

JS-6

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

10) Case No. CV-16-1643-MWF (AJWx)
11)
12	UNITED STATES OF AMERICA,) STIPULATED FINAL ORDER FOR
13) PERMANENT INJUNCTION AND
14	Plaintiff,) CIVIL PENALTY JUDGMENT
15)
15	v.)
16	KFJ MARKETING, LLC, et al.)
17)
18	Defendants.)
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20)
21)

22 Plaintiff, the United States of America, acting upon notification and
23 authorization to the Attorney General by the Federal Trade Commission
24 (“Commission” or “FTC”), filed its Complaint for Civil Penalties, Permanent
25 Injunction, and Other Relief, subsequently amended as Amended Complaint for Civil
26 Penalties, Permanent Injunction, and other Relief, (“Complaint”) pursuant to Sections
27 5(a), 5(m)(1)(A), 13(b), 16(a), and 19 of the Federal Trade Commission Act (“FTC
28 Act”), 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), 56(a), and 57b, and Section 6 of the

1 Telemarketing and Consumer Fraud and Abuse Prevention Act (the “Telemarketing
2 Act”), 15 U.S.C. § 6105. Defendants filed their Answer to the Complaint, in which
3 Defendants denied the charges in the Complaint. Plaintiff and Defendants stipulate to
4 the entry of this Stipulated Final Order for Permanent Injunction and Civil Penalty
5 Judgment (“Order”) to resolve all matters in dispute in this action between them.

6 THEREFORE, IT IS ORDERED as follows:

7 **FINDINGS**

- 8 1. This Court has jurisdiction over this matter.
- 9 2. The Complaint charges that Defendants engaged in acts or practices in violation
10 of the FTC’s Telemarketing Sa. ,e to

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1 transaction, provides, offers to provide, or arranges for others to provide goods or
2 services to the customer in exchange for consideration, whether or not such person is
3 under the jurisdiction of the Commission.

4 L. “**Telemarketer**” means any person who, in connection with
5 Telemarketing, initiates or receives telephone calls to or from a customer or donor,
6 whether or not such person is under the jurisdiction of the Commission.

7 M. “**Telemarketing**,t sucampaig in ison0.00007 Tc -0.0017 Tw -16.82 5 Td6Td[Telem

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1 causing others to engage in, or assisting others engaging in, any of the following
2 practices:

3 A. Initiating any Outbound Telephone Call to a person on behalf of a Lead
4 Generator, Seller, Telemarketer, or any other third-party when that person has
5 previously stated that he or she does not wish to receive an Outbound Telephone Call
6 made by or on behalf of that Lead Generator, Seller, Telemarketer, or third-party.

7 B. Failing to disclose truthfully, promptly, and in a clear and conspicuous
8 manner: (i) the identity of the Seller, (ii) that the purpose of the call is to sell goods or
9 services, and (iii) the nature of the goods or services.

10 C. Violating the Telemarketing Sales Rule, 16 C.F.R. Part 310, attached as
11 Appendix A.

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13 **VII. Monetary Judgment for Civil Penalty and Partial Suspension**

14 IT IS FURTHER ORDERED that:

15 A. Judgment in the amount of 1.4 million dollars (\$1,400,000) is entered in
16 favor of Plaintiff against Defendants, jointly and severally, as a civil penalty.

17 B. Defendants are ordered to pay to Plaintiff, by making payment to the
18 Treasurer of the United States, one hundred fifty-five thousand Dollars (\$155,000),
19 which, as Defendants stipulate, their undersigned counsel holds in escrow for no
20 purpose other than payment to Plaintiff. Such payment must be made within 7 days of
21 entry of this Order by electronic fund transfer in accordance with instructions
22 previously provided by a representative of Plaintiff. Upon such payment, the
23 remainder of the judgment is suspended, subject to the Subsections below.

24 C. The Commission's and Plaintiff's agreement to the suspension of part of
25 the judgment is expressly premised upon the truthfulness, accuracy, and completeness
26 of Defendants' sworn financial statements and related documents submitted to the
27 Commission and Defendants' deposition testimony (collectively, "financial
28 representations"), namely:

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1. The Financial Statement of Individual Defendant Francisco J. Salvat signed on July 6, 2017, including the attachments and documents submitted with the Financial Statement;
2. The Deposition testimony of Individual Defendant Francisco J. Salvat, taken on May 31, 2017 and August 22, 2017;
3. The Financial Statement of Individual Defendant Julio E. Salvat signed on July 6, 2017, including the attachments and documents submitted with the Financial Statement;
4. The Deposition testimony of Individual Defendant Julio E. Salvat, taken on June 1, 2017 and August 22, 2017;
5. The Financial Statement of Corporate Defendant Sunlight Solar Leads, LLC signed on July 6, 2017, including the attachments and documents submitted with the Financial Statement; and
6. The Deposition testimony of Individual Defendant Francisco J. Salvat as afen()T7ncludin4vfE-eJ.

1 and interest in all assets transferred pursuant to this Order and may not seek the return
2 of any assets.

3 G. The facts alleged in the Complaint will be taken as true, without further
4 proof, in any subsequent civil litigation by or on behalf of the Commission, including
5 in a proceeding to enforce its rights to any payment or monetary judgment pursuant to
6 this Order.

7 H. Defendants agree that the judgment represents a civil penalty owed to the
8 government of the United States, is not compensation for actual pecuniary loss, and,
9 therefore, as to the Individual Defendants, it is not subject to discharge under the
10 Bankruptcy Code pursuant to 11 U.S.C. § 523(a)(7).

11 I. Defendants acknowledge that their Taxpayer Identification Numbers
12 (Social Security Numbers or Employer Identification Numbers), which Defendants
13 previously submitted to the Commission, may be used for collecting and reporting on
14 any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.
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16 **VIII. Customer Information**

17 IT IS FURTHER ORDERED that Defendants, their officers, agents, employees,
18 and attorneys, and all other persons in active concert or participation with them who
19 receive actual notice of this Permanent Injunction, are permanently restrained and
20 enjoined from directly or indirectly:

21 A. Disclosing, using, or benefitting from personal information, including the
22 name, address, telephone number, email address, social security number, other
23 identifying information, or any data that enables access to a person's account
24 (including a credit card, bank account, or other financial account), that any Defendant
25 obtained prior to entry of this Order in connection with the sale of solar panels and
26 installation services; and

27 B. Failing to destroy such personal information in all forms in their
28 possession, custody, or control within 30 days after entry of this Order.

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1 compliance report, sworn under penalty of perjury:

- 2 1. Each Defendant must: (a) identify the primary physical, postal, and
3 email address and telephone number, as designated points of
4 contact, which representatives of the Commission and Plaintiff may
5 use to communicate with Defendant; (b) identify all of that
6 Defendant's businesses by all of their names, telephone numbers,
7 and physical, postal, email, and Internet addresses; (c) describe the
8 activities of each business, including the goods and services
9 offered, the means of advertising, marketing, and sales, and the
10 involvement of any other Defendant (which Individual Defendants
11 must describe if they know or

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1 of contact; or (b) the structure of Corporate Defendant or any entity
2 that Defendant has any ownership interest in or controls directly or
3 indirectly that may affect compliance obligations arising under this
4 Order, including: creation, merger, sale, or dissolution of the entity
5 or any subsidiary, parent, or affiliate that engages in any acts or
6 practices subject to this Order.

- 7 2. Additionally, each Individual Defendant must report any change in:
8 (a) name, including aliases or fictitious name, or residence address;
9 or (b) title or role in any business activity, including any business
10 for which such Defendant performs services whether as an
11 employee or otherwise and any entity in which such Defendant has
12 any ownership interest, and identify the name, physical address,
13 and any Internet address of the business or entity.

14 C. Each Defendant must submit to the Co
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XI. Recordkeeping

IT IS FURTHER ORDERED that Defendants must create certain records for 20 years after entry of the Order, and retain each such record for 10 years. Specifically, Corporate Defendants and each Individual Defendant for any business that such Defendant, individually or collectively with any other Defendants, is a majority owner or controls directly or indirectly, must create and retain the following records:

A. Accounting records showing the revenues from all goods or services sold;

B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. Records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response; and

D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission.

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1 representatives of the Commission and Plaintiff to interview any employee or other
2 person affiliated with any Defendant who has agreed to such an interview. The person
3 interviewed may have counsel present.

4 C. The Commission and Plaintiff may use all other lawful means, including
5 posing, through its representatives as consumers, suppliers, or other individuals or
6 entities, to Defendants or any individual or entity affiliated with Defendants, without

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