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January 13, 2009

Sent Via Facsimile & U.S. Mail

STEVEN S. FRANKEL, ESQ.
SONNENSCHEIN NATH & ROSENTHAL LLP
525 Market Street, 26th Floor
San Francisco, CA 94105-2708

Re: California Living & Energy v. MASCO Corporation, etc.

Dear Mr. Frankel:

Thank you for your letter of December 16, 2008. We have reviewed your responses and provide the following follow-up requests in an effort to avoid pursing some manner of administratively-based motion

Request No. 1:

MASCO's response to the complaint specifically stated that MASCO provides "high level governance and support to its subsidiaries, including, but not limited to Energy Sense. It seems very unlikely that this "high level governance" would be carried out on a purely verbal basis without any manner of agreement or memoranda. Please re-visit this request and if no such documents will be provided, give us any information in MASCO's possession which describes or in any way references the nature and scope of this governance.

Request No. 2 & 3:

Please provide the redacted copies of the responsive contracts. Please forward a proposed confidentiality agreement at your earliest convenience.

Request No. 4:

Our follow-up request attempted to provide clarification as to the information necessary to be fully responsive the Commissions request. We again request that Masco provide any documents used by either: 1) Energy Sense to promote or otherwise inform the reader of the services provided by American

National Services, Inc., Builder Services Group, Inc. or Masco Contractor Services of California, Inc.; or 2) American National Services, Inc., Builder Services Group, Inc. or Masco Contractor Services of California, Inc. to promote or inform the reader of the services provided by Energy Sense, Inc. These would include, but not be limited to, price lists, brochures, or any other manner of sales literature.

Request No. 5:

No further information required.

Request No. 6:

We are willing to restrict our request to the identity of the officers directors and/or general managers of Energy Sense who also occupy such positions with American National Services, Inc., Builder Services Group, Inc., Masco Contractor Services of California, Inc. and Energy Sense, Inc. or any other Masco-related entity whose work is rated by Energy Sense.

Request No. 7:

No further information required.

Request No. 8:

We respectfully disagree as to the relevance of this information. A determination of the similarity of the by-laws utilized by the various entities as to both form and content will provide information as to Masco's involvement in the day-to-day-operation of the relevant entities. Given Masco's 100% ownership of these entities, their by-laws may not be in Masco's current possession, but they are certainly within their control.

Request No 15:

We again respectfully disagree with Masco's objection as to this request. The Commission asked if Energy Sense provided customer referrals to Masco or any other Masco-related company. Masco's original response was to respond in the negative, but to then limit that response to the provision of field verification or diagnostic testing. In essence the response to the Commission seems to say: "We aren't going to give you what you asked for, but, rest assured, we aren't doing anything wrong."

The request from the Commission was not subject to such constraints or

limitations. We believe that the request should be fully complied with and the Commission, (as the law empowers them to do) make their own determination as to whether the information so provided is evidence of a violation

Request No. 16:

Please provide redacted copies of the contracts referenced in your letter.

II. SUPPLEMENTAL REQUESTS

Supplemental Request No. 1 & 2:

We respectfully disagree as to the propriety of your objections. It is clear that the issue of potential conflicts regarding Masco and their related entities have been the subject of previous investigation, including, but not limited to, that which is the subject of the current dispute. The information requested is relevant to the existence of the alleged conflicts which are the subject of the current matter and are reasonably calculated to lead to the discovery of admissible evidence as to the issue of those conflicts.

Supplemental Request No. 3:

The identity of those employees of Energy Sense, Inc who are performing HERS rating services are highly relevant to the current matter as they could be engaging in the prohibited activity which is the subject of the current complaint. At the very least, they can provide relevant evidence concerning the practices of Energy Sense raters and the extent to which their activities are affected by the high level governance provided by of Masco.

Supplemental Request No. 4:

No further information required.

Supplemental Request No. 5

In answer to your response to Supplemental Request No. 5, we ask that you confirm the following: At no time has Energy Sense ever engaged in any communication with a Masco-related installing entity regarding inadequate installation of improvements by that Masco-related entity for which Energy Sense provided HERS testing.

Supplemental Request No. 6:

No further information required.

Supplemental Request No. 7:

No further information required.

Supplemental Request No. 8:

We respectfully disagree as to the relevance of the requested information. The extent to which Masco and its related entities, including, but not limited to Energy Sense, Inc. and the other named entities are the alter-ego of one another for purposes of cross–referrals and assumption of expenses incurred by the other is pivotal to the matter before the commission.

Supplemental Request No. 9:

In your response to our request No. 6, you express a willingness to identify, among others, the *general managers* of Energy Sense who also occupy such positions with other Masco-related entities. This implies that certain general managers, including, but not limited to Jaime Padron, occupy the GM position in multiple Masco-entities. We merely request the identities of any such individuals which Masco has indirectly acknowledged do, in fact, exist.

Supplemental Request No. 10:

What we are requesting is the identity of any employees of Energy Sense who are also employees and/or perform services for other Masco-related entities. Employee-sharing is not uncommon, particularly for the subsidiaries of a larger company such as Masco. Masco has already acknowledged that they provide high level governance to their subsidiaries. In addition, Masco's response to Request No. 6, acknowledges a willingness to "identify any Energy Sense officers, directors or general managers who also occupy such positions in a Masco-related entity whose work is rated by Masco." Given the existence of shared officers, directors and general managers, we merely request the identities of any lower-tier employees who provide services to multiple Masco entities.

Supplemental Request No. 11

Given that Masco has 100% ownership in the affected entities, we expected that the name of the individual handling the bidding for their wholly-owned installing facilities would be ascertainable though normal corporate

channels. We again request that the identities of these individuals be provided.

Very truly yours,

BRETT L. DICKERSON

BLD:ncg
cc: California Living & Energy
Dennis Beck, Esq.

DOCKET REQUEST

Please fill out this half of the form if you would like to have a document docketed into record. **(Note: All documents, with the exception of Compliance* documents, will be distributed internally via email unless otherwise noted on this sheet.**

Information in this section is required.

Name: Dennis Beck

Phone #: 654-3974

Docket #/Project Name: 08-CRI-01

Document Title: January 13, 2009 letter from complainant's counsel to respondent's counsel

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