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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

LYNN SLOVIN, an individual, on her own
behalf and on behalf of all others similarly
situated,

Plaintiff,

v.

SUNRUN, INC., a California corporation,
CLEAN ENERGY EXPERTS, LLC, a
California limited liability company doing
business as SOLAR AMERICA, and DOES 1
through 5, inclusive,

Defendants.

Case No. 4:15-cv-05340-YGR

Hon. Yvonne Gonzalez Rogers

**[Proposed] JUDGEMENT AND ORDER
GRANTING FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

TAC Filed: July 12, 2016

Trial Date: None Set

(PROPOSED) FINAL APPROVAL ORDER AND JUDGMENT

1
2 1. Plaintiffs Lynn Slovin, Samuel Katz, Jeffrey Price, and Justin Birkhofer (collectively
3 “Plaintiffs” or “Representative Plaintiffs”), Sunrun, Inc. (“Sunrun”) and Clean Energy Experts, LLC
4 (“CEE”) (collectively, “Sunrun/CEE” or “Defendants”), and the Settlement Class (collectively, the
5 “Parties”) reached a settlement. The Parties have submitted a detailed written Stipulation and
6 Agreement of Settlement (the “Settlement” or “Settlement Agreement”) together with numerous
7 exhibits and proposed orders. To the extent not otherwise defined herein, all capitalized terms shall
8 have the meanings attributed to them in the Settlement Agreement. The Court gave its preliminary
9 approval of the Settlement on January 29, 2019 (the “Preliminary Approval Order”). The Court
10 directed the Parties to provide Class Notice of the proposed Settlement by Direct Mail Notice and
11 Long Form Notice on the Settlement Website, and scheduled a further hearing to determine whether
12 the proposed Settlement is fair, reasonable, and adequate.

13 2. On July 9, 2019, this Court held a hearing to determine whether the proposed
14 Settlement Agreement executed by Plaintiffs and Defendants should be approved as Final by this
15 Court. Counsel for the Plaintiffs and the Settlement Class and counsel for Defendants appeared at
16 the hearing.

17 3. After reviewing the pleadings and evidence filed in support of the request for final
18 approval of the Settlement and conducting the hearing, the Court finds, and

19 **IT IS ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:**

20 4. This Final Approval Order and Judgment incorporates the Settlement Agreement and
21 all exhibits thereto.

22 5. The Court has personal jurisdiction over all Settlement Class Members and
23 Defendants, and the Court has subject matter jurisdiction to approve the Settlement Agreement and
24 all exhibits thereto.

25 6. Based upon the record before the Court, including all submissions in support of the
26 Settlement Agreement, objections and responses thereto, as well as the Settlement Agreement itself,
27 the Court hereby certifies the following nationwide class (the “Settlement Class”) for settlement
28 purposes only:

1 “Settlement Class” means all persons in the United States, from November 20, 2011
2 to August 31, 2018, who received from or on behalf of Sunrun and/or CEE, or from
3 a third party generating leads for Sunrun and/or CEE: (1) one or more calls on their
4 cellphones, or (2) at least two telemarketing calls during any 12-month period where
5 their phone numbers appeared on a National or State Do Not Call Registry or
6 Sunrun’s and/or CEE’s Internal Do Not Call List more than 30 days before the calls.

7 The class definition excludes the following:

8 (1) any trial judge and other judicial officers that may preside over this case; (2) the
9 Mediators; (3) Sunrun/CEE, as well as any parent, subsidiary, affiliate or control
10 person of Sunrun/CEE, and the officers, directors, agents, servants or employees of
11 Sunrun/CEE; (4) any of the Released Parties; (5) any Settlement Class Member who
12 has timely submitted a Request for Exclusion by the Opt-Out Deadline; (6) any
13 person or entity who has previously given a valid release of the claims asserted in
14 the Action; (7) Plaintiffs’ Counsel; and (8) persons for whom CEE or Sunrun has a
15 record demonstrating “prior express written consent,” as defined by the TCPA.

16 The Court finds that the prerequisites of Fed. R. Civ. P. 23(a) and (b)(3) have been satisfied
17 for certification of the nationwide Settlement Class for settlement purposes because: Settlement
18 Class Members are so numerous that joinder of all members is impracticable; there are questions of
19 law and fact common to the Settlement Class; the claims and defenses of the Representative
20 Plaintiffs are typical of the claims and defenses of the Settlement Class Members they represent; the
21 Representative Plaintiffs have fairly and adequately protected the interests of the Settlement Class
22 with regard to the claims of the Settlement Class they represent; the common questions of law and
23 fact predominate over questions affecting only individual Settlement Class Members, rendering the
24 Settlement Class sufficiently cohesive to warrant a nationwide class settlement; and the certification
25 of the Settlement Class is superior to individual litigation and/or settlement as a method for the fair
26 and efficient resolution of this matter. In making all of the foregoing findings, the Court has
27 exercised its discretion in certifying the Settlement Class, based, *inter alia*, upon the Court’s
28 familiarity with the claims and Parties in this case, and the mediation and negotiation process
overseen by the Honorable Edward A. Infante (Ret.), JAMS mediator Bruce Friedman, Esq., and
Magistrate Judge Jacqueline Scott Corley.

7. The Settlement Agreement was reached after arm’s-length negotiations between the
Representative Plaintiffs, Defendants, and their respective counsel. The Settlement Agreement is
fair, reasonable, and adequate; consistent with and in compliance with all applicable requirements

1 of the Federal Rules of Civil Procedure, the United States Code, and the United States Constitution
2 (including the Due Process Clause), and any other applicable law; and in the best interests of
3 Plaintiffs, Defendants, and the Settlement Class Members.

4 8. The Settlement is fair, reasonable, adequate and satisfies the requirements under Fed.
5 R. Civ. P. 23. Therefore, each Settlement Class Member will be bound by the Settlement
6 Agreement, including the Release and the covenant not to sue set forth in Section 8 of the Settlement
7 Agreement.

8 9. The Court finds that in negotiating, entering into, and implementing the Settlement,
9 the Representative Plaintiffs and the Class Counsel have fairly and adequately represented and
10 protected the interests of all of the Settlement Class Members.

11 10. The Class Notice and the notice methodology implemented pursuant to the
12 Settlement Agreement: (i) constituted the best practicable notice; (ii) constituted notice that was
13 concise, clear and in plain, easily understood language and was reasonably calculated, under the
14 circumstances, to apprise Settlement Class Members of the pendency of the Action, the claims,
15 issues and defenses of the Settlement Class, the definition of the Settlement Class certified, their
16 right to be excluded from the Settlement Class, their right to object to the proposed Settlement, their
17 right to appear at the Final Approval Hearing, through counsel if desired, and the binding effect of
18 a judgment on Settlement Class Members; (iii) were reasonable and constituted due, adequate, and
19 sufficient notice to all persons entitled to receive notice; and (iv) met all applicable requirements of
20 the Federal Rules of Civil Procedure, the United States Code, the United States Constitution
21 (including the Due Process Clause), and any other applicable law.

22 11. The terms of the Settlement Agreement and this Final Approval Order and Judgment
23 are binding on the Representative Plaintiffs and all other Settlement Class Members, as well as their
24 heirs, executors and administrators, successors and assigns.

25 12. The terms of the Settlement Agreement and this Final Approval Order and Judgment
26 shall have *res judicata*, collateral estoppel and all other preclusive effect in any and all claims for
27 relief, causes of action, suits, petitions, demands in law or equity, or any allegations of liability,
28 damages, debts, contracts, agreements, obligations, promises, attorneys' fees, costs, interests, or

1 expenses which are based on or in any way related to any and all claims for relief, causes of action,
2 suits, petitions, demands in law or equity, or any allegations of liability, damages, debts, contracts,
3 agreements, obligations, promises, attorneys' fees, costs, interest, or expenses which were asserted
4 in the Action.

5 13. The Representative Plaintiffs, Defendants, and their respective counsel are ordered
6 to implement and to consummate the Settlement Agreement according to its terms and provisions.

7 14. All claims against Defendants asserted in this Action, are hereby dismissed on the
8 merits and with prejudice, without fees or costs to any party except as provided in the Settlement
9 Agreement.

10 15. The releases set forth in Section 8 of the Settlement Agreement are incorporated by
11 reference and provides, *inter alia*, that for and in consideration of the Cash Benefits, the Released
12 Claims, and the mutual promises contained in the Settlement Agreement, Representative Plaintiffs
13 and the Settlement Class Members, on behalf of themselves and their respective assigns, heirs,
14 executors, administrators, successors, and agents, and representatives, fully and finally release, as
15 of the date the Final Approval Order and Judgment becomes Final, Sunrun/CEE and the Released
16 Parties from any and all claims, causes of action, suits, obligations, debts, demands, agreements,
17 promises, liabilities, damages, losses, controversies, costs, expenses, and attorneys' fees of any
18 nature whatsoever, whether based on any federal law, state law, common law, territorial law, tribal
19 law, foreign law, contract, rule, regulation, any regulatory promulgation (including, but not limited
20 to, any opinion or declaratory ruling), common law, or equity, whether known or unknown,
21 suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent,
22 liquidated or unliquidated, punitive or compensatory, which were asserted in the Action or any other
23 claims under state or federal law which arise from, are based on or in any way related to the Action
24 or the Released Claims.

25 16. The Court hereby grants Class Counsel's request for an Incentive Award for the
26 Representative Plaintiffs in the amount of \$_____ each. The Court has considered Class
27 Counsel's Motion for an Award of Attorney's Fees and Costs and additionally grants as reasonable
28 and justified Class Counsel's request for Attorney's Fees of \$_____ and out of pocket costs

1 incurred of \$_____.

2 17. The Court further approves the establishment of the Settlement Fund as set forth in
3 the Settlement Agreement submitted by the Parties.

4 18. This Settlement Fund will constitute Sunrun/CEE's exclusive payment obligation
5 under the Settlement Agreement and will be used to pay: (a) Cash Benefits paid to Settlement Class
6 Members, as prescribed by the Settlement Agreement; (b) Attorneys' Fees and Costs, as awarded
7 by the Court; (c) any Incentive Award awarded to Lynn Slovin, Samuel Katz, Jeffrey Price, and
8 Justin Birkhofer; (d) Settlement Administration Costs, including costs of notice (including CAFA
9 Notice); and (e) any *cy pres* payment to Electronic Frontier Foundation pursuant to the procedures
10 described in Section 7.4 of the Settlement Agreement. No portion of the Settlement Fund will be
11 returned to Sunrun/CEE, except as provided in Section 11 of the Settlement Agreement, Termination
12 of the Agreement.

13 19. Any distribution of the Settlement Fund to the Settlement Class or any other person,
14 other than the Settlement Administrator pursuant to the terms hereof, shall commence only after the
15 Effective Date. The Aggregate Fees, Costs, and Expenses shall be paid from the Settlement Fund
16 prior to any distribution of Cash Benefits to the Settlement Class. The remainder of the Settlement
17 Fund shall be used to pay Cash Benefits in accordance with the rules set forth herein.

18 20. If any amounts remain in the Settlement Fund because Settlement Members fail to
19 negotiate their respective Benefit Checks, such unclaimed monies shall be distributed as follows:
20 (a) to the Settlement Class Members who cashed their initial Benefits Checks, to the extent such a
21 distribution is administratively and economically feasible; and if not so feasible, (b) to Electronic
22 Frontier Foundation, the *cy pres* designated recipient as appointed by the Court. No portion of the
23 Settlement Fund will be returned to Sunrun/CEE, except as provided in Section 11 of the Settlement
24 Agreement, Termination of the Agreement.

25 21. The Court further approves the establishment of the Settlement Fund as set forth in
26 the Agreement.

27 22. The Court finds that the Settlement Fund is a "qualified settlement fund" as defined
28 in Section 1.468B-1(c) of the Treasury Regulations in that it satisfies each of the following

1 requirements:

2 (a) The escrow account for the Settlement Fund is established pursuant to the
3 Preliminary Approval Order and is subject to the continuing jurisdiction of this Court;

4 (b) The escrow account for the Settlement Fund is established to resolve or
5 satisfy one or more Claims that have resulted or may result from an event that has occurred and that
6 has given rise to at least one Claim asserting liability arising out of an alleged violation of law; and

7 (c) The assets of the escrow account for the Settlement Fund are segregated from
8 other assets of Sunrun/CEE, the transferors of the payment to the Settlement Fund.

9 23. Under the “relation back” rule provide under Section 1.468B-1(j)(2)(i) of the
10 Treasury Regulations, the Court finds that:

11 (a) The escrow account for the Settlement Fund met the requirements of
12 paragraph 22 of this Order prior to the date of this Order approving the establishment of the
13 Settlement Fund subject to the continued jurisdiction of this Court; and

14 (b) Defendants and the Settlement Administrator may jointly elect to treat the
15 escrow account for the Settlement Fund as coming into existence as a “qualified settlement fund”
16 on the later of the date the escrow account for the Settlement Fund met the requirements of paragraph
17 22 of this Order or January 1 of the calendar year in which all of the requirements of paragraph 22
18 of this Order are met. If such a relation-back election is made, the assets held by the escrow account
19 for the Settlement Fund on such date shall be treated as having been transferred to the escrow
20 account for the Settlement Fund on that date.

21 24. Nothing in this Final Approval Order and Judgment, the Settlement Agreement, or
22 any documents or statements related thereto, is or shall be deemed or construed to be an admission
23 or evidence of any violation of any statute or law, or of any liability or wrongdoing by Defendants.

24 25. In the event that the Settlement Agreement does not become effective according to
25 its terms, this Final Approval Order and Judgment shall be rendered null and void as provided by
26 the Settlement Agreement, shall be vacated and, all orders entered and released delivered in
27 connection herewith shall be null and void to the extent provided by and in accordance with the
28 Settlement Agreement.

1 26. No Settlement Class Member, either directly, representatively, or in any other
2 capacity (other than a Settlement Class Member who validly and timely submitted a Request for
3 Exclusion), shall commence, continue, or prosecute any action or proceeding against Defendants or
4 any or all Released Parties in any court or tribunal asserting any of the Released Claims defined in
5 the Settlement Agreement, and are hereby permanently enjoined from so proceeding.

6 27. Without affecting the finality of the Final Approval Order and Judgment, the Court
7 shall retain continuing jurisdiction over the Action, the Parties, and the administration and
8 enforcement of the Settlement Agreement. Any disputes or controversies arising with respect to the
9 interpretation, administration, implementation, effectuation, and enforcement of the Settlement
10 Agreement shall be presented by motion to the Court, provided, however, that nothing in this
11 paragraph shall restrict the ability of the Parties to exercise their rights, as set forth above.

12 28. There being no just reason to delay, the Clerk is directed to enter this Final Approval
13 Order and Judgment forthwith.

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16 DATED: _____

Yvonne Gonzalez Rogers
United States District Court Judge

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