. Craft maintained his innocence and cooperated with the DOJ, SEC, bankruptcy court and the MDL plaintiffs," Thomas Dwyer, an attorney for Craft, told Law360 on Wednesday. "I view this settlement as a true recognition of the value of his present and future cooperation."*

*Tom Dwyer  
November 5, 2019*

## With Amendment Looming, TelexFree MDL Nabs 3 Settlements

*Law360 – November 6, 2019*

**By Dean Seal**

Victims of the \$3 billion TelexFree Ponzi scheme told a Massachusetts federal judge on Tuesday they've reached three settlements with the company's former chief financial officer, one of its payment processors and Synovus Bank.

If approved, the settlements would provide \$2.1 million in recovery to a class of victims and have Synovus, Base Commerce LLC and ex-TelexFree CFO Joseph Craft provide support for the victims' "soon-to-be filed" fifth consolidated amended complaint against a host of other defendants connected to the TelexFree scheme.

"These settlements are the product of thorough and hard-fought negotiations between experienced and informed counsel," the TelexFree victims said, asking that the three deals receive preliminary approval.

The victims said these are the first settlements to be reached in a multidistrict litigation that dates back to 2014, the same year TelexFree LLC declared bankruptcy and drew the scrutiny of the U.S. Department of Justice and the U.S. Securities and Exchange Commission for allegedly running a billion-dollar Ponzi scheme.

TelexFree advertised a Voice over Internet Protocol phone service similar to Skype and promised members a 200% return on their upfront fees and other commissions in exchange for posting online ads for its little-used VoIP services and recruiting others to join.

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According to the government, only 2% of TelexFree's revenue in a two-year period came from VoIP service sales, with the remaining 98% coming entirely from new people buying into the scheme. The scam left about 1.9 million people in nearly every country in the world more than \$3 billion in the red, including almost 170,000 Americans, a quarter of whom were from Massachusetts and lost an average of \$2,940 each.

The company filed for bankruptcy in April 2014, when it owed \$6 billion to participants but had only \$120 million on hand, according to prosecutors. TelexFree President James Merrill and co-founder Carlos Wanzeler were charged with conspiracy and wire fraud in July of that year.

Merrill pled guilty and was sentenced in March 2017 to six years in prison and ordered to forfeit \$140 million. Wanzeler is believed to be on the run in Brazil.

Both men, as well as Wanzeler's wife Katia, are defendants in the consolidated civil action from TelexFree victims, who are also asserting claims against banks, payment processors, accounting firms and others whose "substantial assistance or encouragement" allowed TelexFree to obtain and funnel victims' funds through shell companies and personal accounts.

"Without the substantial services of the financial service defendants, TelexFree would not have been able to grow, be maintained or flourish as it did," the victims said in their latest amended complaint from 2017.

Several defendants were released from the suit in January, including Bank of America and TD Bank — which U.S. District Judge Timothy S. Hillman

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dismissed after finding that the "mere provision of banking services ... cannot actively or substantially assist a fraud" — and PricewaterhouseCoopers, which provided accounting services for TelexFree. The judge found the victims' latest amended complaint to be "silent" on exactly which services PwC performed for TelexFree and dismissed the firm.

Judge Hillman also dismissed Synovus Bank, which served as the "sponsor" bank for payment processing company Base Commerce, from the suit in January for lack of personal jurisdiction, but the victim plaintiffs leading the suit said Tuesday that Base and Synovus had been in "continued, and occasionally contentious" settlement negotiations over an extended period of time.

The victims had implicated Base for liability in the scheme as one of TelexFree's several payment processors, as well as Synovus, which provided depository account and fund transfer services in connection with Base's services. Under the terms of the settlement, Base will pay \$1,575,000 and Synovus will pay \$425,000 into an escrow fund for the class members, and in exchange will be released from any present or future claims related to TelexFree.

Craft, a certified public accountant who is alleged to have privately provided accounting services to TelexFree before becoming its CFO in December 2013, has agreed to pay \$100,000 into the escrow fund. Per the settlement, he will also hand over relevant documents to the victims, be available for formal and informal interviews, provide affidavits, and appear as a witness at trial if necessary.

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Base will cooperate in the ongoing litigation by providing the victims with affidavits from John Hughes, its president at the time of the TelexFree scheme, as well as witness testimony and discoverable documents. Synovus will provide substantially similar cooperation.

While the settlement papers make reference to a forthcoming fifth amended complaint, it does not state when it will be filed.

**"From the first day of this case, Mr. Craft maintained his innocence and cooperated with the DOJ, SEC, bankruptcy court and the MDL plaintiffs," Thomas Dwyer, an attorney for Craft, told Law360 on Wednesday. "I view this settlement as a true recognition of the value of his present and future cooperation."**

Counsel for the victims, Base and Synovus did not immediately respond to requests for comment Wednesday.

The victims are represented by Robert J. Bonsignore and Lisa Sleboda of Bonsignore Trial Lawyers PLLC, Ronald A. Dardeno and Alexander D. Wall of the Law Offices of Frank Dardeno LLP, R. Alexander Saveri and Sarah Van Culin of Saveri & Saveri Inc., William Coulthard, Michael J. Gayan and Anna A. Karabachev of Kemp Jones & Coulthard LLP, William R. Baldiga of Brown Rudnick LLP and D. Michael Noonan and Christine Craig of Shaheen and Gordon.

**Craft is represented by Thomas E. Dwyer Jr. and Jonathan C. Crafts of Dwyer LLC.**

Base and Hughes are represented by Thomas S. Vangel, John C. Wyman and James F. Radke of Murtha Cullina



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LLP and Kevin G. Kenneally and Benjamin Dunlap of Freeman Mathis & Gary LLP.

Synovus was represented as recently as 2017 by John O. Mirick and Kenneth C. Pickering of Mirick O'Connell DeMallie & Lougee LLP.

The case is In re: TelexFree Securities Litigation, case number 4:14-md-02566, in the U.S. District Court for the District of Massachusetts.

--Additional reporting by Aaron Leibowitz. Editing by Janice Carter Brown.