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## Bankruptcy Beat Snapshot: Stephen Darr

By Tom Corrigan

Stephen Darr is no stranger to complex bankruptcies, but one case tops the list.

In June, a bankruptcy judge authorized Mr. Darr to take control of TelexFree LLC, a Massachusetts-based company accused by federal securities regulators of operating a massive pyramid scheme.

“I’ve been involved in a lot of interesting cases,” said Mr. Darr, a senior managing director at Mesirow Financial Consulting LLC in Boston. “TelexFree is number one.”

Mr. Darr, who has 35 years of experience including cases involving radiation contamination, environmental damage and illegal firearms distribution, is investigating possible fraud at TelexFree as well as marshalling assets that might one day be returned to its investors.

“He has a very difficult and time-consuming task ahead of him,” said Jordan Maglich, an attorney with Wiand Guerra King and the author of the [Ponzitracker blog](#). “He’s in charge of a scheme that may not be the largest scheme in terms of assets, but it may be one of the largest frauds in terms of victims.”

According to Mr. Darr, between 700,000 and one million people from as many as 190 countries invested in TelexFree. “It’s really a worldwide issue,” he said.

TelexFree used its network of investors—which it called “promoters”—to assist in the distribution of voice over Internet protocol, or VOIP, telephone service plans and to recruit new investors. According to a Securities and Exchange Commission complaint filed April 15, the company promised annual returns of 200% or more for those who recruited new members and placed TelexFree advertisements on free ad sites.

The company, which disputes allegations that its business was a pyramid scheme, sought Chapter 11 protection in April with the goal of reorganizing, but its offices were soon raided by federal agents, and federal prosecutors issued warrants seizing all known assets. In addition to the civil litigation, James Merrill and Carlos Wanzeler, the company’s co-owners, have both been indicted on criminal fraud charges.

Mr. Merrill has pleaded not guilty and has been placed under house arrest. Mr. Wanzeler flew to Brazil before he could be arrested and is considered a fugitive by prosecutors. A lawyer for Mr. Wanzeler recently told Bankruptcy Beat that his client would plead not guilty.

Mr. Darr, who was appointed by a Justice Department representative and was approved by a bankruptcy judge, said he has no intention of restructuring the business.

“From everything that I’ve seen here today, the business as it was operated was not a viable business,” he said.

According to Mr. Darr, managing the sheer number of potential creditors involved and acquiring information that hasn’t yet been made available to him are his two biggest challenges.

“I think the most immediate challenge is that the government arrived first and forfeited all or almost all of the low hanging fruit,” said Kathy Phelps, a partner at Diamond McCarthy LLP and the author of “The Ponzi Book.”

According to Ms. Phelps, forfeiture laws were design for drug crimes not white collar crimes but are now being regularly applied to cases like TelexFree. The line separating assets subject to forfeiture and those subject to bankruptcy proceedings is not well defined, and that can create conflicts with bankruptcy courts’ efforts to return funds to creditors, she said.

Mr. Darr says he is working on an agreement with the U.S. Attorney’s Office, which has already begun to release both assets and information.

“We are in close communication with both the SEC and the U.S. Attorney’s Office,” Mr. Darr said. “I don’t anticipate any problems.”

Both Mr. Maglich and Ms. Phelps say the investigation and subsequent claims process could take a long time to play out. Already, Mr. Darr says he has about 500,000 pages of documents to review.

“It’s a years not months forecast,” said Mr. Maglich.

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