

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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	:
HUDSON SOLAR CAYMAN, LP,	: Index No. _____/2019
	:
Plaintiff,	:
v.	: AFFIDAVIT OF NEIL Z.
	: AUERBACH IN SUPPORT OF
SKY SOLAR HOLDINGS, LTD.,	: MOTION FOR SUMMARY
SKY SOLAR POWER LTD., and	: JUDGMENT IN LIEU OF
SKY INTERNATIONAL ENTERPRISE GROUP	: COMPLAINT
LIMITED,	:
	: Mot. Seq. No. 001
Defendants.	:
	x

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

NEIL Z. AUERBACH, being duly sworn, deposes and says:

1. I am the CEO at Hudson Solar Cayman, LP (“Hudson Solar”), which is party to an Amended and Restated Note Purchase Agreement dated July 15, 2016, among Energy Capital Investment S.A.R.L. (“ECI”), Lumens Holdings 1, LLC, (“Lumens”), and Renewable Capital Investment 2, Sociedad Limitada (“RCI 2”), as Obligors, and Hudson Solar, as Administrative Agent, Initial Note Purchaser, and Note Holder (the “Note Purchase Agreement”).¹

2. Pursuant to the Note Purchase Agreement, Hudson Solar acquired, and continues to hold, senior amortizing notes issued by ECI in the aggregate principal amount of \$53,882,852 (including capitalized PIK Interest) (the “Notes”). Lumens, RCI 2, and certain other entities in the corporate group, including SPVs indirectly owned by ECI, Lumens, and RCI 2 (the “Project Companies”), have various obligations under the Note Purchase Documents and,

¹ Capitalized terms used but not defined herein have the meanings given in the Note Purchase Agreement.

in many instances, have pledged, or covenanted to pledge, their assets to secure the Notes. The Obligations of the Obligor under the Note Purchase Documents and the Notes are guaranteed by the parent holding companies of the Obligor—Sky Solar Holdings, Ltd., the ultimate parent (“Sky Solar Holdings”); Sky Solar Power Ltd. (“Sky Solar Power”); and Sky International Enterprise Group Limited (“Sky International” and, together with Sky Solar Holdings and Sky Solar Power, the “Guarantors”) pursuant to a Guaranty dated as of September 18, 2015, among the Guarantors, as Guarantors, and Hudson Solar, as Administrative Agent (the “Guaranty”). The Guaranty was reaffirmed pursuant to a Confirmation of Guaranty dated July 15, 2016, made by the Guarantors, as Guarantors, in favor of Hudson Solar, as Administrative Agent (the “Confirmation of Guaranty”). Sky International, as the direct parent of ECI, also pledged the shares of ECI to Hudson Solar pursuant to a Share Pledge Agreement dated July 29, 2016, by and between Sky International, as Pledgor, Hudson Solar, as Pledgee, and ECI, as the Company (the “ECI Share Pledge”).

3. I make this affidavit based on personal knowledge of the Note Purchase Documents, the Notes, and the Guaranty, together with related documents identified below, as well as a review of the relevant business records. I make this affidavit in support of Plaintiff’s motion, pursuant to Section 3213 of the New York Civil Practice Law and Rules, for an order granting summary judgment in lieu of complaint in favor of Plaintiff and against Defendants in the amount of not less than \$97,671,954, which is the sum of the principal, the portion of the Yield Maintenance Amount guaranteed by the Guarantors, accrued and unpaid Coupon Interest, and Default Rate Interest owing to Plaintiff by Defendants under the Guaranty as of the close of business on February 8, 2019, together with Default Rate Interest accrued from that date to the date of judgment and Hudson Solar’s fees and expenses (including attorney’s fees) incurred in

connection with the enforcement of its rights under the Notes, the Guaranty, and the other Note Purchase Documents.

THE PARTIES

4. Plaintiff Hudson Solar is an exempted limited partnership organized under the laws of the Cayman Islands with its principal place of business in Manhattan, New York.

5. Defendant Sky Solar Holdings is an exempted company organized under the laws of the Cayman Islands. On information and belief, its principal place of business is in Hong Kong.

6. Defendant Sky Solar Power is a limited liability company incorporated under the laws of the British Virgin Islands. On information and belief, its principal place of business is in Short Hills, New Jersey.

7. Defendant Sky International is a corporation incorporated under the laws of Hong Kong. On information and belief, its principal place of business is in Short Hills, New Jersey.

RELEVANT DOCUMENTS

8. Hudson Solar is party to the following agreements relevant to this matter:
- the Note Purchase Agreement, attached hereto as Exhibit 1, and the following Notes purchased and held by Hudson Solar pursuant to the Note Purchase Agreement:
 - a Note dated October 2, 2015 with an original principal amount of \$924,369.37, attached hereto as Exhibit 2;
 - a Note dated December 4, 2015 with an original principal amount of \$980,928.56, attached hereto as Exhibit 3;
 - a Note dated December 4, 2015 with an original principal amount of \$1,119,532.15, attached hereto as Exhibit 4;

- a Note dated December 4, 2015 with an original principal amount of \$899,539.29 attached hereto as Exhibit 5;
- a Note dated December 9, 2015 with an original principal amount of \$325,707.58, attached hereto as Exhibit 6;
- a Note dated June 24, 2016 with an original principal amount of \$5,000,000.00, attached hereto as Exhibit 7;
- a Note dated July 15, 2016 with an original principal amount of \$14,492,722.83, attached hereto as Exhibit 8;
- a Note dated September 16, 2016 with an original principal amount of \$5,507,277.00, attached hereto as Exhibit 9;
- a Note dated September 16, 2016 with an original principal amount of \$1,942,972.45, attached hereto as Exhibit 10;
- a Note dated September 16, 2016 with an original principal amount of \$1,629,578.58, attached hereto as Exhibit 11;
- a Note dated September 16, 2016 with an original principal amount of \$1,543,893.67, attached hereto as Exhibit 12;
- a Note dated September 16, 2016 with an original principal amount of \$13,883,555.30, attached hereto as Exhibit 13;
- the Guaranty, attached hereto as Exhibit 14;
- the Confirmation of Guaranty, attached hereto as Exhibit 15;
- the ECI Share Pledge, attached hereto as Exhibit 16;
- a letter agreement dated October 3, 2016, by and between ECI and Hudson Solar, attached hereto as Exhibit 17;
- a letter agreement dated December 7, 2016, by and between ECI, Lumens, RCI 2, and Hudson Solar, attached hereto as Exhibit 18; and

- a letter agreement dated May 15, 2017, by and between ECI, Lumens, RCI 2, and Hudson Solar, attached hereto as Exhibit 19.²

9. The following correspondence, notices, and other documentation relating to Hudson Solar's preservation, assertion, or enforcement of its rights under the Note Purchase Documents, the Notes, and the Guaranty are relevant to this action:

- a letter dated January 11, 2019, sent by Lumens to Hudson Solar, attached hereto as Exhibit 20;
- a letter dated January 17, 2019, sent by Allen & Overy LLP on behalf of Hudson to ECI, Lumens, RCI 2, and Sky Clean Energy Ltd., attached hereto as Exhibit 21;
- the ECI Management Report and Financial Statements for the financial years ended December 31, 2016 and December 31, 2017, attached hereto as Exhibit 22;
- a Notice of Acceleration letter dated January 22, 2019, sent by Hudson Solar to ECI, Lumens, and RCI 2 (the "Notice of Acceleration"), attached hereto as Exhibit 23;
- a Demand on Guaranty letter dated January 22, 2019, sent by Hudson Solar to the Guarantors (the "Demand on Guaranty"), attached hereto as Exhibit 24;
- an Executed Notice of Appropriation from Hudson Cayman to Sky International and ECI dated January 24, 2019, attached hereto as Exhibit 25; and
- a Letter dated February 1, 2019, sent by Allen & Overy LLP to Sky Solar Holdings, Sky Solar Power, Sky International, Lumens, and Sky Capital America,

² Though Exhibit 19 appears to be dated May 15, 2016, this was a typographical error. Exhibit 19 was sent on May 15, 2017.

Inc. (“Sky Capital America”) demanding an explanation regarding the Alleged Payable (defined below), attached hereto as Exhibit 26.

10. The following amounts are due under the Note Purchase Documents and the Notes:

Note Issue Date	Outstanding Principal Amount (including capitalized PIK Interest)	Accrued and Unpaid Coupon Interest	Outstanding Principal Amount + Accrued and Unpaid Coupon Interest
October 2, 2015	\$1,170,753	\$47,303	\$1,218,056
December 4, 2015	\$1,191,264	\$20,512	\$1,211,775
December 4, 2015	\$1,359,577	\$23,410	\$1,382,987
December 4, 2015	\$1,092,429	\$18,810	\$1,111,239
December 9, 2015	\$395,706	\$6,091	\$401,797
June 24, 2016	\$5,692,850	\$235,163	\$5,928,013
July 15, 2016	\$14,394,289	\$8,681	\$14,402,970
September 16, 2016	\$5,495,540	\$281,503	\$5,777,044
September 16, 2016	\$2,358,871	\$22,941	\$2,381,812
September 16, 2016	\$1,972,466	\$24,810	\$1,997,276
September 16, 2016	\$1,874,363	\$18,229	\$1,892,592
September 16, 2016	\$16,884,744	\$38,700	\$16,923,444
Outstanding Principal Amounts + Accrued and Unpaid Coupon Interest			\$54,629,006
Yield Maintenance Amount			\$60,832,417
Accrued and Unpaid Default Rate Interest as of February 8, 2019			\$1,068,581
Total Amount Owing to Hudson Solar under the Notes and Note Purchase Documents as of February 8, 2019 (exclusive of fees and expenses)			\$115,783,850

Upon Hudson Solar's acceleration of the Notes, Default Rate Interest of 20% per annum under the Note Purchase Agreement became applicable. (Ex. 1, § 6.2(c)-(e)). Thus, for each day following January 22, 2019, the Guarantors owe Hudson Solar an additional \$62,858 in Default Rate Interest. As reflected in the chart above, the total amount of accrued and unpaid Default Rate Interest as of February 8, 2019 is \$1,068,581.

RIGHTS UPON OCCURRENCE OF EVENT OF DEFAULT

11. Each of the Notes provides that:

Upon the occurrence and during the continuation of any one or more of the Events of Default specified in the Note Purchase Agreement, all amounts then remaining unpaid on this Note or pursuant to the Note Purchase Agreement may be declared to be or may automatically become immediately due and payable as provided in the Note Purchase Agreement.

Exs. 2-13, p. 3.

12. Section 6.1(b) of the Note Purchase Agreement provides that the occurrence of an Event of Default entitles Hudson Solar, as Administrative Agent, to accelerate all amounts due and owing under the Note Purchase Documents:

If an Event of Default occurs, the Administrative Agent may (and must if so directed by the Majority Note Holders) by notice to the Company or any other party declare any or all of the Obligations immediately due and payable, and all such Obligations shall thereupon be immediately due and payable.

Ex. 1, § 6.1(b).

13. Section 6.2(a) of the Note Purchase Agreement provides Hudson Solar, as Administrative Agent and Note Holder, with additional rights upon the occurrence of an Event of Default, including the right to commence any appropriate proceedings to protect and enforce its rights under the Note Purchase Documents:

(a) If any Event of Default shall occur and be continuing, and in addition to the rights and remedies set forth in Section 6.1 hereof and each

Security Document, the Note Holders may protect and enforce their rights under the Note Purchase Documents by any appropriate Proceedings, including Proceedings for specific performance of any covenant or agreement contained in any Note Purchase Document and the appointment of receivers and administrators where permitted by law. All rights, remedies and waivers conferred upon the Note Holders or the Administrative Agent under the Note Purchase Documents shall be deemed cumulative and not exclusive of any other rights, remedies or powers available under the Note Purchase Documents or at law or in equity.

(b) Subject to Section 6.2(f), if any Event of Default shall occur and be continuing, in addition to any and all other rights and remedies that the Note Holders shall have, the Note Holders shall have the option to:

(i) maintain this Agreement in full force and effect and sue for the Principal Payments, Commitment Fees or Coupon Interest as they become due and payable;

(ii) accelerate all amounts due under the Notes, and to collect in addition to the amount of outstanding principal, accrued Coupon Interest and other amounts owing with respect to the Obligations (including the Yield Maintenance Amount) and all costs and expenses of the Note Holders or Administrative Agent in enforcing these provisions, including legal advisors' fees and costs; or

(iii) in the case that an event of default under any Project Financing Document is continuing, take such steps as the Note Holders consider necessary in order to remedy such event of default.

In the case of paragraph (iii) above, the Company shall procure that the relevant Project Companies cooperate with the Note Holders in order to give effect to the rights and remedies being exercised by the Note Holders thereunder.

Ex. 1, §§ 6.2(a)&(b). Also, as set forth in Section 6.2(c) of the Note Purchase Agreement, acceleration pursuant to Section 6.2(b)(ii) entitles the Note Holders to the payment of a Yield Maintenance Amount under the Note Purchase Agreement, as “[u]pon any acceleration of the Notes pursuant to Section 6.2(b)(ii) or Section 6.2(f), the Yield Maintenance Amount shall become immediately due and payable, in addition to all principal and accrued but unpaid interest then due on the Notes.” Ex. 1, § 6.2(c). The Yield Maintenance Amount is essentially a make-

whole for interest payments that would have been made had the Obligors not defaulted and instead made the scheduled periodic payments on the Notes over time.

14. The Guaranty provides that:

Each Guarantor hereby irrevocably and unconditionally, on a joint and several basis:

(a) guarantees to each Finance Party the prompt and complete payment when due of any and all present and future obligations and liabilities of the Obligors under the Note Purchase Documents (the "Obligations");

(b) undertakes with each Finance Party that whenever an Obligor does not pay any amount when due under or in connection with any Note Purchase Document, such Guarantor shall forthwith, within 15 days of written demand by any Finance Party, pay that amount as if such Guarantor instead of the relevant Obligor were expressed to be the principal obligor; and

(c) indemnifies each Finance Party (to the fullest extent permitted by applicable law) on demand against any loss or liability suffered by it if any obligation guaranteed by such Guarantor is or becomes unenforceable, invalid or illegal.

Ex. 14, § 1.1. For purposes of the Guaranty, "Finance Parties" means the Administrative Agent and the Note Holders under the Note Purchase Agreement. Ex. 14, § 1.1, Preamble. Each Guarantor has therefore undertaken to pay Hudson Solar any amounts that an Obligor fails to pay when due under or in connection with the Note Purchase Documents. However, the amount covered by the Guaranty is not equal to the entire amount due from the Obligors under the Note Purchase Documents and is limited as follows:

[L]iabilities and obligations of the Guarantors under this Guaranty with respect to Obligations (x) comprising any Yield Maintenance Amount shall not exceed 69% of the aggregate Yield Maintenance Amount then due and payable under the Note Purchase Agreement...

Ex. 14, § 1.1. Thus, the Guarantors' obligation is capped with respect to the amounts attributable to Yield Maintenance.

15. Additionally, the Guaranty provides that:

Each Guarantor agrees to jointly and severally pay to the Administrative Agent and the other Finance Parties on demand all costs, expenses (including legal fees and expenses) and taxes incurred or arising in connection with the preparation, documentation, negotiation, execution, delivery, administration or enforcement of this Guaranty or any amendment of or waiver or consent under this Guaranty.

Ex. 14, § 11.

16. As described further below, Events of Default under the Note Purchase Agreement have occurred and are continuing, on the basis of which Hudson Solar has accelerated the Notes together with all other Obligations under the Note Purchase Documents, causing all amounts owing under the Notes and all other Obligations (including, but not limited to, the Yield Maintenance Amount) to be immediately due and payable. The Obligor has not paid such amounts when due, nor have the Guarantors made payment under the Guaranty in accordance with the terms thereof.

17. As of February 8, 2019, and as shown in paragraph 10, the total amount of the Obligations (as defined in Section 1.1 of the Note Purchase Agreement) owing under the Note Purchase Documents and the Notes is not less than \$115,783,850 (the "Obligor Amount Due"). As of February 8, 2019, pursuant to the Guaranty, the Guarantors are obligated to pay Hudson Solar not less than \$97,671,954 (the "Guarantor Amount Due"), which is the sum of (i) \$53,882,852 (the outstanding principal amount of the Notes, including capitalized PIK Interest), (ii) \$41,974,368 (which is 69% of the of the Yield Maintenance Amount owing pursuant to Section 6.2(c) of the Note Purchase Agreement), (iii) \$746,154 (accrued and unpaid Coupon Interest), and (iv) \$1,068,581 (Default Rate Interest at the rate of 20% per annum from and including January 23, 2019 to February 8, 2019). Default Rate Interest is accruing on the

Obligations under the Notes and the Note Purchase Documents at a rate of \$62,858 per day. In addition, the Guarantors are obligated to reimburse the documented fees incurred by Hudson Solar in connection with the enforcement of its rights under the Notes, the Guaranty and the other Note Purchase Documents, all such fees being Obligations (as defined in the Guaranty) in respect of which the Guarantors have guaranteed payment.

EVENTS OF DEFAULT

18. Section 3.5(j) (*Conditions Subsequent to Fourth Note Purchase*) of the Note Purchase Agreement requires that ECI procure for the benefit of Hudson Solar, as Administrative Agent, a pledge (the “Pledge”) of all of the share capital in, and assets and property of, Clear Skies I, LLC and Clear Skies IV, LLC and their respective subsidiary projects, by September 16, 2016. Ex. 1, § 3.5(j).

19. ECI failed to procure the Pledge for the benefit of Hudson Solar within the time period provided under the Note Purchase Agreement, which failure constitutes an Event of Default under the Note Purchase Agreement. Following the occurrence of this Event of Default, Hudson Solar and the parties entered into letter agreements on October 3, 2016 (Ex. 17), December 7, 2016 (Ex. 18), and May 15, 2017 (Ex. 19), in each case temporarily extending the time for ECI to fulfill this obligation. In the last such letter agreement, dated May 15, 2017 (the “May 15 Letter”), ECI agreed and acknowledged that any failure by ECI to procure the Pledge by July 31, 2017 would be deemed, and would constitute, an Event of Default under the Note Purchase Agreement with respect to all Notes, and “in respect of which the Note Holders may elect to take any of the actions or steps specified in Section 6.2 (*Remedies*) of the [Note Purchase Agreement].” Ex. 19, § 4.1. The parties further agreed that the May 15 Letter did “not constitute a waiver or amendment of any right or remedy other than in relation to the specific waivers

and/or amendments expressly given under this Letter [and] the Administrative Agent fully reserves all of its respective rights under the Note Purchase Agreement and the other Note Purchase Documents with respect to all Defaults currently outstanding, or that may exist, including those rights set forth in your previous letters to us.” Ex. 19, § 5.2.

20. ECI failed to procure the Pledge by the extended deadline of July 31, 2017. No further extensions were granted by Hudson Solar and ECI’s obligation to procure the Pledge remains outstanding as of the date hereof. The continuing failure to procure the Pledge is an Event of Default under the Note Purchase Agreement, the Notes, and each other Note Purchase Document.

21. In December 2018, Hudson Solar learned that a subsidiary of the Guarantors had entered into a litigation settlement requiring a payment of more than \$120 million to be made by April 1, 2019; the subsidiary’s payment obligation is guaranteed by one or more of the Guarantors. Given the persistent failure of ECI to comply with Section 3.5(j) of the Note Purchase Agreement and the substantial amount due under the Notes, the discovery of a material new debt of this magnitude raised the specter that the Guarantors and, indeed, the corporate group as a whole, would be insolvent and lack sufficient liquidity to fully satisfy the Obligations under the Note Purchase Documents, the Notes, and the Guaranty.

22. On December 26, 2018, Hudson Solar delivered to ECI and Lumens a Notice of Persistent Event of Default (the “December 26 Letter”), reiterating the continued existence of the Event of Default under Section 3.5(j) of the Note Purchase Agreement, identifying the concerns raised by the litigation settlement, and reserving all rights in connection therewith, including but not limited to the right to accelerate the amounts due under the Notes. Prior to the December 26, 2018 Letter, Hudson Solar (and its affiliates) had previously attempted

to engage with the Guarantors, as parent holding companies of the Obligors, on numerous occasions by making a series of proposals to address the liquidity issues of the group. However, these offers were not given serious consideration by the directors and management of the Guarantors and have since been withdrawn.

23. On January 11, 2019, ECI and Lumens responded to the December 26 Letter and acknowledged that “the security pledge discussed in Section 3.5(j) of the Note Purchase Agreement . . . cannot be fulfilled.” (Ex. 20, p. 1).

24. On January 17, 2019, Allen & Overy LLP, on behalf of Hudson, notified ECI, Lumens, RCI 2, and Sky Clean Energy Ltd. of additional breaches of affirmative covenants in the Note Purchase Agreement that require the provision of information to Hudson Solar (“January 17 Letter,” Ex. 21).

25. These breaches, each of which constitutes a Default under the Note Purchase Agreement, include:

- Failure to provide financial information required by Section 5.1(c) (*Information pertaining to Project Financing Documents, Existing U.S. Project Company Financing Documents and U.S. Project Company Refinancing Documents*);
- Failure to provide additional information in response to the diligence conducted pursuant to Section 5.1(d)(i) (A) and (B) (*Other Information and Inspections*);
- Failure to provide information as required under Section 5.1(d)(ii)(B) (*Operating Reports*);
- Failure to provide information as required under Section 5.1(d)(ii)(C) (unaudited quarterly financial statements of ECI, Lumens and each funded holding company);

- Failure to provide information as required under Section 5.1(d)(ii)(D) (audited financial statements); and
- Failure to provide information as required under Section 5.1(v) (the Annual Corporate Budget).

26. The foregoing Defaults are continuing as Hudson Solar has to date received neither the information required under the Note Purchase Agreement nor any information that ECI has otherwise made available to its project finance lenders.

27. Further investigation of ECI and its financial affairs has led Hudson Solar to uncover additional violations of the covenants of the Note Purchase Agreement constituting Events of Default thereunder. Specifically, under Section 4.1(dd) of the Note Purchase Agreement, the Obligors represented that there were no intercompany debts other than those listed on Schedule 7 to the Note Purchase Agreement and that all other intercompany obligations had been released or otherwise terminated. Further, under Section 5.2(g) of the Note Purchase Agreement, the Obligors covenanted not to incur additional intercompany debt without Hudson Solar's consent.

28. Notwithstanding these representations and covenants, on information and belief ECI incurred a payable to a shareholder, which Hudson Solar understands to be Sky International, which payable was reported in ECI's 2016 audited financial statement to be \$35,816,797 as of December 31, 2016, and \$23,464,305 as of December 31, 2017, as reported in ECI's 2017 audited financial statement (the "Alleged Payable"); these financial statements were only recently obtained by Hudson Solar. Ex. 22.

29. This Alleged Payable is an unauthorized intercompany loan obligation under the Note Purchase Agreement.

30. At no time was Hudson Solar's consent sought for ECI to incur this obligation, nor was it disclosed to Hudson Solar.

31. The existence of the Alleged Payable constitutes a breach of the representations made in Section 4.1(dd) of the Note Purchase Agreement and a breach of the negative covenants in Sections 5.2(a)(i), 5.2(d)(vii), 5.2(e)(i) and 5.2(g) of the Note Purchase Agreement.

32. On February 1, 2019, Hudson Solar sent a letter to the Obligors, the Guarantors, and Sky Capital America addressing these breaches of the Note Purchase Agreement and demanding a full explanation of the Alleged Payable by February 6, 2019. Ex. 26. Hudson Solar has not received a response to this correspondence.

ACCELERATION AND ENFORCEMENT ACTIONS TAKEN TO DATE

33. On January 22, 2019, Hudson Solar delivered the Notice of Acceleration to ECI, Lumens, and RCI 2, notifying them of Hudson Solar's acceleration of the Notes and all other Obligations under the Note Purchase Documents, which as of January 22, 2019, was not less than \$114,706,678. Ex. 23. On the same day, Hudson Solar delivered the Demand on Guaranty to the Guarantors notifying them of the Notice of Acceleration and demanding payment within fifteen days of not less than \$96,079,936.00, which amount was the sum of the outstanding principal amount of the Notes and 69% of the Yield Maintenance Amount. Ex. 24. Further, on January 24, 2019, due to the continuance of Events of Default under the Note Purchase Documents, Hudson Solar exercised its remedies under Luxembourg law with respect to the shares of ECI pledged to it by Sky International under the ECI Share Pledge by designating Hudson Global Finance DE, LLC to exercise the right of appropriation on all the ECI shares, which right was exercised on that date. Ex. 25. As a consequence, Hudson Global

Finance DE, LLC is presently the 100% owner of ECI, indirect 100% owner of RCI 2, and indirect 85% owner of each of the Uruguay Project Companies.

34. Following such acquisition of the ECI shares, Hudson Solar has continued to investigate the financial affairs of the company and its subsidiaries. Based on the information reviewed to date, these shares have no value as ECI continues to be obligated to Hudson Solar under the Notes for over \$115 million, which appears to be substantially greater than the value of its assets.

LACK OF PUBLIC DISCLOSURES

35. Sky Solar Holdings is listed on the NASDAQ as a foreign issuer and, as such, is subject to various reporting obligations. Notwithstanding these obligations, the Sky Solar Holdings board of directors has failed to disclose numerous material events that would be relevant to shareholders, including, but not limited to: (i) Hudson Solar's (and its affiliates') proposals to address the group's serious liquidity issues; (ii) the ongoing Events of Default under the Note Purchase Agreement; (iii) the receipt of numerous notices regarding such Events of Default; (iv) the acceleration of the Notes; (v) the Demand on Guaranty; and (vi) the exercise of appropriation rights against Sky International under Luxembourg law, resulting in the assignment of the shares of ECI to Hudson Global Finance DE, LLC.

36. Combined with the ongoing Events of Default under the Note Purchase Agreement and the company's history of failing to disclose material information to Hudson Solar in breach of the Note Purchase Agreement, this additional failure to properly inform shareholders leads Hudson Solar to believe that it is dealing with a severely mismanaged company that does not operate in a candid manner and that is unable to meet its obligations, both monetary and non-monetary, to its various stakeholders.

Dated: February 8, 2019
New York, New York


Neil Z. Auerbach

SUBSCRIBED AND SWORN TO before me this 8 day of February, 2019.



Notary Public

KURT R. VELLEK
Notary Public, State of New York
No. 01ME4943090
Qualified in Putnam County
Commission Expires Oct. 17, 2022

COMMERICAL DIVISION RULE 17 CERTIFICATION

Pursuant to Rule 17 of the Rules of the Commercial Division of the Supreme Court, 22 N.Y.C.R.R. § 202.70, I certify that this document contains 4,419 words and complies with the applicable word count limit.

Dated: New York, New York
February 8, 2018

Respectfully submitted,

ALLEN & OVERY LLP

By: /s/ Laura R. Hall
Laura R. Hall
Chael Clark

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