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

UNITED STATES OF AMERICA,)	
)	Case No. CV-16-1643-MWF (AJWx)
Plaintiff,)	
)	
v.)	STIPULATION AS TO ENTRY OF
)	ORDER FOR PERMANENT
KFJ MARKETING, LLC, et al.)	INJUNCTION AND CIVIL PENALTY
)	JUDGMENT
Defendants.)	
)	

1 Plaintiff, the United States of America, acting upon notification and
2 authorization to the Attorney General by the Federal Trade Commission
3 (“Commission” or “FTC”), filed its Complaint for Civil Penalties, Permanent
4 Injunction, and Other Relief, subsequently amended as Amended Complaint for Civil
5 Penalties, Permanent Injunction, and other Relief, (“Complaint”) pursuant to Sections
6 5(a), 5(m)(1)(A), 13(b), 16(a), and 19 of the Federal Trade Commission Act (“FTC
7 Act”), 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), 56(a), and 57b, and Section 6 of the
8 Telemarketing and Consumer Fraud and Abuse Prevention Act (the “Telemarketing
9 Act”), 15 U.S.C. § 6105. Defendants filed their Answer to the Complaint, in which
10 Defendants denied the charges in the Complaint. Plaintiff and Defendants stipulate to
11 the entry of this Stipulated Final Order for Permanent Injunction and Civil Penalty
12 Judgment (“Order”), lodged concurrently with this Stipulation, to resolve all matters in
13 dispute in this action between them, with the following terms and provisions:

14 FINDINGS

- 15 1. This Court has jurisdiction over this matter.
- 16 2. The Complaint charges that Defendants engaged in acts or practices in violation
17 of the FTC’s Telemarketing Sales Rule (the “TSR” or “Rule”), as amended, 16 C.F.R.
18 Part 310.
- 19 3. Defendants neither admit nor deny any of the allegations in the Complaint,
20 except as specifically stated in this Order. Only for purposes of this action, Defendants
21 admit the facts necessary to establish jurisdiction.
- 22 4. Defendants waive any claim that they may have under the Equal Access to
23 Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the
24 date of this Order, and agree to bear their own costs and attorneys’ fees. Defendants
25 waive and release any claims that they may have against Plaintiff, the Commission,
26 and their agents that relate to this action.
- 27 5. Defendants and Plaintiff waive all rights to appeal or otherwise challenge or
28

1 contest the validity of this Order.

2 **DEFINITIONS**

3 For the purpose of this Order, the following definitions apply:

4
5 A. **“Caller Identification Service”** means a service that allows a telephone
6 subscriber to have the telephone number, and, where available, name of the calling
7 party transmitted contemporaneously with the telephone call, and displayed on a
8 device in or connected to the subscriber’s telephone.

9 B. **“Corporate Defendants”** means KFJ Marketing, LLC; Sunlight Solar
10 Leads, LLC; and Go Green Education, also doing business as Go Green Leads and
11 myleadgroup.

12 C. **“Defendants”** means all of the Individual Defendants and the Corporate
13 Defendants, individually, collectively, or in any combination.

14 D. **“Entity-Specific Do Not Call List”** means a list of telephone numbers
15 maintained by a Seller or Telemarketer of persons who have previously stated that they
16 do not wish to receive Outbound Telephone Calls made by or on behalf of the Seller or
17 Telemarketer.

18 E. **“Established Business Relationship”** means a relationship between a
19 Seller and a person based on: (a) the person’s purchase, rental, or lease of the Seller’s
20 goods or services or a financial transaction between the Seller and person, within the
21 eighteen months immediately preceding the date of the Telemarketing call; or (b) the
22 person’s inquiry or application regarding a product or service offered by the Seller,
23 within the three months immediately preceding the date of a Telemarketing call.

24 F. **“Individual Defendants”** means Francisco J. Salvat and Julio E. Salvat.

25 G. **“Lead Generator”** means any person that provides, in exchange for
26 consideration, consumer information to a Seller or Telemarketer for use in the
27 marketing of any goods or services.

1 H. **“National Do Not Call Registry”** means the “do-not-call” registry of
2 telephone numbers maintained by the Commission pursuant to 16 C.F.R.
3 § 310.4(b)(1)(iii)(B).

4 I. **“Outbound Telephone Call”** means a telephone call initiated by a
5 Telemarketer to induce the purchase of goods or services or to solicit a charitable
6 contribution.

7 J. **“Person”** means any individual, group, unincorporated association,
8 limited or general partnership, corporation, or other business entity.

9 K. **“Seller”** means any person who, in connection with a Telemarketing
10 transaction, provides, offers to provide, or arranges for others to provide goods or
11 services to the customer in exchange for consideration, whether or not such person is
12 under the jurisdiction of the Commission.

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

16 M. **“Telemarketing”** means a plan, program, or campaign which is
17 conducted to induce the purchase of goods or services or a charitable contribution, by
18 use of one or more telephones and which involves more than one interstate telephone
19 call.

ORDER

I. Permanent Bans on Telemarketing, Robocalls, and Calling Telephone Numbers Listed on the National Do Not Call Registry

IT IS ORDERED that Corporate Defendants and Individual Defendant Francisco J. Salvat, whether acting directly or through an intermediary, are permanently restrained and enjoined from:

A. Engaging in, or assisting others to engage in, Telemarketing, which includes, without limitation, providing others with access to automated dialing systems, providing others with Caller ID numbers, and providing others with data lists containing consumer information;

B. Initiating, causing others to initiate, or assisting others in initiating any telephone call that plays or delivers a prerecorded message;

C. Initiating, causing others to initiate, or assisting others in initiating any telephone call to any telephone number listed on the National Do Not Call Registry; and

D. Holding any ownership interest, share, or stock in any business that engages in any of the acts and practices listed in paragraphs A–C of this Section.

II. Permanent Ban on Calling Telephone Numbers Listed on the National Do Not Call Registry

IT IS FURTHER ORDERED that Individual Defendant Julio E. Salvat, whether acting directly or through an intermediary, is permanently restrained and enjoined from initiating, causing others to initiate, or assisting others in initiating any Outbound Telephone Call to any telephone number listed on the National Do Not Call Registry more than 31 days after the date on which such number is added to the National Do Not Call Registry.

**III. Permanent Ban on Selling Lists of Data Containing Telephone Numbers
Listed on the National Do Not Call Registry**

IT IS FURTHER ORDERED that Individual Defendant Julio E. Salvat, whether acting directly or through an intermediary, is permanently restrained and enjoined from selling or assisting others in selling any data lists or other lists or compilations of information that contain telephone numbers listed on the National Do Not Call Registry more than 31 days after the date on which such numbers are added to the National Do Not Call Registry.

IV. Permanent Ban on Robocalls

IT IS FURTHER ORDERED that Individual Defendant Julio E. Salvat, whether acting directly or through an intermediary, is permanently restrained and enjoined from initiating, causing others to initiate, or assisting others in initiating any Outbound Telephone Call that plays or delivers a prerecorded message, unless Individual Defendant Julio E. Salvat proves that:

A. The Outbound Telephone Call is placed to a business telephone number; and

B. The Outbound Telephone Call is to induce the purchase of goods (other than nondurable office or cleaning supplies) or services by the business or to solicit a charitable contribution by the business.

It shall not be a violation of this Order for Individual Defendant Julio E. Salvat to transmit a prerecorded message for compliance with 16 C.F.R. § 310.4(b)(4)(iii).

V. Permanent Ban on Deceptive Caller ID Practices

IT IS FURTHER ORDERED that Individual Defendant Julio E. Salvat, whether acting directly or through an intermediary, is permanently restrained and enjoined from

1 initiating, causing others to initiate, or assisting others in initiating any Outbound
2 Telephone Call that:

3 A. Fails to transmit or cause to be transmitted the telephone number, and,
4 when made available by the Telemarketer's carrier, the name of the Telemarketer, to
5 any Caller Identification Service in use by a recipient of a Telemarketing call; provided
6 that it shall not be a violation of this provision to substitute (for the name and phone
7 number used in, or billed for, making the call) the name of the Seller on behalf of
8 which a Telemarketing call is placed, and the Seller's customer service telephone
9 number;

10 B. Displays a telephone number other than a number owned, rented, licensed
11 or subscribed to by Individual Defendant Julio E. Salvat, the Seller, or the Seller's
12 Telemarketer;

13 C. Displays a telephone number that cannot receive inbound calls;

14 D. Displays a telephone number that is not equipped to process requests from
15 consumers asking to be added to an Entity Specific Do Not Call List; or

16 E. Displays a number that is not equipped to process requests from
17 consumers asking to be added to the Seller's Entity Specific Do Not Call List.

18 19 **VI. Prohibition Against Abusive Telemarketing Practices**

20 IT IS FURTHER ORDERED that, in connection with Telemarketing, Individual
21 Defendant Julio E. Salvat, is permanently restrained and enjoined from engaging in,
22 causing others to engage in, or assisting others engaging in, any of the following
23 practices:

24 A. Initiating any Outbound Telephone Call to a person on behalf of a Lead
25 Generator, Seller, Telemarketer, or any other third-party when that person has
26 previously stated that he or she does not wish to receive an Outbound Telephone Call
27 made by or on behalf of that Lead Generator, Seller, Telemarketer, or third-party.
28

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

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

6
7 **VII. Monetary Judgment for Civil Penalty and Partial Suspension**

8 IT IS FURTHER ORDERED that:

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

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

18 C. The Commission's and Plaintiff's agreement to the suspension of part of
19 the judgment is expressly premised upon the truthfulness, accuracy, and completeness
20 of Defendants' sworn financial statements and related documents submitted to the
21 Commission and Defendants' deposition testimony (collectively, "financial
22 representations"), namely:

- 23 1. The Financial Statement of Individual Defendant Francisco J.
24 Salvat signed on July 6, 2017, including the attachments and
25 documents submitted with the Financial Statement;
26 2. The Deposition testimony of Individual Defendant Francisco J.
27 Salvat, taken on May 31, 2017 and August 22, 2017;
28

- 1 3. The Financial Statement of Individual Defendant Julio E. Salvat
- 2 signed on July 6, 2017, including the attachments and documents
- 3 submitted with the Financial Statement;
- 4 4. The Deposition testimony of Individual Defendant Julio E. Salvat,
- 5 taken on June 1, 2017 and August 22, 2017;
- 6 5. The Financial Statement of Corporate Defendant Sunlight Solar
- 7 Leads, LLC signed on July 6, 2017, including the attachments and
- 8 documents submitted with the Financial Statement; and
- 9 6. The Deposition testimony of Individual Defendant Francisco J.
- 10 Salvat as a representative of the Corporate Defendants, taken on
- 11 May 31, 2017 and August 22, 2017.

12 D. The suspension of the judgment will be lifted as to any Defendant if, upon
13 motion by the Commission or Plaintiff, the Court finds that Defendant failed to
14 disclose any material asset, materially misstated the value of any asset, or made any
15 other material misstatement or omission in the financial representations identified
16 above.

17 E. If the suspension of the judgment is lifted, the judgment becomes
18 immediately due as to that Defendant in the amount specified in Subsection A above
19 (which the parties stipulate only for purposes of this Section represents the amount of
20 the civil penalty for the violations alleged in the Complaint), less any payment
21 previously made pursuant to this Section, plus interest computed from the date of entry
22 of this Order.

23 F. Defendants relinquish dominion and all legal and equitable right, title,
24 and interest in all assets transferred pursuant to this Order and may not seek the return
25 of any assets.

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

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

7 I. Defendants acknowledge that their Taxpayer Identification Numbers
8 (Social Security Numbers or Employer Identification Numbers), which Defendants
9 previously submitted to the Commission, may be used for collecting and reporting on
10 any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

11 12 **VIII. Customer Information**

13 IT IS FURTHER ORDERED that Defendants, their officers, agents, employees,
14 and attorneys, and all other persons in active concert or participation with them, are
15 permanently restrained and enjoined from directly or indirectly:

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

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

24 Provided, however, that customer information need not be disposed of, and may
25 be disclosed, to the extent requested by a government agency or required by law,
26 regulation, or court order.

IX. Order Acknowledgements

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

A. Each Defendant, within 7 days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 10 years after entry of this Order, each Individual Defendant for any business that such Defendant, individually or collectively with any other Defendants, is the majority owner or controls directly or indirectly, and each Corporate Defendant, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

X. Compliance Reporting

IT IS FURTHER ORDERED that Defendants make timely submissions to the Commission:

A. One year after entry of this Order, each Defendant must submit a compliance report, sworn under penalty of perjury:

1. Each Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of

1 contact, which representatives of the Commission and Plaintiff may
 2 use to communicate with Defendant; (b) identify all of that
 3 Defendant's businesses by all of their names, telephone numbers,
 4 and physical, postal, email, and Internet addresses; (c) describe the
 5 activities of each business, including the goods and services
 6 offered, the means of advertising, marketing, and sales, and the
 7 involvement of any other Defendant (which Individual Defendants
 8 must describe if they know or should know due to their own
 9 involvement); (d) describe in detail whether and how that
 10 Defendant is in compliance with each Section of this Order; and (e)
 11 provide a copy of each Order Acknowledgment obtained pursuant
 12 to this Order, unless previously submitted to the Commission.

- 13 2. Additionally, each Individual must: (a) identify all telephone
 14 numbers and all physical, postal, email and Internet addresses,
 15 including all residences; (b) identify all business activities,
 16 including any business for which such Defendant performs services
 17 whether as an employee or otherwise and any entity in which such
 18 Defendant has any ownership interest; and (c) describe in detail
 19 such Defendant's involvement in each such business, including
 20 title, role, responsibilities, participation, authority, control, and any
 21 ownership.

22 B. For 20 years after entry of this Order, each Defendant must submit a
 23 compliance notice, sworn under penalty of perjury, within 14 days of any change in the
 24 following:

- 25 1. Each Defendant must report any change in: (a) any designated point
 26 of contact; or (b) the structure of Corporate Defendant or any entity
 27 that Defendant has any ownership interest in or controls directly or
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1 indirectly that may affect compliance obligations arising under this
2 Order, including: creation, merger, sale, or dissolution of the entity
3 or any subsidiary, parent, or affiliate that engages in any acts or
4 practices subject to this Order.

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

12 C. Each Defendant must submit to the Commission notice of the filing of any
13 bankruptcy petition, insolvency proceeding, or similar proceeding by or against such
14 Defendant within 14 days of its filing.

15 D. Any submission to the Commission required by this Order to be sworn
16 under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746,
17 such as by concluding: "I declare under penalty of perjury under the laws of the United
18 States of America that the foregoing is true and correct. Executed on: _____" and
19 supplying the date, signatory's full name, title (if applicable), and signature.

20 E. Unless otherwise directed by a Commission representative in writing, all
21 submissions to the Commission pursuant to this Order must be emailed to
22 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:
23 Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade
24 Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject
25 line must begin: United States v. KFJ Marketing, et al., Matter Number X160031.

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.

XII. Compliance Monitoring

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order, including the financial representations upon which part of the judgment was suspended:

- A. Within 14 days of receipt of a written request from a representative of the Commission or Plaintiff, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission and Plaintiff are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

- B. For matters concerning this Order, the Commission and Plaintiff are

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

5 C. The Commission and Plaintiff may use all other lawful means, including
6 posing, through its representatives as consumers, suppliers, or other individuals or
7 entities, to Defendants or any individual or entity affiliated with Defendants, without
8 the necessity of identification or prior notice. Nothing in this Order limits the
9 Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the
10 FTC Act, 15 U.S.C. §§ 49, 57b-1.

11 D. Upon written request from a representative of the Commission or Plaintiff
12 , any consumer reporting agency must furnish consumer reports concerning Individual
13 Defendants, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C.
14 §1681b(a)(1).

15 16 **XIII. Retention of Jurisdiction**

17 IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter
18 for purposes of construction, modification, and enforcement of this Order.
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1 **SO STIPULATED AND AGREED:**

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3 **FOR PLAINTIFF:**

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5 **FOR THE UNITED STATES OF AMERICA:**

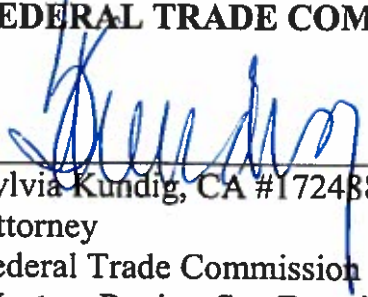
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7 CHAD A. READLER
8 Acting Assistant Attorney General,
9 Civil Division
10 U.S. DEPARTMENT OF JUSTICE

11 JOSHUA I. WILKENFELD
12 Acting Director
13 Consumer Protection Branch

14 ANDREW E. CLARK
15 Assistant Director

16 s/ Jacqueline Blaesi-Freed
17 Jacqueline Blaesi-Freed
18 Lisa K. Hsiao
19 Counsel for the United States
20 Trial Attorneys
21 Consumer Protection Branch
22 U.S. Department of Justice
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2 **FEDERAL TRADE COMMISSION**

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5 Sylvia Kundig, CA #172488

6 Attorney

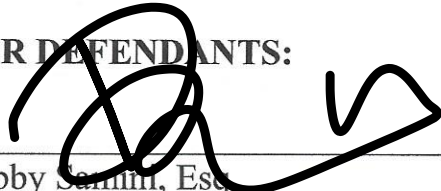
7 Federal Trade Commission

8 Western Region-San Francisco

9 901 Market Street, Suite 570

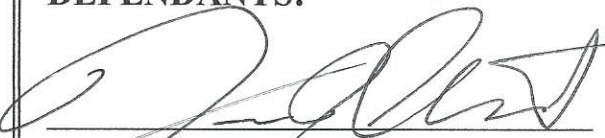
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1 **FOR DEFENDANTS:**

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3 _____
4 Bobby Samini, Esq.
5 Attorney for Defendants
6 Samini Scheinberg PC
7 840 Newport Center Drive, Suite 700
8 Newport Beach, CA 92660


Date

9 **DEFENDANTS:**

10 
11 _____
12 Francisco J. Salvat, individually and as
13 an officer of KFJ Marketing, LLC;
14 Sunlight Solar Leads, LLC; and Go
15 Green Education, also doing business as
16 Go Green Leads, myleadgroup, and Free
17 Solar Quote

Date

9/11/17

18 
19 _____
20 Julio E. Salvat, individually and as an
21 officer of KFJ Marketing, LLC; Sunlight
22 Solar Leads, LLC; and Go Green
23 Education, also doing business as Go
24 Green Leads, myleadgroup, and Free
25 Solar Quote

Date

9/11/17