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United States Department of Justice
Consumer Protection
UNITED STATES OF AMERICA,

Plaintiff,

v.

KFJ MARKETING , LLC , a California
Limited Liability Company,
SUNLIGHT SOLAR LEADS , LLC , a
California Limited Liability Company,
GO GREEN EDUCATION , a California
Nonprofit Public Benefit Corporation,
FRANCISCO J. SALVAT , individually
and as an officer of KFJ Marketing,
LLC; Sunlight Solar Leads, LLC; and Go
Green Education, also doing business as
Go Green Leads, myleadgroup, and Free

No. 2:16-cv-1643 MWF(AJWx)

AMENDED COMPLAINT FOR CIVIL
PENALTIES, PERMANENT
INJUNCTION, AND OTHER RELIEF

DEMAND FOR JURY TRIAL

1 solar panels and installation services. KFJ transacted business in this district. The
2 members of KFJ cancelled its Articles of Organization on March 7, 2016.

3 5. Defendant Sunlight Solar Leads, LLC (“Sunlight”) is a California limited
4 liability company with its principal place of business at 31355 Oak Crest Drive, Suite
5 150, Westlake Village, CA, 91361. Sunlight is a telemarketer that initiates outbound
6 telephone calls to induce consumers to purchase solar panels and installation services.
7 Sunlight transacts or has transacted business in this district.

8 6. Defendant Go Green Education (“Go Green”) is a California nonprofit
9 public benefit corporation with its principal place of business at 31355 Oak Crest Drive,
10 Suite 150, Westlake Village, CA, 91361. Go Green is a telemarketer that initiates
11 outbound telephone calls to induce consumers to purchase solar panels and installation
12 services. Go Green transacts or has transacted business in this district.

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1 **COMMON ENTERPRISE**

2 11. Defendants KFJ, Sunlight, and Go Green (“Corporate Defendants”) have
3 operated as a common enterprise while engaging in the unlawful acts and practices
4 alleged below. Defendants have conducted business through an interrelated network of
5 companies that have common ownership, managers, employees, business functions, and
6 office locations, and that have commingled funds. Because these Corporate Defendants
7 have operated as a common enterprise, each of them is jointly and severally liable for
8 the acts and practices alleged below. Defendant Francisco J. Salvat has formulated,
9 directed, controlled, had the authority to control or participated in the acts and practices
10 of the Corporate Defendants that constitute the common enterprise.

11 **THE TELEMARKETING SALES RULE**

12 **AND THE NATIONAL DO NOT CALL REGISTRY**

13 12. Congress directed the Commission to prescribe rules prohibiting abusive
14 and deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15
15 U.S.C. §§ 6101-6108. The Commission adopted the original TSR in 1995, extensively
16 amended it in 2003, and amended certain provisions thereafter. 16 C.F.R. Part 310.

17 13. Among other things, the 2003 amendments to the TSR esvelovishe. , i
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1 16. Under the TSR, a “telemarketer” means any person who, in connection
2 with telemarketing, initiates or receives telephone calls to or from a customer or donor.
3 16 C.F.R. § 310.2(cc). A “seller” means any person who, in connection with a
4 telemarketing transaction, provides, offers to provide, or arranges for others to provide
5 goods or services to the customer in exchange for consideration. *Id.* § 301.2(aa).

6 17. Under the TSR, “telemarketing” is a plan, program, or campaign that uses
7 one or more telephones and involves more than one interstate telephone call, and is
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1 consumer is authorizing to make robocalls; and (4) the consumer's telephone number
2 and signature. 16 U.S.C. § 310.4(b)(1)(v)(A)(i)-(iv).

3 21. The TSR prohibits sellers and telemarketers from initiating an outbound
4 telephone call to any person when that person previously has stated that he or she does
5 not wish to receive an outbound telephone call made by or on behalf of the seller whose
6 goods or services are being offered. 16 C.F.R. § 310.4(b)(1)(iii)(A).

7 22. The TSR requires that sellers and telemarketers transmit or cause to be
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1 35. Defendants received complaints from consumers who assert they did not
2 consent to Defendants' robocalls.

3 **VIOLATIONS OF THE TELEMARKETING SALES RULE**

4 **Count I**

5 **Calls to Persons Registered on the National Do Not Call Registry**

6 36. In numerous instances, in connection with telemarketing, Defendants have
7 initiated or caused others to initiate an outbound telephone call to a person's telephone
8 number on the National Do Not Call Registry in violation of the TSR. 16 C.F.R.
9 § 310.4(b)(1)(iii)(B).

10 **Count II**

11 **Failure to Honor Entity-Specific Do Not Call Requests**

12 37. In numerous instances, in connection with telemarketing, Defendants have
13 initiated, or caused others to initiate, an outbound telephone call to a person who has
14 previously stated that he or she does not wish to receive such a call made by or on
15 behalf of the seller whose goods or services are being offered in violation of the TSR.
16 16 C.F.R. § 310.4(b)(1)(iii)(A).

17 **Count III**

18 **Failure to Transmit Caller Identification**

19 38. In numerous instances, in connection with telemarketing, Defendants have
20 failed to transmit, or cause to be transmitted, the telephone number and name of the
21 telemarketer or of the seller to any caller identification service in use by a recipient of a
22 telemarketing call, in violation of the TSR. 16 C.F.R. § 310.4(a)(8).

23 **Count IV**

24 **Initiating Unlawful Prerecorded Messages**

25 39. In numerous instances, in connection with telemarketing, Defendants have
26 made, or caused others to make, outbound telephone calls that delivered prerecorded
27 messages to induce the purchase of good or services when the persons to whom these
28 telephone calls were made had not signed an express agreement, in writing, authorizing

1 the seller to place prerecorded calls to such person, in violation of the TSR. 16 C.F.R.
2 § 310.4(b)(1)(v)(A).

3 **Count V**

4 **Relief Defendants: Julio Salvat and Francisco Salvat**

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court, as authorized by Sections 5(a), 5(m)(1)(A), and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), and pursuant to its own equitable powers:

- A. Enter judgment against Defendants and in favor of Plaintiff for each violation alleged in this complaint;
- B. Award Plaintiff monetary civil penalties from each Defendant for every violation of the TSR;
- C. Enter a permanent injunction to prevent future violations of the TSR and the FTC Act by Defendants; and
- D. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.
- E. Enter an order requiring Relief Defendants Julio Salvat and Francisco Salvat to disgorge all funds and assets distributed to them during Defendant KFJ Marketing LLC's dissolution.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable.

Dated: May 13, 2016

Federal Trade Commission
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Respectfully submitted,

FOR THE UNITED STATES OF
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